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2023 UPDATES TO THE RESOURCE SUSTAINABILITY ACT 2019

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Singapore's Resource Sustainability Act (RSA) came into force in 2020. The law seeks to promote resource sustainability¹ by targeting electronic waste, food waste and packaging waste.²

The concept of extended producer responsibility (EPR) underpins the RSA. Currently, EPR applies to the regulation of electrical and electronic waste resulting from both consumer and industrial products.³ Producers of e-products must not exceed the production limits prescribed by the RSA.⁴ Regulated retailers⁵, especially if they occupy large premises,⁶ have an obligation under the Producer Responsibility Scheme (PRS) to collect consumer e-waste through in-store collection points and take-back services.⁷

EPR is anticipated (but not yet operationalised through legislation) for packaging and food waste. In relation to packaging, Part 4 of the RSA makes reporting mandatory for producers (and some retailers⁸) who import and/or use packaging for supplying certain goods.⁹ Companies are incentivized to assess the amount and constituent components of packaging they use, and to formulate targets for the reduction of packaging use.¹⁰ In relation to food waste, Part 5 of the RSA works through building managers and management corporates, although this Part has not been yet implemented.¹¹ The National Environmental Agency (NEA) has responsibilities and powers under the RSA.¹²

2023 UPDATES TO THE RSA

In May 2023, three key updates to the RSA regime were made:

1. Resource Sustainability (Disposable Carrier Bag Charge) Regulations 2023 ('Disposable Carrier Bag Charge Regulations')
2. Resource Sustainability (Prescribed Regulated Products) (Amendment) Regulations 2023 ('Prescribed Regulated Products Amendment 2023')
3. Resource Sustainability (Packaging Reporting) (Amendment) Regulations 2023 ('Packaging Reporting Amendment 2023')

The new **Disposable Carrier Bag Charge Regulations** (DCBC Regulations) is to be read with Part 4A of the RSA, the latter being added to the regime and coming into effect only in May 2023. It defines supermarkets as the retailers currently regulated by Part 4A. Supermarkets that have an annual turnover that exceeds the prescribed annual turnover of \$100 million must apply to the NEA to be registered as a "registered retailer".¹³ The year that this happens is known as the 'trigger year'. The DCBC Regulations stipulate the necessary information to be submitted for registration¹⁴ and deregistration¹⁵.

Subject to certain exceptions,¹⁶ registered retailers must impose and collect a charge for each disposable carrier bag provided when a customer buys the registered retailer's goods. The DCBC Regulations elaborate

¹ Resource Sustainability Act 2019 (RSA).

² Ministry of Sustainability and Environment, 'The Resource Sustainability Act' (*Ministry of Sustainability and Environment*, 30 July 2020) <<https://www.mse.gov.sg/resource-room/category/2020-07-30-resource-sustainability-act/>> accessed on 31 May 2023.

³ Ibid.

⁴ RSA, s 12.

⁵ RSA, s 14.

⁶ RSA, s 15.

⁷ Ministry of Sustainability and Environment (n 2).

⁸ RSA, s 19(2)(b)(iv).

⁹ RSA, s 19(2).

¹⁰ RSA, ss 21-22.

¹¹ RSA, s 1(2).

¹² RSA, s (2)(1).

¹³ RSA, s 23B(1).

¹⁴ Resource Sustainability (Disposable Carrier Bag Charge) Regulations 2023 (DCBC), regulation 8.

¹⁵ DCBC, regulation 10.

¹⁶ RSA, s 23F(2) and DCBC 11.

that charging for disposable carrier bags is not required if the bag is provided at a non-supermarket premises selling goods exclusive to those premises,¹⁷ or if the customer makes an online delivery order from the supermarket.¹⁸ The charge that supermarkets impose per carrier bag must not be less than what the law prescribes.¹⁹

Registered retailers are obliged to inform their customers about applicable disposable carrier bag charges.²⁰ This entails prominently displaying such information at entrances during operating hours, for at least six months after registration.²¹ After these six months, the charge may be verbally communicated to customers instead.²² Any changes to the charge must also be prominently displayed in the same fashion for at least six months after the change is implemented.²³

Registered retailers must submit annual reports to NEA, detailing the number of disposable carrier bags given to customers²⁴ and, *inter alia*, the methodology used to determine and record such a number.²⁵ The person responsible for submitting this annual report must also keep and maintain complete and accurate records of any information relevant to the report, including the total amount of charge collected from disposable carrier bags²⁶ and whether the collected charges had been applied for any charitable purposes.²⁷ The number of carrier bags given out and the total amount of charges collected must be published online and displayed at the supermarket premises.²⁸

The **Prescribed Regulated Products Amendment 2023** concerns the licensed scheme that certain registered producers are subject to under section 12 of the RSA. A registered producer must be a member of a licensed scheme for a regulated consumer product to sell beyond thresholds prescribed by the Resource Sustainability (Prescribed Regulated Products) Regulations 2019. The Prescribed Regulated Products Amendment 2023 lowers the thresholds of many regulated consumer products, including routers and network switches. This incentivises registered producers to either produce and sell less units of the product, or join the licensed scheme and financially contribute to the Producer Responsibility Scheme.²⁹ The amended First Schedule also specifies the compliance year from which a threshold will apply to its respective product.

The **Packaging Reporting Amendment 2023** makes minor changes to previous packaging reporting regulations. The amendment gives the NEA discretion to allow a producer to submit the necessary packaging report³⁰ and 3R plan³¹ at a date later than the prescribed 31 March of any year.

¹⁷ DCBC, regulation 11(1)(a).

¹⁸ DCBC, regulation 11(1)(b).

¹⁹ RSA, s 23F(1).

²⁰ DCBC, regulation 12(1).

²¹ DCBC, regulation 12(2).

²² DCBC, regulation 12(4).

²³ DCBC, regulation 12(3).

²⁴ RSA, s 23I(1)(a).

²⁵ DCBC, regulation 13(1)(c).

²⁶ RSA, s 23J(1)(a).

²⁷ DCBC, regulation 14(1)(a). 'Charitable purposes' is as defined under s2(1) Charities Act 1994.

²⁸ RSA, s 23K(2).

²⁹ National Environment Agency, 'E-Waste Management: Extended Producer Responsibility (EPR) System for E-Waste Management System' (*National Environment Agency*) <[https://www.nea.gov.sg/our-services/waste-management/3r-programmes-and-resources/e-waste-management/extended-producer-responsibility-\(epr\)-system-for-e-waste-management-system](https://www.nea.gov.sg/our-services/waste-management/3r-programmes-and-resources/e-waste-management/extended-producer-responsibility-(epr)-system-for-e-waste-management-system)> accessed on 31 May 2023 . For the fee structure as of 31 May 2023, see <https://file.go.gov.sg/prs-fees.pdf>.

³⁰ Resource Sustainability (Packaging Reporting) (Amendment) Regulations 2023, regulation 2.

³¹ Resource Sustainability (Packaging Reporting) (Amendment) Regulations 2023, regulation 3.