

# PLAN FOR THE BAN: SINGLE-USE PLASTICS BANS ARE ROLLING OUT ACROSS CANADA – ARE YOU READY?

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## Overview

The impending ban of single-use plastics in Canada means that manufacturers and retailers will have to change the way they package, distribute and sell single-use plastics. With legislation being introduced at the federal, provincial and municipal levels, it is imperative that businesses currently producing, selling or using single-use plastics take note of these new laws and begin preparing for the changes to come.

While single-use plastic bags, cutlery, straws and packaging are the most cited single-use plastic targets of these proposed regulations, legislation targeting single-use plastics have cast a wide net to ensure regulators have authority to regulate other types of single-use products.

The Canadian government currently expects to have its single-use plastics ban regulations in place as early as 2021. [1] At the provincial level, five provinces have taken steps to implement their own bans on the use and distribution of single-use plastics and municipalities across the country have made similar changes at the local level.

This bulletin provides a summary of the current state of single-use plastics legislation across Canada and the changes and trends businesses can expect to see over the next couple years.

## Current Plans for Single-Use Plastics Bans

### Canada (Federal)

In June 2019, the Prime Minister announced Canada's plan to take additional steps to reduce Canada's plastic waste, support innovation and promote the use of affordable and safe alternatives. In particular, the Government of Canada plans to:

- a. ban single-use plastics in 2021 and take other steps to reduce pollution from plastic products and packaging; and
- b. work with provinces and territories to introduce standards and targets for companies that manufacture

plastic products or sell items with plastic packaging so they become responsible for their own plastic waste.<sup>[2]</sup>

While the federal government has not yet revealed which products will be captured by its single-use plastics ban, this information would form part of the regulations previously expected to be released in 2020. However, due to the urgent demands of the COVID-19 pandemic, the Minister of Environment and Climate Change has confirmed that this date has been pushed back and the public consultation period has been extended. As a result, the single-use plastics targeted by these regulations may not be disclosed until as late as early 2021.<sup>[3]</sup>

### **Provinces & Territories**

It is likely that there will be some overlap or coordination between the federal and provincial single-use plastics legislation. Because recycling is regulated at the provincial and municipal levels, it is expected that there will be additional provincial regulation specifically related to recycling. In fact, some provinces have already begun the process of changing their recycling regimes as they relate to single-use plastics.

The following is a summary of the state of legislation in relation to single-use plastics at the provincial level.

#### **British Columbia**

British Columbia is currently considering a ban on plastic packaging and reducing plastics overall in the province. In the summer of 2019, B.C. solicited feedback from the public and interested parties on this issue for consideration as part of B.C.'s development of a new regulatory framework for plastic waste.<sup>[4]</sup> While a report on the feedback was expected to be posted in late 2019, this has not yet occurred. At this time, it appears B.C. is not yet in the drafting stage of this legislation so there is no estimate for timing of its enactment.

#### **Ontario**

Ontario has published a bill entitled *Single-Use Plastics Ban Act, 2019* to amend the *Resource Recovery and Circular Economy Act, 2016*, which defines single-use plastics as “prescribed plastic products that are typically used once and then discarded and not recycled or reused”. The intention of these amendments is to create a plan one year after the amendments are enacted to (1) identify measurable targets and set timelines for the immediate reduction and eventual elimination of the distribution and supply of single-use plastics in Ontario; and (2) immediately eliminate a fixed list of products and “any other single-use plastics that, in the opinion of the Minister, should be eliminated immediately”.<sup>[5]</sup>

The *Single-Use Plastics Ban Act, 2019* bill completed its first reading on March 18, 2019, but has made no further progress in the Ontario legislature. Such a ban may cover various single-use plastic products to be eliminated by way of a phase out approach. However, at this time, there is no information on what products the Minister of

Environment, Conservation and Parks intends to include in the list of products to be immediately eliminated.

Ontario is also in the consultation phase with industry stakeholders, municipalities and others regarding changes to municipal plastic recycling programs across the province.<sup>[6]</sup> Ontario's plan is to begin a phased transfer of responsibility for paying the cost of recycling and waste diversion from municipalities and taxpayers to producers and manufacturers between 2023 and 2025.<sup>[7]</sup>

### ***Nova Scotia***

The Nova Scotia Plastic Bags Reduction Act banning single-use plastic bags will come into effect on October 30, 2020.<sup>[8]</sup> This legislation also provides the government with authority to regulate other "single-use products" defined as "a product or packaging that is not conceived, designed or placed on the market to accomplish, within its life span, multiple trips or rotations by being returned to a producer for refill or reused for the same purpose for which it was originally conceived, designed or placed".<sup>[9]</sup> There is currently no information regarding what other single-use plastic items Nova Scotia intends to regulate or ban in the future.

### ***Other Provinces and Territories***

Prince Edward Island banned single-use plastic bags on July 1, 2019.<sup>[10]</sup>

Newfoundland and Labrador is set to ban single-use plastic bags on October 1, 2020.<sup>[11]</sup>

There is currently no proposed legislation on banning any single-use plastics in Alberta, Saskatchewan, Quebec, Yukon, Nunavut or the Northwest Territories.

### ***Municipalities***

Many municipalities, regardless of whether the provinces or territories in which they reside have enacted legislation restricting single-use plastics, have introduced by-laws aimed at curbing the use of plastic bags, cutlery, straws and takeout containers. For example, cities such as Fort McMurray in Alberta, Thompson in Manitoba and Montreal in Quebec have introduced municipal by-laws banning certain single-use plastics.<sup>[12]</sup>

### ***COVID-19 Delays and Effects***

As governments across the country have shifted their focus to the battle against the COVID-19 pandemic, measures to reduce single-use plastics have been sidelined, at least temporarily.

Not only has the pandemic delayed consultations on the national single-use plastics ban, it has also impacted plans to ban single-use plastics at the provincial and municipal levels. For example, Newfoundland and Labrador was originally slated to roll out its single-use plastics ban on July 1, 2020, but because of the pandemic, it pushed back this date to October 1, 2020.<sup>[13]</sup> Rimouski, Quebec and Prince Albert, Saskatchewan

were also both set to implement bans on single-use plastic bags this year, but both municipalities have delayed their respective bans until 2021.<sup>[14]</sup>

These delays in part arise from concerns about transferring the COVID-19 virus through shared contact. As a result, many businesses have increased their use of single-use plastics, often opting for disposable products over reusable or recyclable. Examples include grocery stores no longer charging consumers for single-use plastic bags and restaurants providing patrons with individual servings of condiments in plastic containers and plastic cutlery instead of refillable condiment bottles and silverware, respectively.

### **Planning for the Future**

Despite the temporary delays caused by the COVID-19 pandemic, it is clear that Canada is moving towards the ban of single-use plastics and the shifting of plastic recycling costs to manufacturers and producers. These existing, pending and future regulations will likely expand over time resulting in more plastic products and packaging being banned and an increased need for innovation and production in the area of reusable, recyclable and biodegradable alternatives for businesses and consumers.

Extensive consultation with industry stakeholders and staged implementation of new regulations are intended to allow impacted parties time to make necessary changes to their operations. However, because some of the proposed legislation has not yet been drafted, it is difficult to assess how much time companies will have to comply with the incoming legislation. At this time, it would be prudent for many companies to begin considering alternatives to single-use plastics used, produced or relied on in their own operations so they are prepared for when these bans roll out across the country.

[1] Environment and Climate Change Canada, News Release, "[Draft Science Assessment of Plastic Pollution confirms negative impact of plastic pollution on the environment in Canada](#)" (30 January 2020).

[2] Justin Trudeau, Prime Minister of Canada, News Release, "[Canada to ban harmful single-use plastics and hold companies responsible for plastic waste](#)" (June 10, 2019).

[3] Marieke Walsh, "[Canada's more ambitious emissions targets, other climate change programs delayed by COVID-19](#)", The Globe and Mail (21 May 2020).

[4] British Columbia Ministry of Environment and Climate Change Strategy, "[Plastic Actions Plan: Policy Consultation Paper](#)".

[5] [Bill 82, An Act to amend the Resource Recovery and Circular Economy Act, 2016](#), 1st Sess, 42nd Leg, Ontario, 2019 [Bill 82].

[6] Ministry of the Environment, Conservation and Parks, News Release, "[Ontario Announces Next Steps to Improve Recycling and Tackle Plastic Waste](#)" (15 August 2019).

[7] *Ibid.*

[8] [Bill 152, An Act to Reduce the Use of Plastic Bags and Other Single-use Products](#), 2nd Sess, 63rd Leg, Nova Scotia, 2019.

[9] *Ibid*, s 3(e).

[10] Plastic Bag Reduction Act, RSPEI 1988, c P-9.2.

[11] [Plastic Retail Bag Regulations](#), NLR 1/20.

[12] Regional Municipality of Wood Buffalo, by-law No 12/007, [Single-Use Shopping Bag Bylaw](#) (10 April 2012); City of Thompson, by-law No 1839-2010, [Single-Use Plastic Bag By-law](#) (27 September 2010); Ville De Montreal, by-law No 16-051 [By-law Prohibiting the Distribution of Certain Shopping Bags in Retail Stores](#) (1 January 2018).

[13] Retail Council of Canada, "[Shopping bag and single-use plastic regulations across Canada](#)" (14 September 2020).

[14] *Ibid*.

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#### **A Cautionary Note**

The foregoing provides only an overview and does not constitute legal advice. Readers are cautioned against making any decisions based on this material alone. Rather, specific legal advice should be obtained.

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