

# NORTHERN TERRITORY OF AUSTRALIA

## ENVIRONMENT PROTECTION (BEVERAGE CONTAINERS AND PLASTIC BAGS) REGULATIONS 2011

As in force at 2 March 2018

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# NORTHERN TERRITORY OF AUSTRALIA

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As in force at 2 March 2018

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## ENVIRONMENT PROTECTION (BEVERAGE CONTAINERS AND PLASTIC BAGS) REGULATIONS 2011

### Regulations under the *Environment Protection (Beverage Containers and Plastic Bags) Act 2011*

#### Part 1 Preliminary matters

##### 1 Citation

These Regulations may be cited as the *Environment Protection (Beverage Containers and Plastic Bags) Regulations 2011*.

##### 2 Definitions

In these Regulations:

***cordial*** means concentrated syrup that:

- (a) contains the following ingredients (whether or not it also contains other ingredients):
  - (i) water;
  - (ii) a sweetener (whether natural or artificial);
  - (iii) colouring or flavouring, or both (whether natural or artificial); and
- (b) is intended to be diluted before consumption.

***flavoured milk*** means milk to which flavouring has been added.

***Food Standards Code***, see section 6 of the *Food Act 2004*.

***glass container*** means a container made of glass whether alone or in combination with anything else.

**health tonic** means a liquid:

- (a) included in the Australian Register of Therapeutic Goods under the *Therapeutic Goods Act 1989* (Cth); and
- (b) supplied with a label or other accompanying document stating:
  - (i) the liquid is for medicinal purposes; and
  - (ii) a recommended maximum dosage.

**milk** means milk from an animal or derived from a plant or part of a plant, and includes, for example, milk that is one or more of the following:

- (a) ultra heat treated or reconstituted milk;
- (b) reduced fat milk;
- (c) milk with added protein, milk fat, calcium, vitamins, minerals or other supplements.

**spiritous liquor**, see regulation 2A.

**wine**, see regulation 2B.

**wine-based beverage** means a pre-mixed beverage containing:

- (a) wine and another beverage that is not a grape product; and
- (b) less than 10% alcohol by volume at 20°C.

## **2A Meaning of *spiritous liquor***

- (1) A ***spiritous liquor*** is a liqueur or other alcoholic beverage produced by distillation.

*Examples for subregulation (1)*

*Brandy, gin, rum, vodka and whisky.*

- (2) However, a pre-mixed beverage containing a beverage mentioned in subregulation (1) and another beverage is not a spiritous liquor.

## **2B Meaning of *wine***

- (1) ***Wine*** is:
  - (a) a beverage produced by fermentation of grapes (whether or not with additives permitted under the Food Standards Code);  
or

- (b) a beverage that is a blend of a beverage mentioned in paragraph (a) and other grape products.
- (2) However, a pre-mixed beverage containing a beverage mentioned in subregulation (1)(a) or (b) and another beverage that is not a grape product is not wine.

## **Part 1A Container deposit scheme**

### **2C Refund amount**

For the definition *refund amount* in section 4 of the Act, the refund amount for an approved container is \$0.10.

### **2D Approved refund marking**

- (1) For the definition *approved refund marking* in section 4 of the Act, an approved refund marking for a regulated container is a mark or label that clearly and legibly states:
  - (a) "10c refund at collection depots when sold in NT"; or
  - (b) "10c refund at SA/NT collection depots in State/Territory of purchase"; or
  - (c) "10c refund at collection points/depots in participating State/Territory of purchase".

*Note for subregulation (1)(c)*

*The 10c refund is payable only by an operator of an approved collection depot. The approved refund marking mentions "collection points" because that term is used instead of "collection depots" in New South Wales.*

- (2) However, for subregulation (1)(a), it is irrelevant if the marking reads "Northern Territory" instead of "NT".

### **2E Excluded beverages**

For section 7(2) of the Act, each of the following liquids is not a beverage:

- (a) concentrated fruit or vegetable juice, or a mixture of concentrated fruit and vegetable juices, intended to be diluted before consumption;
- (b) a health tonic;
- (c) cordial.

**2F Exempted containers**

For section 9 of the Act, the CDS does not apply to containers of the following classes:

- (a) glass containers used for containing wine or spiritous liquor;
- (b) containers used for containing milk (other than flavoured milk);
- (c) containers used for containing 1 L or more of flavoured milk;
- (d) containers used for containing 1 L or more of pure juice (comprising at least 90% fruit or vegetable juice or a mixture of fruit and vegetable juices);
- (e) containers used for containing more than 3 L of beverage;
- (f) containers made of cardboard and plastic, cardboard and foil or cardboard, plastic and foil (commonly known as casks or aseptic packs) used for containing 1 L or more of wine, wine-based beverage or water (including mineral water and spring water);
- (g) containers made of plastic or foil or plastic and foil (commonly known as sachets) used for containing 250 ml or more of wine.

**2FA Payment of refund amount from reverse vending machine**

- (1) This regulation applies if, in the collection approval for a collection depot that is a reverse vending machine, the NT EPA has authorised the operator to pay refund amounts from the reverse vending machine in the way provided in this regulation.
- (2) For section 19(3) of the Act, a refund amount may be paid to the person delivering the container:
  - (a) by issuing to the person a redeemable voucher for the refund amount; or
  - (b) by crediting the refund amount to a recognised account nominated by the person.
- (3) Subregulation (2) has effect subject to any conditions imposed on the collection approval for the depot that limit the way in which the operator may pay refund amounts.

(4) In this regulation:

**recognised account** means:

- (a) an account at a bank or other ADI; or
- (b) an account:
  - (i) with a provider of goods or services; and
  - (ii) the balance of which may be withdrawn as cash.

*Example*

*An account with a retailer accessible through the use of a swipe card that is issued by the retailer and swiped through the reverse vending machine when the container is deposited to credit the refund amount to the account.*

**redeemable voucher** means a voucher that may be redeemed for the refund amount in cash (whether or not it may instead be redeemed as payment for goods or services).

**2FB      Limitation on sorting empty approved containers by material type**

For section 24C(c) of the Act, the prescribed number of material types is 9.

**2G      Annual return**

For section 44(1) of the Act, 1 September in each year is prescribed.

**Part 2                  Plastic bags**

**3                  Australian standard**

The Australian Standard for the definition **biodegradable bag** in section 52 of the Act is AS 4736–2006 (Biodegradable plastics – Biodegradable plastics suitable for composting and other microbial treatment).

**4                  Prohibition day**

For the definition **prohibition day** in section 53(2) of the Act, 1 September 2011 is prescribed.

**5 Notice to be displayed**

- (1) For section 56(1)(b) of the Act, the retailer must display, in a prominent position at each place in the premises where the retailer makes a prohibited plastic bag available, a notice that:
- (a) subject to subregulation (2), is not less than 95 mm in height and 150 mm in width; and
  - (b) includes the following statement in legible letters:

The Territory Government is banning the supply of lightweight, single use, non-biodegradable plastic bags from 1 September 2011. Alternative bags are available from this retail outlet.
- (2) The requirement in subregulation (1)(a) does not apply to a notice in electronic form.

**Part 3 Infringement notice offences****6 Definitions**

In this Part:

*infringement notice*, see regulation 8.

*infringement notice offence*, see regulation 7(1).

*prescribed amount*, see regulation 7(2).

**7 Infringement notice offence and prescribed amount payable**

- (1) An *infringement notice offence* is an offence against a provision specified in the Schedule.
- (2) The *prescribed amount* for an infringement notice offence is the amount equal to the monetary value of the number of penalty units specified for the offence in the Schedule.

**8 When infringement notice may be given**

If an authorised officer reasonably believes a person has committed an infringement notice offence, the officer may give a notice (an *infringement notice*) to the person.



**9 Contents of infringement notice**

- (1) The infringement notice must specify the following:
  - (a) the name and address of the person, if known;
  - (b) the date the infringement notice is given to the person;
  - (c) the date, time and place of the infringement notice offence;
  - (d) a description of the offence;
  - (e) the prescribed amount payable for the offence;
  - (f) the enforcement agency, as defined in the *Fines and Penalties (Recovery) Act 2001*, to whom the prescribed amount is payable.
- (2) The infringement notice must include a statement to the effect of the following:
  - (a) the person may expiate the infringement notice offence and avoid any further action in relation to the offence by paying the prescribed amount to the specified enforcement agency within 28 days after the notice is given;
  - (b) the person may elect under section 21 of the *Fines and Penalties (Recovery) Act 2001* to have the matter dealt with by a court instead of under that Act by completing a statement of election and giving it to the specified enforcement agency;
  - (c) if the person does nothing in response to the notice, enforcement action may be taken under the *Fines and Penalties (Recovery) Act 2001*, including (but not limited to) action for the following:
    - (i) suspending the person's licence to drive;
    - (ii) seizing personal property of the person;
    - (iii) deducting an amount from the person's wages or salary;
    - (iv) registering a statutory charge on land owned by the person;
    - (v) making a community work order for the person and imprisonment of the person if the person breaches the order.
- (3) Also, the infringement notice must include an appropriate form for making the statement of election mentioned in subregulation (2)(b).

**10 Payment by cheque**

If the person tenders a cheque in payment of the prescribed amount, the amount is not taken to have been paid unless the cheque is cleared on first presentation.

**11 Withdrawal of infringement notice**

- (1) The NT EPA may withdraw the infringement notice by written notice given to the person.
- (2) The notice must be given:
  - (a) within 28 days after the infringement notice is given to the person; and
  - (b) before payment of the prescribed amount.

**12 Application of Part**

- (1) This Part does not prejudice or affect the start or continuation of proceedings for an infringement notice offence for which an infringement notice has been given unless the offence is expiated.
- (2) Also, this Part does not:
  - (a) require an infringement notice to be given; or
  - (b) affect the liability of a person to be prosecuted in a court for an offence for which an infringement notice has not been given; or
  - (c) prevent more than one infringement notice for the same offence being given to a person.
- (3) If more than one infringement notice for the same offence has been given to a person, the person may expiate the offence by paying the prescribed amount in accordance with any of the notices.

**Part 4 Transitional matters****13 Approved refund marking**

- (1) For the definition ***approved refund marking*** in section 4 of the Act, the following approved refund marking under Part 8, Division 2 of the *Environment Protection Act 1993* (SA) for a container is taken to be an approved refund marking for a regulated container of the same type until 30 June 2014:

"10c refund at collection depots when sold in SA".

- (2) For subregulation (1), it is irrelevant if the marking reads "South Australia" instead of "SA".

**Schedule      Infringement notice offences and prescribed amounts**

regulation 7

<b>Provision</b>	<b>Penalty units</b>
sections 13(2) and 14(2) of Act	2
sections 17(4) and (6), 43(1) and 44(1) of Act	1
sections 45(2), 55(1), 56(1) and 57(1) of Act	2

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**ENDNOTES**
**1****KEY**

Key to abbreviations

**amd = amended**  
**app = appendix**  
**bl = by-law**  
**ch = Chapter**  
**cl = clause**  
**div = Division**  
**exp = expires/expired**  
**f = forms**  
**Gaz = Gazette**  
**hdg = heading**  
**ins = inserted**  
**lt = long title**  
**nc = not commenced**

**od = order**  
**om = omitted**  
**pt = Part**  
**r = regulation/rule**  
**rem = remainder**  
**renum = renumbered**  
**rep = repealed**  
**s = section**  
**sch = Schedule**  
**sdiv = Subdivision**  
**SL = Subordinate Legislation**  
**sub = substituted**

**2****LIST OF LEGISLATION**
***Environment Protection (Beverage Containers and Plastic Bags) Regulations (SL No. 10, 2011)***

Notified	13 April 2011
Commenced	1 May 2011 (r 2, s 2 <i>Environment Protection (Beverage Containers and Plastic Bags) Act 2011</i> (Act No. 2, 2011) and Gaz G15, 13 April 2011, p 11)

***Environment Protection (Beverage Containers and Plastic Bags) Amendment Regulations 2011 (SL No. 32, 2011)***

Notified	27 July 2011
Commenced	3 January 2012 (r 2, s 2 <i>Environment Protection (Beverage Containers and Plastic Bags) Act 2011</i> (Act No. 2, 2011) and Gaz S71, 12 December 2011)

***Environment Protection (Beverage Containers and Plastic Bags) Amendment Regulations (No. 2) 2011 (SL No. 44, 2011)***

Notified	30 August 2011
Commenced	r 5: 30 August 2011; rem: 3 January 2012 (r 3, r 2 <i>Environment Protection (Beverage Containers and Plastic Bags) Amendment Regulations 2011</i> (SL No. 32, 2011), s 2 <i>Environment Protection (Beverage Containers and Plastic Bags) Act 2011</i> (Act No. 2, 2011) and Gaz S71, 12 December 2011)

***Environment Protection (Beverage Containers and Plastic Bags) Amendment Regulations (No. 3) 2011 (SL No. 49, 2011)***

Notified	23 November 2011
Commenced	3 January 2012 (r 2, r 3 <i>Environment Protection (Beverage Containers and Plastic Bags) Amendment Regulations (No. 2) 2011</i> (SL No. 44, 2011), r 2 <i>Environment Protection (Beverage Containers and Plastic Bags) Amendment Regulations 2011</i> (SL No. 32, 2011), s 2 <i>Environment Protection (Beverage Containers and Plastic Bags) Act 2011</i> (Act No. 2, 2011) and Gaz S71, 12 December 2011)

***Environment Protection (Beverage Containers and Plastic Bags) Amendment Regulations (No. 4) 2011 (SL No. 55, 2011)***

Notified	20 December 2011
Commenced	3 January 2012 (r 2, r 2 <i>Environment Protection (Beverage Containers and Plastic Bags) Amendment Regulations (No. 3) 2011</i> (SL No. 49, 2011), r 3 <i>Environment Protection (Beverage Containers and Plastic Bags) Amendment Regulations (No. 2) 2011</i> (SL No. 44, 2011), r 2 <i>Environment Protection (Beverage Containers and Plastic Bags) Amendment Regulations 2011</i> (SL No. 32, 2011), s 2 <i>Environment Protection (Beverage Containers and Plastic Bags) Act 2011</i> (Act No. 2, 2011) and Gaz S71, 12 December 2011)

***Environment Protection (Beverage Containers and Plastic Bags) Amendment Regulations 2013 (SL No. 33, 2013)***

Notified	4 September 2013
Commenced	4 September 2013

***Environment Protection (Beverage Containers and Plastic Bags) Legislation Amendment Act 2014 (No. 17, 2014)***

Assent date	2 June 2014
Commenced	ss 9 (to extent it ins s 20), 11 (to extent it ins s 24C), 20 (to extent it ins s 101) and 25: 1 January 2017 (Gaz G51, 21 December 2016, p 11); rem: 30 June 2014 (Gaz S46, 30 June 2014)

***Environment Protection (Beverage Containers and Plastic Bags) Amendment Regulations 2018 (SL No. 4, 2018)***

Notified	2 March 2018
Commenced	2 March 2018

**3 GENERAL AMENDMENTS**

General amendments of a formal nature (which are not referred to in the table of amendments to this reprint) are made by the *Interpretation Legislation Amendment Act 2018* (Act No. 22, 2018) to: rr 1, 2 and 9.

**4 LIST OF AMENDMENTS**

r 2	sub No. 32, 2011, r 4 amd No. 55, 2011, r 4
rr 2A – 2B	ins No. 32, 2011, r 4
pt 1A hdg	ins No. 32, 2011, r 4
r 2C	ins No. 32, 2011, r 4

## ENDNOTES

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r 2D	ins No. 32, 2011, r 4 amd No. 44, 2011, r 4; No. 49, 2011, r 4; No. 4, 2018, r 4
r 2E	ins No. 32, 2011, r 4 amd No. 55, 2011, r 5
r 2F	ins No. 32, 2011, r 4
r 2FA	ins No. 55, 2011, r 6 amd Act No. 17, 2014, s 24
r 2FB	ins Act No. 17, 2014, s 25
r 2G	ins No. 32, 2011, r 4
r 7	amd No. 44, 2011, r 5
r 11	amd Act No. 17, 2014, s 26
pt 4 hdg	ins No. 32, 2011, r 5
r 13	ins No. 32, 2011, r 5 sub No. 44, 2011, r 6 amd No. 33, 2013, r 3
sch	sub No. 32, 2011, r 6 amd No. 44, 2011, r 7