

PLASTIC SHOPPING BAGS BAN BILL 2013

CLAUSE NOTES

Clause 1 **Short title**

Clause 2 **Commencement**

Section 4 ('Plastic shopping bags not to be provided, &c.') and Section 5 ('Director may require proof of plastic bag composition to be provided') of the Act will commence on 1 November 2013. This will provide retailers and the general public with a 'transition period' of approximately 6 months before the Act's offence provisions come into force.

All other provisions of the Act will commence on Royal Assent.

Clause 3 **Interpretation**

This clause provides interpretation and meanings of specific terminology used in the Bill. In particular, the definitions of "barrier bag", "biodegradable bag", "plastic shopping bag", "relevant standard" and "retailer" are necessary to understand the offence provisions in Clauses 4 and 5.

Barrier bag

A barrier bag is a thin plastic bag which is typically used to pack perishable food items such as fruit, vegetables and meat in supermarkets and other food outlets.

Biodegradable bag

For the purposes of the Bill, "biodegradable" means that a bag can be reduced to carbon dioxide, water, biomass and mineral salts in a commercial composting facility, in accordance with the relevant Australian Standard.

Although biodegradation also typically includes a degree of physical degradation or fragmentation, it is important to recognise that 'degradable' bags, which under the same timescale only break down into smaller pieces of plastic and therefore do not meet the Australian Standard, will not be classified as "biodegradable."

Plastic shopping bag

This definition defines what is meant by a "plastic shopping bag", and lists a number of important exclusions. It also makes provision for the definition to be updated under any future regulations.

For the purposes of the Bill, a “plastic shopping bag” is a lightweight polyethylene bag with handles, of the type that is mainly used at supermarket checkouts and in other retail stores. The upper thickness limit for such a bag is defined under the Bill as 35 microns, which is consistent with that used in other jurisdictions.

Implicit in the definition is that heavier gauge polyethylene bags, sometimes referred to as ‘boutique bags’, will be excluded from the ban because in principle they can be reused a significant number of times.

Biodegradable bags will also be excluded from the ban because they do not pose the same environmental risk as non-biodegradable plastic bags.

For practical reasons, plastic bags that form an integral part of packaging will be excluded; for example, bread packaging. Barrier bags will also be excluded because of the important role they play in customer health and safety.

Importantly, the definition makes it possible for other exclusions to be included in any future regulations under the proclaimed Act, which will assist manufacturers and suppliers of innovative bag products.

Relevant standard

In this instance, “relevant standard” means the *Australian Standard for Biodegradable Plastics Suitable for Composting and Other Microbial Treatment*. The definition has been included because it provides a technical reference document for ensuring compliance with the provisions of the proclaimed Act.

Retailer

This broad definition includes both wholesaler suppliers of plastic bags, as well as their retail customers who supply plastic (and other) bags to shoppers for carrying goods away from the point of purchase.

Clause 4

Plastic shopping bags not to be provided &c.

Subclause 4(1) will make it an offence for a retailer to supply a plastic shopping bag to shoppers for the purpose of carrying purchased goods from the retailer’s premises. In most cases ‘premises’ will be a retail store or shop, but will also include market stalls or any other place where goods may be purchased and taken away by the customer.

This subclause is essentially about the interaction between ‘shopkeepers’ and their customers, as opposed to the interaction between wholesaler and ‘shopkeeper’.

Importantly, this clause means that provision of plastic bags only becomes an offence if they are provided for the purposes of taking away purchased goods. The provision (including sale) of plastic bags will not, of itself, be an offence.

Subclause 4(2) seeks to prevent any type of retailer (which also includes wholesalers) from supplying false or misleading information about the composition of a plastic shopping bag. This is important for making sure that supplied plastic bags have an acceptable thickness, or that any claims of biodegradability can be supported.

Clause 5 Director may require proof of plastic bag composition to be provided

This clause supports the provisions of clause 4 by empowering the EPA Director to require in writing that a retailer must provide evidence that a bag that is or was on their premises is biodegradable.

Retailers will have at least 30 days to provide such evidence, once they have been notified.

Clause 6 Act to be read together with *Environmental Management and Pollution Control Act 1994*

For the purposes of administering or enforcing this Act, the main practical purpose of Clause 6 is that it allows authorised officers to use the powers given to them under the *Environmental Management and Pollution Control Act 1994* (EMPCA).

These include powers for authorised officers to enter and inspect places, require the production of evidence and give directions in connection with the administration and enforcement of the Act.

It will also be an offence for a person to obstruct an authorised officer performing a function or exercising a power under the Act.

Clause 6 also clarifies that if there is any inconsistency between the provisions or definitions in this Act and those of EMPCA, then the provisions and definitions in this Act will apply.

Clause 7 Regulations

This provides that the Governor may make regulations for

the purposes of the Act.

In particular, Clause 7 makes provision for the regulations to adopt any relevant standards, or parts of standards, issued by Standards Australia. For practical purposes this clause could be used to adopt new standards, or changes in standards, relating to plastic bag composition.

Clause 8

Administration of Act

This clause assigns administrative responsibility to the Minister for Environment, Parks and Heritage, and the Department of Primary Industries, Parks, Water and Environment.