

2020-04-27

Bill as amended

OBJECTS AND REASONS

This Bill would revise the law relating to the prohibition of the manufacture, importation, distribution and sale of certain single-use plastic items, authorise the sale and use of certain types of disposable plastic materials and would provide for related matters.

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BARBADOS

A Bill entitled

An Act to revise the law relating to the prohibition on the importation, manufacture, distribution and sale of certain single-use plastic items, authorise the use of certain types of disposable plastic items and to provide for related matters.

ENACTED by the Parliament of Barbados as follows:

Short title

1. This Act may be cited as the *Control of Disposable Plastics Act, 2020*.

Definitions

2. For the purposes of this Act,

“bio-based items” mean items made of plastic that contain materials wholly or partially of biogenic origin;

“biogenic” means produced in natural processes by living organisms but not fossilized or derived from fossil resources;

“environmentally sustainable” means a material that is made from a biological based resource and that is compostable in a facility or garden;

“Minister” means the Minister responsible for Maritime Affairs;

“petroleum-based material” means any material that wholly or partially consists of petroleum;

“polyethylene” means a polymer prepared by the polymerization of ethylene as the sole monomer;

“polypropylene” means a polymer prepared by the polymerization of propylene as the sole monomer;

“polystyrene” means a polymer prepared by the polymerization of styrene as the sole monomer;

“single-use plastic bag” means any bag made wholly or in part of polyethylene, polypropylene or any other petroleum-based material;

“single-use plastic item” means

(a) single-use plastic bags;

(b) packaging;

- (c) drinking straws manufactured for single-use;
- (d) cups, plates, forks, knives, spoons and stirers;
- (e) lids, caps, stoppers and other closures used as food service products made wholly or in part of polyethylene, polypropylene or any other petroleum-based material.

Application

3. This Act shall not apply to any plastic beverage container referred to in the *Returnable Containers Act*, Cap. 395.

Prohibition

4.(1) With effect from the 1st day of May, 2020 the goods set out in the *First Schedule* are prohibited goods within the meaning of section 89(1) of the *Customs Act*, Cap. 66 and shall not be imported into Barbados.

(2) With effect from the 1st day of May, 2020 no person shall distribute, offer for sale, sell or use any prohibited goods set out in the *First Schedule*.

(3) Subject to section 6, with effect from the 1st day of May, 2020 no person shall manufacture, distribute or offer for sale any single-use plastic bags.

(4) Subject to section 6, with effect from the 1st day of May, 2020 no person shall use single-use plastic bags.

(5) A person who contravenes subsections (1), (2) or (3) is guilty of an offence and is liable on summary conviction to a fine of \$100 000 or to imprisonment for a term of one year or to both and in the case of a continuing offence, to a further fine of \$1 000 for each day or part thereof, during which the offence continues after which a conviction was first obtained.

(6) An individual who contravenes subsection (4) is guilty of an offence and is liable on summary conviction to a fine of \$5 000.

Prohibition on importation or manufacture of single-use plastic bags

5. Subject to section 6, with effect from the 1st day of May, 2020 no person shall import or manufacture any single-use petroleum-based plastic bag set out in the *Second Schedule*.

Licence for the importation

6.(1) With effect from the 1st day of May, 2020 no person shall

- (a) import any single-use plastic item that is labelled or marketed as environmentally sustainable; or
- (b) import any item set out in the *Third Schedule*

unless that person has applied for and has obtained a licence issued by the Minister responsible for Commerce under section 10 of the *Miscellaneous Controls Act*, Cap. 329.

(2) An application for a licence made pursuant to subsection (1) shall be in such form as the Minister responsible for Commerce approves.

(3) The Minister responsible for Commerce may, on receipt of an application made pursuant to subsection (1) and on payment of the fee set out in the *Fourth Schedule*, grant a licence for the importation of any single-use plastic item referred to in that subsection.

(4) A licence granted pursuant to subsection (3) is valid for a period of 3 months from the date of issue and is not transferable.

(5) Any person who contravenes subsection (1) is guilty of an offence and is liable on summary conviction to a fine of \$100 000 or to imprisonment for a term of one year or to both and, in the case of a continuing offence, to a further fine of \$1 000 for each day or part thereof during which the offence continues after a conviction is first obtained.

Exemption for certain single-use plastic items

7. A person may
- (a) manufacture, distribute, offer for sale, sell or use; or
 - (b) subject to section 6(1)(b) and (2), import

any single-use plastic bag, plastic wrap or tray made of polystyrene which is required for a purpose specified in the *Third Schedule*.

Offence of misrepresentation

8.(1) A person who makes a false or misleading claim or statement and represents that the single-use plastic items that are imported or offered for sale by him are environmentally sustainable is guilty of an offence.

(2) A manufacturer, wholesaler or retailer who makes a false or misleading claim or statement and represents that the single-use plastic items imported, offered for sale, manufactured or distributed by him are environmentally sustainable is guilty of an offence.

(3) A person who is guilty of an offence under subsection (1) or (2) is liable on summary conviction to a fine of \$100 000 or to imprisonment for a term of one year or to both, and in the case of a continuing offence to a further fine of \$1 000 for each day or part thereof during which the offence continues after which a conviction is first obtained.

Unavailability of bio-based alternatives to plastics

9. Notwithstanding any provision of this Act, where there
- (a) is no suitable material for the manufacture of bio-based items; or
 - (b) are no bio-based items available for sale by a wholesaler or a retailer
- the Minister, may on application made to him in writing setting out the reasons for the unavailability of such materials or items grant to the applicant permission

to manufacture or import items from petroleum-based materials or to sell by wholesale or retail such items, as the case may be.

Committee

10.(1) There is established a committee to be known as the Bio-Based Innovation Committee in this Act called the “Committee”.

(2) The purpose of the Committee is to

- (a) recommend, monitor and oversee the development of plastic pollution prevention programmes;
- (b) recommend, monitor and oversee the development of bio-based innovations, and promote the development of the bio-based economy; and
- (c) make recommendations and develop proposals for public education on plastics and bio-based alternatives to plastics.

(3) The *Fifth Schedule* has effect with respect to the constitution and procedure of the Committee and otherwise in relation thereto.

Schedules

11. The Minister may, by order, amend, vary or revoke the *Schedules*.

Regulations

12. The Minister may, after consultation with the Minister responsible for the Environment, make regulations

- (a) for the conservation, management and protection of the environment including the marine environment, from pollution by plastics;
- (b) for prescribing anything that is authorised or required by this Act to be prescribed; and
- (c) generally, for giving effect to the provisions of this Act.

Repeal of Act 2019-11

13. The *Control of Disposable Plastics Act, 2019*, Act 2019-11 is repealed.

FIRST SCHEDULE*(Section 4(1) and (2))*

PROHIBITED GOODS

Tariff Heading Number	Description of Goods
ex 3923	Egg boxes
ex 3923	Food service products (namely, lids, caps, stoppers and other closures)
ex 3923	Cups
ex 3924	Drinking straws
ex 3924	Forks
ex 3924	Knives
ex 3924	Plates
ex 3924	Spoons
ex 3924	Stirrers

SECOND SCHEDULE*(Section 5)*

GOODS PROHIBITED FROM IMPORTATION AND MANUFACTURE

Tariff Heading Number	Description of Goods
ex 3923	Sacks and bags of polymers of ethylene and other plastics

THIRD SCHEDULE

(Sections 6(1)(b) and 7)

EXEMPTED SINGLE-USE PLASTIC ITEMS

- 1.** Single-use plastic items used to maintain public health and in compliance with food safety standards, including packaging used by wholesalers and retailers to distribute raw meat (fresh, chilled or frozen), raw fish (fresh, chilled or frozen), flour, sugar, rice or baked goods.
- 2.** Single-use plastic items used for medical purposes, inclusive of equipment and protective gear.
- 3.** Single-use plastic items used for veterinary purposes, inclusive of equipment and protective gear.
- 4.** Single-use plastic bags designed, packaged and retailed specifically for the disposal of waste from households, public places, business places, offices or industrial plants.
- 5.** Single-use plastic bags distributed by airport authorities for health, safety and security purposes and contained in the luggage of a person travelling into or out of Barbados.
- 6.** Single-use plastic bags or plastic wrap designed for storage of agricultural products, fresh fruit and vegetables, bags containing samples used for analytical and scientific purposes.
- 7.** Single-use plastic bags or wrap used for perishables or for the preservation of food.
- 8.** Single-use plastic bags that are transparent, low density of 25-30 microns, including bags used by vendors in the sale and distribution of produce such as fruits (e.g. nuts, grapes, plums, coconut slices, golden apple slices, mango

slices, pineapple slices, watermelon slices, sugar cane, tamarinds, ackees, berries, cherries, dunks, 'fat pork', cashews).

- 9.** Single-use plastic bags that are transparent, low density of 60-70 microns used to package fresh, chilled or frozen meat.
- 10.** Trays made of polystyrene used for packaging fresh, chilled or frozen meat, fish or processed fruit and vegetables, whether fresh, chilled, frozen or processed.
- 11.** Drinking straws to be used only by persons with disabilities.
- 12.** Plastic bags manufactured for export.
- 13.** Plastic straws attached to small tetra-pak boxes until 1st January 2023.
- 14.** Coin and currency bags used by financial institutions.

FOURTH SCHEDULE

(Section 6(3))

LICENCE FEE

Fee for the import licence	\$25.00
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FIFTH SCHEDULE*(Section 10(3))***CONSTITUTION AND PROCEDURE OF COMMITTEE**

1. The Committee shall comprise
 - (a) the Permanent Secretary in the Ministry responsible for Maritime Affairs, *ex officio*, who shall be the chairman;
 - (b) the Permanent Secretary in the Ministry responsible for Commerce, *ex officio*, or his nominee;
 - (c) the Permanent Secretary in the Ministry responsible for the Environment, *ex officio*, or his nominee;
 - (d) the Comptroller of Customs, *ex officio*, or his nominee;
 - (e) the Director of the Barbados National Standards Institution, *ex officio*, or his nominee;
 - (f) the Director of the Coastal Zone Management Unit, *ex officio*, or his nominee;
 - (g) the Director of the Department of Commerce and Consumer Affairs, *ex officio* or his nominee;
 - (h) a representative of the Barbados Chamber of Commerce and Industry;
 - (i) a representative of the Barbados Manufacturer's Association;
 - (j) a representative of the Barbados Private Sector Association; and
 - (k) a representative from the Faculty of Science and Technology of the University of the West Indies, Cave Hill Campus.
2. Subject to the right to resign his office, a person appointed under subparagraph (h), (i), (j) and (k) of paragraph 1 shall hold office for a term of 3 years.

3. No remuneration shall be payable to the members of the Committee except with the approval of the Cabinet.
4. In the case of the absence of the chairman, or his inability to act as such, the senior Permanent Secretary shall exercise the functions of the chairman.
5. A public officer assigned by the Permanent Secretary in the Ministry responsible for Maritime Affairs shall be the Secretary of the Committee.
6. A member of the Committee may resign by letter in writing sent to the Minister.
7. Subject to this *Schedule*, the Committee shall regulate its own procedure.
8. The Committee shall meet at such times and places as may be necessary or expedient for the transaction of its business.
- 9.(1) The chairman may at any time call a special meeting of the Committee, and shall call such a meeting if required so to do by 5 members of the Committee.
 - (2) The chairman and 5 other members of the Committee shall form a quorum.
 - (3) In the case where the voting is equal, the chairman shall have a second or casting vote.

Read three times and passed the House of Assembly this
day of _____, 2020.

Speaker

Read three times and passed the Senate this _____ day of
, 2020.

President