Environment Protection Amendment (Banning Plastic Bags, Packaging and Microbeads) Bill 2016

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1 General information 10
A Bill for an Act to amend the Environment Protection Act 1970 to restrict the supply and sale of plastic bags and plastic and polystyrene packaging and to prohibit the supply and sale of plastic microbeads and for other purposes.

The Parliament of Victoria enacts:

1 Purpose

The purpose of this Act is to amend the Environment Protection Act 1970 to restrict the supply and sale of plastic bags and plastic and polystyrene packaging and to prohibit the supply and sale of plastic microbeads.

2 Commencement

(1) This Act (except sections 5, 6 and 7) comes into operation on 1 March 2017.
(2) Sections 5, 6 and 7 come into operation on 1 September 2017.

3 Definition

In section 4(1) of the Environment Protection Act 1970, the definition of *plastic bag* is repealed.

4 New Part IXE inserted

After Part IXD of the Environment Protection Act 1970 insert—

"Part IXE—Prohibited plastic"

53ZF Definitions

In this Part—

*exempt plastic bag* means a plastic bag that is declared to be an exempt plastic bag by the Minister;

*plastic bag* means a bag that is made in whole or in part of polyethylene;

*prohibited plastic bag* means any plastic bag except a plastic bag—

(a) that is manufactured, supplied and used for medical or health-related purposes; or

(b) that is manufactured, supplied and used for policing or security purposes; or

(c) that is an exempt plastic bag;

*prohibited plastic microbead* means a manufactured plastic particle of less than 5 millimetres that is contained in or added to cosmetics, personal hygiene products (including toothpaste) and household detergents;
restricted packaging means packaging that is made in whole or in part of polyethylene or polystyrene.

53ZG Obligations of retailers from 1 March 2017

As from 1 March 2017, a retailer must display a notice in the premises of the retailer specifying that—

(a) the sale or supply of plastic bags by a retailer will be prohibited from 1 September 2017 unless the plastic bags are exempt plastic bags or used for medical, health, policing or security purposes and penalties will apply in circumstances where retailers have sold or supplied plastic bags in contravention of the Environment Protection Act 1970 from that date; and

(b) the sale, supply or provision of perishable fruit or vegetables in restricted packaging will be prohibited from 1 September 2017 and penalties will apply in circumstances where retailers have sold, supplied or provided perishable fruit or vegetables in restricted packaging in contravention of Environment Protection Act 1970 from that date.
53ZH Offence to sell, supply or provide goods containing prohibited plastic microbeads

A retailer must not, without reasonable excuse, sell, supply or provide a good to any person if it contains a prohibited plastic microbead.

Penalty: In the case of a natural person, 20 penalty units;
         In the case of a body corporate, 100 penalty units.

53ZI False or misleading information in relation to plastic bags and restricted packaging

A person who makes, sells, imports, supplies or distributes plastic bags or restricted packaging must not, without reasonable excuse, provide information relating to the plastic composition of the bag or the plastic or polystyrene composition of the packaging that the person knows, or ought reasonably to know, is false or misleading.

Penalty: In the case of a natural person, 20 penalty units;
         In the case of a body corporate, 100 penalty units.

53ZJ Minister may declare exemptions

(1) The Minister may declare, by notice published in the Government Gazette, that specified plastic bags are exempt plastic bags.

(2) The Minister may declare, by notice published in the Government Gazette, that a specified person or specified class of person is exempt from some or all of the requirements in this Part.
(3) If the Minister publishes a notice of a declaration under subsection (1) or (2), the notice must contain the Minister's reasons for allowing an exemption from all or some of the provisions of this Part.

(4) Any exemption declared under subsection (1) or (2) and the reasons for allowing the exemption must also be published on the Authority's Internet site on the same day after the notice is published in the Government Gazette.

(5) A declaration made by the Minister under subsection (1) or (2) is a legislative instrument within the meaning of the Subordinate Legislation Act 1994.

5 Section 53ZG repealed

Section 53ZG of the Environment Protection Act 1970 is repealed.

6 New sections 53ZIA to 53ZIE inserted

After section 53ZI of the Environment Protection Act 1970 insert—

"57ZIA Offence to sell, supply or provide prohibited plastic bag

(1) A retailer must not, without reasonable excuse, sell, supply or provide a prohibited plastic bag to any person.

Penalty: In the case of a natural person, 20 penalty units;

In the case of a body corporate, 100 penalty units."
53ZIB Offence to sell, supply or provide goods in restricted packaging

A retailer must not, without reasonable excuse, sell, supply or provide perishable fruit or vegetables to any person if the fruit or vegetables are sealed, wrapped or otherwise contained in restricted packaging.

Penalty: In the case of a natural person, 20 penalty units; In the case of a body corporate, 100 penalty units.

53ZIC Part does not apply to exempt plastic bag or person

(1) This Part does not, or specified provisions of this Part do not, apply to a person exempted by the Minister under section 53ZJ from some or all of the provisions of this Part.

(2) This Part does not apply to—

(a) the use, supply or provision of an exempt plastic bag; or

(b) the manufacturing, supply or use of a plastic bag for medical, health, policing or security purposes.

53ZID Reporting requirements

(1) The Authority must investigate and prepare a report on the matters specified in subsection (2)—

(a) in respect of the period commencing 1 September 2017 and ending on 30 June 2018; and

(b) in respect of each subsequent period of 12 months commencing on 1 July each year.
(2) For the purposes of subsection (1), the following matters must be investigated and reported on—

(a) the number of exempt plastic bags consumed in the relevant period;

(b) the amount of restricted packaging consumed in the relevant period;

(c) the amount of plastic in waters and its impact on fish and other aquatic life in the relevant period;

(d) any information or data in relation to exempt plastic bags, restricted packaging or microbeads that the Minister requires or that the Authority considers necessary.

(3) The Authority must publish a report prepared under subsection (1) on its Internet site, on or before 31 December in each year.

(4) The Minister may request the Authority to report on any data or information relating to exempt plastic bags or restricted packaging.

(5) The Authority must comply with a request of the Minister under subsection (4).

(6) The Authority may publish on its Internet site any data or information relating to exempt plastic bags or restricted packaging for the purposes of this Part if the Authority considers it necessary.

53ZIE Authority to arrange review of impact of prohibitions on community

(1) As soon as practicable after 1 September 2018 but no later than 31 August 2019, the Authority must conduct a review and prepare a report for the Minister on the following—
(a) the effect that prohibitions on prohibited plastic bags, restricted packaging and prohibited plastic microbeads have had on the community and the environment;

(b) the extent to which the prohibitions imposed by this Part have effectively restricted the supply of plastic bags and packaging and eliminated the supply of microbeads;

(c) the extent to which plastic bags that have been declared exempt have had an effect on the community and the environment;

(d) the extent to which restricted packaging continues to impact the environment;

(e) the extent to which the prohibitions and restrictions imposed on plastic have had an impact on the level of plastic pollution in Victoria's marine environments;

(f) the extent to which the prohibitions and restrictions imposed on plastic are likely to have on the level of plastic pollution in Victoria's marine environments in the future;

(g) any other matter that the Authority or the Minister considers would be relevant to the review.

(2) The Authority must give the report prepared under subsection (1) to the Minister no later than 6 months after the Authority has conducted the review and prepared the report.
(3) The Minister must cause a copy of the report given to the Minister under subsection (2) to be laid before each House of the Parliament within 12 sitting days after the Minister receives the report.

7 Powers etc. of authorized officers

(1) In section 55(1) of the Environment Protection Act 1970—

(a) in paragraph (b), for "emitted—" substitute "emitted; or";

(b) after paragraph (b) insert—

"(c) at any reasonable time, any premises from which prohibited plastic bags or restricted packaging is being supplied, sold or manufactured or likely being supplied, sold or manufactured—".

(2) After section 55(3D)(b) of the Environment Protection Act 1970 insert—

"(ba) from which prohibited plastic bags or restricted packaging has been, is being or likely to be supplied, sold or manufactured;".

8 Regulations

Section 71(1)(ka), (kb), (kc), (kd), (ke), (kf) and (kg) of the Environment Protection Act 1970 are repealed.

9 Repeal of amending Act

This Act is repealed on 1 September 2018.

Note

The repeal of this Act does not affect the continuing operation of the amendments made by it (see section 15(1) of the Interpretation of Legislation Act 1984).
Endnotes

1 General information