

FREQUENTLY ASKED  
QUESTIONS

Restriction on Placing  
on the Market of  
Single-Use Plastic  
Products Regulations

S.L. 549.140

June 2021

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## Introduction

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In December 2020, the 'Restrictions on Placing on the Market of Single-Use Plastic Products Regulations, 2020 ([S.L. 549.140](#)), which transpose Article 5 and Article 6 (1) and 6 (2) of the SUP Directive ([Directive 2019/904](#)) were enacted. These Regulations implement a new measure announced by the Government as part of the 2020 Budget Speech, namely the prohibition of importation, production, sale and distribution of certain single use plastic (herein after 'SUP') items as from 1<sup>st</sup> January 2021.

These regulations prohibit the placement on the market of:

- The SUP items listed in Part A of the Schedule to S.L. 549.140 and of products made from oxo-degradable plastic as from 1<sup>st</sup> January 2021. Such SUP items include cutlery, straws, plates, cotton bud sticks, beverage stirrers, balloon sticks as well as food or beverage containers and cups made of expanded polystyrene;

and

- The SUP items listed in Part B of the schedule to S.L. 549.140 as from 3<sup>rd</sup> July 2024. Such SUP items include plastic and composite beverage containers with a capacity of up to three litres. Such containers might be exempt from such prohibition if the plastic caps and lids remain attached to the containers during their intended use stage.

### Q.1. What is the difference between single-use and reusable products?

Single-use products are not conceived nor designed by the manufacturer to accomplish, within their life-span, multiple trips or rotations, by being returned to a producer (for refill, reloading, etc.) or reused for the same purpose for which they were conceived. On the other hand, reusable products are specifically designed by the manufacturer to be reused multiple times for the same purpose for which they were conceived, while always being in line with the relevant product standards (for example they must not compromise food hygiene, food safety and good hygiene practices).

For example, reusable durable plastic cutlery, plates, straws, or stirrers, which are purposely designed with the objective to be used more than once are not SUP products subject to the prohibition set out in S.L. 549.140.

## Q.2. When is a product considered to be a Single-Use Plastic (SUP) product according to S.L. 549.140?

When a single-use product is made wholly or partly from plastic (that is, where plastic is a main structural component), irrespective of whether such plastic is:

- Derived from biomass; and
- Biodegradable and compostable according to the harmonised standard EN 13432:2000 on the requirements for packaging recoverable through composting and biodegradation.

For example, single-use cardboard plates and single-use paper straws with a plastic lining are considered to be SUP products subject to the ban laid down in S.L. 549.140 (more information on single-use paper/cardboard-based products with plastic linings or coatings can be found below in the reply to question 14).

## Q.3. Is any plastic excluded from the scope of S.L. 549.140?

The only plastic polymers which do not fall under S.L. 549.140 are natural polymers which have not been chemically modified (for instance lyocell).

## Q.4. Which single-use plastic products cannot be placed on the market as from 1<sup>st</sup> January 2021?

The plastic items that are banned are listed in S.L. 549.140. These include the following SUP items irrespective of the characteristics of such plastic (e.g. fossil-based, bio-based, bio-degradable, compostable, etc.):

- Cotton bud sticks;
- Cutlery (forks, knives, spoons, chopsticks);
- Plates;
- Straws;
- Beverage stirrers;
- Sticks to be attached to and to support balloons;
- Food containers made of expanded polystyrene, including receptacles such as boxes, with or without a cover used to contain food which fulfil all the three criteria:
  - is intended for immediate consumption, either on-the-spot or take-away,
  - is typically consumed from the receptacle, and
  - is ready to be consumed without any further preparation, such as cooking, boiling or heating;

Including food containers used for fast food or other meal ready for immediate consumption, except beverage containers, plates and packets and wrappers containing food;

- Expanded polystyrene beverages containers, including their caps and lids;
- Expanded polystyrene cups for beverages, including their covers and lids.

In addition, all products made from oxo-degradable plastic, irrespective of whether they are single-use or otherwise, are also subject to the prohibition set out in regulation 4(1) of S.L. 549.140.

### Q.5. Are there any exceptions to the single-use plastic products listed in the Schedule to S.L. 549.140?

Yes. The following products listed in Part A of the Schedule are not subject to the prohibition laid down in Regulation 4(1) of S.L. 549.140:

- Plastic cotton bud sticks which are classified as medical device according to Council Directive 90/385/EEC or Council Directive 93/42/EEC;
- Plastic straws which are classified as medical device according to Directive 90/385/EEC or Directive 93/42/EEC; and
- Plastic sticks to be attached to and to support balloons used for industrial or other professional uses and applications that are not distributed to consumers, including the mechanisms of such sticks.

Similarly, the following products listed in Part B of the Schedule are not subject to the prohibition set out in Regulation 4(2) of S.L. 549.140:

- Beverage containers intended and used for food that is in liquid form for special medical purposes as per Regulation (EU) No 609/2013; and
- Glass or metal beverage containers that have caps and lids made from plastic.

### Q.6. Which single-use plastic products cannot be placed on the market as from 3<sup>rd</sup> July 2024?

Beverage containers (i.e. beverage bottles or composite beverage packaging used for beer, wine, water, liquid refreshments, juices and nectars, instant beverages, milk, etc.) with a capacity of up to three litres which caps and lids do not remain attached to the container during their intended use stage.

Hence, this provision is to be understood more as a product design requirement rather than a full prohibition on placing on the market: that is, such beverage containers could still be placed on the national market after 3 July 2024 if their caps and lids remain attached to the containers throughout their entire life span.

### Q.7. Is the placing on the market of all plastic products made from oxo-degradable plastic banned?

Yes, all products made from oxo-degradable plastic, irrespective of whether they are single-use or otherwise, are prohibited from being placed on the national market.

### Q.8. What are oxo-degradable plastics?

Oxo-degradable plastics are plastics which include additives that accelerate their fragmentation into small pieces when exposed to UV radiation or heat. Due to these additives, oxo-degradable plastic turns into microplastics (very small pieces of plastic), without biodegrading properly in the environment, it is not compostable, and negatively affects the recycling of conventional plastic.

### Q.9. Does S.L. 549.140 differentiate between expanded polystyrene - EPS (jablo), and other forms of polystyrene?

Yes. S.L. 549.140 specifically prohibits the placement on the market of certain single-use plastic products only if they are made from expanded polystyrene (EPS), namely:

- Cups for beverages made from expanded polystyrene, including their covers and lids;
- Beverage containers made from expanded polystyrene, including their caps and lids;
- Food containers made of expanded polystyrene, including receptacles such as boxes, with or without a cover if used to contain food which fulfil all the three criteria:
  - is intended for immediate consumption, either on-the-spot or take-away,
  - is typically consumed from the receptacle, and
  - is ready to be consumed without any further preparation, such as cooking, boiling or heatingIncluding food containers used for fast food or other meal ready for immediate consumption, except beverage containers, plates, and packets and wrappers containing food.

### Q.10. How are caps, lids and covers affected by S.L. 549.140?

As from 1<sup>st</sup> January 2021, these Regulations affect lids, caps and covers only where:

- They are placed on the market together with the food or beverage containers and cups for beverages targeted by S.L. 549.140; or
- They are made from oxo-degradable plastic.

In addition, as from 3<sup>rd</sup> July 2024, plastic beverage containers with a capacity of up to 3 litres can only be placed on the market if their caps and lids remain attached to the containers during the intended use stage.

### Q.11. Are biodegradable and/or compostable plastics exempted under S.L. 549.140?

No. To date, the only harmonised standard in place is EN 13432:2000, which relates to biodegradability and compostability of plastic packaging at industrial facilities (e.g. industrial composters or anaerobic digestion facilities).

Hence, plastic products marketed as 'biodegradable' or 'compostable' according to this harmonised standard are designed to biodegrade only under such limited and controlled range of conditions (temperature, time, moisture, etc.) which are highly unlikely to be encountered in the natural environment. Thus, if such products are littered, they will not biodegrade within the short timeframe required for the plastics not to be harmful to marine life, thus also leading to an accumulation of plastics in the environment.

### Q.12. What does 'placement on the market' mean?

For the purposes of S.L. 549.140, placing on the market means the first making available of a product on the Maltese market, whether in return for payment or free of charge. Generally, placement on the market takes place where:

- A product is made available by an importer or a local manufacturer to a distributor, a retailer or a consumer in Malta; or
- A product is sold by a professional online operator established in another EU Member State or third country directly to consumers in Malta.

### Q.13. Can single-use plastic cutlery and straws attached to food and beverage containers, respectively, be placed on the national market?

No, single-use plastic cutlery and straws are banned from being placed on the Maltese market as from 1<sup>st</sup> January 2021, irrespective of whether they are placed on the market individually or as part of food or beverage containers.

Plastic straws which are classified as medical device according to Directive 90/385/EEC or Directive 93/42/EEC are excluded from this prohibition.

### Q.14. Can single-use paper- or cardboard-based plates with plastic linings/coatings be placed on the market of Malta?

No, single-use paper or cardboard-based products with a plastic coating or lining applied to the surface to provide protection against e.g. water or fat, are considered composite products composed of more than one material of which one is plastic. In this case, the final product is regarded as being made partly of plastic. Therefore, such single-use products are subject to the prohibition laid down in S.L. 549.140.

### Q.15. What is a plastic beverage container?

Beverage containers are beverage bottles or composite beverage packaging (i.e. tetrapak) used to contain beer, wine, soft drinks, water, juices and nectars, instant beverages or milk with a capacity of up to 3 litres.

It is to be noted that cups for beverages are considered a separate category of SUP products.