



An Bille um Plaistigh Dhochracha (Toirmeasc), 2019
Harmful Plastics (Prohibition) Bill 2019

Mar a tionscnaíodh

As initiated



**AN BILLE UM PLAISTIGH DHOCHRACHA (TOIRMEASC), 2019
HARMFUL PLASTICS (PROHIBITION) BILL 2019**

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ACT REFERRED TO

Safety, Health and Welfare at Work Act 2005 (No. 10)



**AN BILLE UM PLAISTIGH DHOCHRACHA (TOIRMEASC), 2019
HARMFUL PLASTICS (PROHIBITION) BILL 2019**

Bill

entitled

An Act to prohibit the sale of consumer goods packaging containing harmful plastics, to prohibit the sale of consumer products containing microbeads, to promote the use of biodegradable materials in the packaging of consumer products, to enable the Minister for Communications, Climate Action and Environment to make for that purpose certain regulations and to permit the Environmental Protection Agency to prepare programmes for monitoring the use of harmful plastics in the manufacture, distribution and sale of consumer products in the State. 5 10

Be it enacted by the Oireachtas as follows:

PART 1

PRELIMINARY AND GENERAL

Short title and commencement 15

1. (1) This Act may be cited as the Harmful Plastics (Prohibition) Act 2019.
- (2) This Act shall come into operation on such day or days as the Minister may appoint by order or orders either generally or with reference to any particular purpose or provision and different days may be so appointed for different purposes or different provisions. 20

Interpretation

2. (1) In this Act—
 - “Agency” means the Environmental Protection Agency;
 - “consumer product” means merchandise or other item of common or daily use, ordinarily bought by individuals or households for private consumption; 25
 - “cosmetic product” means any substance or mixture intended to be placed in contact with the various external parts of the human body or with the teeth and the mucous membranes of the oral cavity with a view exclusively or mainly to cleaning them, perfuming them, changing their appearance and/or correcting body odours and/or protecting them or keeping them in good condition; 30

“microbeads” means synthetic non-biodegradable solid plastic particles greater than one micron and less than five millimetres in size used to exfoliate or cleanse in rinse off cosmetic products;

“Minister” means the Minister for Communications, Climate Action and Environment or any Minister for the time being responsible for the Agency; 5

“packaging” means materials used to wrap or protect goods;

“person” means any natural or legal person;

“plastic” means any material made from synthetic resins through the industrial process of polymerization;

“plastic consumer product packaging” means any consumer product packaging made of materials, 20 per cent or more of which, are plastic. 10

PART 2

CONTROL OF CONSUMER PRODUCTS PACKAGING CONTAINING HARMFUL PLASTICS

Controlled packaging

3. (1) In this section controlled plastic consumer product packaging means any plastic consumer product packaging which is for the time being declared pursuant to *subsection (2)* to be controlled for the purposes of this Act. 15
- (2) The Minister may by order declare any plastic consumer product packaging to be controlled for the purposes of this Act.
- (3) Any order made pursuant to *subsection (2)* must be made subsequent to the consultation process as outlined in *section 6*. 20
- (4) In making any order pursuant to *subsection (2)*, the Minister shall have regard to the following features of the plastic under consideration:
- (a) the length of time that said plastic will remain in the environment;
 - (b) the processes involved in the production of the plastic; 25
 - (c) whether the plastic is biodegradable under regular consumer conditions;
- (5) The Government may by order amend or revoke an order under this section (including an order made under this subsection).

Prosecution of Offences

4. (1) Any person who sells merchandise or goods containing controlled plastic consumer product packaging shall be guilty of an offence. 30
- (2) A person who contravenes *subsection (1)* is liable, on summary conviction, to a fine of not more than €12,500 for each item offered for sale or supply.

Consultation process

5. (1) Subject to *subsection (2)*, the Minister—
- (a) may at his or her own initiative, or
 - (b) shall at the written request of at least 5 persons all being manufactures of plastic consumer product packaging,
- 5
- enter into a consultation process concerning the control of plastic consumer products packaging.
- (2) Within 6 weeks of commencing the consultation process, the Minister shall publish a notice in two national newspapers inviting all manufactures of plastic consumer products packaging in the state to make written submissions to his or her department. 10
- (3) The Minister shall publicly respond to all such written submissions before making an order pursuant to *section 4(2)*.

PART 3

PROHIBITION ON THE SALE OF COSMETIC PRODUCTS CONTAINING MICROBEADS

Prohibition on the Sale of Cosmetic Products Containing Microbeads 15

6. (1) Subject to *subsection (2)*, any person who, after one year of the commencement of this section, has in his possession, whether lawfully or not, a cosmetic and/or consumer product containing microbeads for the purpose selling or otherwise supplying it to another shall be guilty of an offence.
- (2) The Minister may by order declare that *subsection (1)* shall not apply to a cosmetic and/or consumer product specified in the order, and for so long as an order under this subsection is in force the prohibition contained in *subsection (1)* shall not apply to the said cosmetic product. 20
- (3) A person who contravenes *subsection (1)* is guilty of an offence and is liable, on summary conviction, to a fine of not more than €12,500 for each item offered for sale or supply. 25

Prosecution of offences

7. (1) An offence under this Act may be prosecuted summarily by the Agency.
- (2) Notwithstanding *subsection (1)*, the Minister may, by regulations, provide that an offence under this Act, specified in the regulations, may be prosecuted summarily by such person (including the Minister) as may be so specified. 30

PART 4

POWERS CONFERRED ON ENVIRONMENTAL PROTECTION AGENCY

Codes of Practice

8. The Agency may—
- (a) prepare and publish codes of practice, or 5
 - (b) approve of a code of practice or any part of a code of practice drawn up by any other body,
- for the purpose of providing practical guidance with respect to compliance with any requirement in this Act.

Monitoring Programmes 10

9. (1) The Agency shall, after consultation with such persons or bodies as may be prescribed, prepare programmes for monitoring the use of plastics in consumer products packaging and/or the use of microbeads in the manufacture of cosmetic products in this State. A copy of each such programme shall, as soon as may be, be sent by the Agency to the Minister and shall be published by the Agency. 15
- (2) A programme under this section shall specify—
- (a) the nature and extent of the monitoring to which the programme relates and the reasons why, in the opinion of the Agency, the monitoring should be carried out,
 - (b) the persons or bodies (including the Agency) by which the intended monitoring is to be carried out, 20
 - (c) the resources, including equipment, other facilities and staff, required to carry out the monitoring and the cost thereof,
 - (d) the arrangements which the Agency considers appropriate for access to, dissemination of, and publication of the results of the monitoring.
- (3) It shall be the duty of the Agency to take appropriate steps to ensure that a programme under this section is implemented and for that purpose the Agency may— 25
- (a) give such directions as it considers appropriate to any local authority in relation to the carrying out of monitoring by that authority,
 - (b) make arrangements with any public authority, or other person or body, for the carrying out of specified monitoring, 30
 - (c) carry out, cause to be carried out, or arrange for, such monitoring as it may consider necessary for the purposes of the programme,
 - (d) assist any person or body in the carrying out of any part of the approved monitoring programme.
- (4) The Agency may, after consultation with the persons or bodies (if any) referred to in *subsection (1)*, amend or revoke a programme. 35

Ministerial Regulations

10. The Minister may make regulations specifying the monitoring, or classes of monitoring in relation to which the Agency shall consult with him and obtain his agreement prior to giving any directions under *subsection (3)(a) of section 9*.

Inspectors

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11. (1) The Agency may, with the consent of the Minister appoint such and so many of the officers of the Minister as he or she considers appropriate to be an inspector or inspectors for the purposes of this Act.
- (2) A person appointed to be an inspector under this section shall on his or her appointment be furnished with a warrant of his or her appointment, and when exercising a power conferred by this Act shall, if requested by any person affected thereby, produce such warrant to that person for inspection. 10
- (3) An appointment under this section shall cease—
- (a) in the case of a person appointed under *subsection (1)*, if—
- (i) the Agency revokes the appointment, or 15
- (ii) the person appointed ceases to be a member of the staff of the Commission, or
- (b) if the appointment is for a fixed period, on the expiry of that period.

Powers of Inspectors

12. (1) For the purposes of this Act, an inspector may— 20
- (a) subject to *subsection (3)*, enter (if necessary by the use of reasonable force) at all reasonable times any premises—
- (i) that he or she has reasonable grounds for believing has been or is being used in connection with the production, manufacture, sale or supply of products containing microbeads, or 25
- (ii) at which he or she has reasonable grounds for believing that records or documents relating to the production, manufacture, sale or supply of products containing microbeads are kept,
- (b) at such premises, inspect and take copies of, any books, records or other documents (including books, records or documents stored in non-legible form), or extracts therefrom, that he or she finds in the course of his or her inspection, 30
- (c) remove any such books, documents or records from such premises and retain them for such period as he or she reasonably considers to be necessary for the purposes of his or her functions under this Act,
- (d) require any person at the premises concerned, including the owner or person in charge of that place or premises, to give the inspector such information and assistance as the inspector may reasonably require for the purposes of his or her functions under this Act, 35

- (e) require any person at premises concerned, including the owner or person in charge of that place or premises, to produce to the inspector such books, documents or other records (and in the case of documents or records stored in non-legible form, a legible reproduction thereof) that are in that person's possession or procurement, or under that person's control, as he or she may reasonably require for the purposes of his or her functions under this Act, 5
- (f) require any person, whom the inspector has reasonable grounds for believing to be, or to have been, a producer, manufacturer, seller or supplier of products containing microbeads to answer such questions as the inspector may ask relative to any matter under this Act or a relevant enactment and to make a declaration of the truth of the answers to those questions, and 10
- (g) examine with regard to any matter under this Act or a relevant enactment, any person whom the inspector has reasonable grounds for believing to be, or to have been, a producer, manufacturer, seller or supplier of products containing microbeads, following the inspector's having cautioned the person that the person is not obliged to say anything unless he or she wishes to do so but that whatever he or she says will be taken down in writing and may be given in evidence. 15
- (2) When performing a function under this Act, an inspector may, subject to any warrant under *subsection (4)*, be accompanied by such number of other inspectors or members of the Garda Síochána as he or she considers appropriate. 20
- (3) An inspector shall not enter a dwelling, other than—
- (a) with the consent of the occupier, or
- (b) pursuant to a warrant under *subsection (4)*.
- (4) Upon the sworn information of an inspector, a judge of the District Court may, if satisfied that there are reasonable grounds for believing that information, books, documents or other records (including information, books, documents or records stored in non-legible form) required by an inspector under this section is or are held at any dwelling, issue a warrant authorising a named inspector, accompanied by such other inspectors or members of the Garda Síochána as may be necessary, at any time or times, before the expiration of one month from the date of issue of the warrant, to enter (if necessary by the use of reasonable force) the dwelling and perform the functions of an inspector under *paragraphs (b), (c), (d), (e), (f) and (g) of subsection (1)*. 25 30
- (5) A person shall be guilty of an offence if he or she—
- (a) obstructs or interferes with an inspector or a member of the Garda Síochána in the course of exercising a power conferred on him or her by this Act or a warrant under *subsection (4)* or impedes the exercise by the inspector or member, as the case may be, of such power, or 35
- (b) fails or refuses to comply with a requirement of an inspector or member of the Garda Síochána pursuant to *paragraph (d) or (f) of subsection (1)*, or in purported compliance with such requirement gives information or makes a declaration to the inspector or member that he or she knows to be false or misleading in any material respect. 40

- (c) A person who contravenes *paragraph (a) or (b)* is liable, on summary conviction, to a fine of not more than €10,000 and a term of imprisonment not exceeding 12 months.
- (6) Where an inspector believes, upon reasonable grounds, that a person has committed an offence under this Act, he or she may require that person to provide him or her with his or her name and the address at which he or she ordinarily resides. 5
- (7) In this section—
- “place of work” has the same meaning as it has in the Safety, Health and Welfare at Work Act 2005;
- “premises” includes vehicle, vessel, ship and railway carriage. 10

An Bille um Plaistigh Dhochracha
(Toirmeasc), 2019

BILLE

(Mar a tionscnaíodh)

dá ngairtear

Acht do thoirmeasc pacáistiú earraí tomhaltais, ar pacáistiú é ina bhfuil plaistigh dhochracha, a dhíol, do thoirmeasc táirgí tomhaltais ina bhfuil micreachlocha a dhíol, do chur úsáid ábhar in-hithdhígráidithe chun cinn sa phacáistiú ar tháirgí tomhaltais, do chumasú don Aire Cumarsáide, Gníomhaithe ar son na hAeráide agus Comhshaoil rialacháin áirithe a dhéanamh chun na críche sin, agus do thabhairt cead don Ghníomhaireacht um Chaomhnú Comhshaoil cláir a ullmhú chun faireachán a dhéanamh ar úsáid plaisteach dochrach le linn táirgí tomhaltais a mhonarú, a dháileadh agus a dhíol sa Stát.

Na Seanadóirí Lorraine Clifford-Lee, Jennifer Murnane O'Connor agus Robbie Gallagher a thug isteach,

16 Deireadh Fómhair, 2019

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Introduced by Senators Lorraine Clifford-Lee, Jennifer Murnane O'Connor and Robbie Gallagher

16th October, 2019

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