Cassels

Reduce, Reuse or Reprimand: First Administrative Penalty Issued Under Ontario's Blue Box Regulation

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On June 28, 2024, the Resource Productivity and Recovery Authority (RPRA), the regulator established by the Ontario government to enforce the province's circular economy laws, issued the first administrative penalty under Ontario's Administrative Penalties Regulation 558/22[1] (the Administrative Penalties Regulation) and Section 89 of the *Resource Recovery and Circular Economy Act*[2] (RRCEA), for non-compliance with Ontario's Blue Box Regulation 391/21[3] (the Blue Box Regulation).

Casper Sleep Inc. was issued an administrative penalty of $340,457.04 for failing to establish and operate a collection system and implement a promotion and education program as required under Sections 19 and 69 of the Blue Box Regulation. The administrative penalty has been appealed to the Ontario Land Tribunal.

The Blue Box Regulation came into force on July 1, 2023, under the RRCEA and makes "producers" of blue box packaging, paper, printed paper products, glass, metal, plastic, or a combination of these materials, responsible for managing the life-cycle of their products that they supply to consumers in Ontario. For more information on who is an obligated producer under the Blue Box Regulation, see here.

Under the Blue Box Regulation, producers have the following obligations:

- Registration;
- Collection;
- Management;
- Promotion and education;
- Reporting; and
- Record keeping.

The RPRA's mandate includes undertaking compliance activities and enforcement to ensure producers fulfil their regulatory requirements. Under Part V (Enforcement) of the RRCEA and the Administrative Penalties Regulation, producers in breach of the requirements may be subject to:

- Compliance orders, including requiring obligated parties to comply with any directions related to remedying the non-compliance;
- Administrative penalties, including recovering any economic benefit that resulted from the non-compliance; and

- Prosecution.

In addition to the first Administrative Penalty Order, the RPRA has issued a number of Compliance Orders to various companies for failure to comply with producer requirements under the Blue Box Regulation.

The issuance of the first Administrative Penalty Order to a Blue Box producer is an important reminder to ensure business activities are in compliance with producer obligations under the Blue Box Regulation. If you need assistance with determining if you are an obligated producer under the Blue Box Regulation or what your obligations are under the Blue Box Regulation, please contact the authors of this article or any member of our Municipal, Planning & Environmental or Regulatory Groups

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[1] O. Reg. 558/22: Administrative Penalties under *Resource Recovery and Circular Economy Act, 2016, S.O. 2016, c. 12, Sched. 1*, s. 11 [O. Reg. 558/22: Administrative Penalties].

[2] *Resource Recovery and Circular Economy Act, 2016, S.O. 2016, c. 12, Sched. 1*.

[3] O. Reg. 391/21: Blue Box under *Resource Recovery and Circular Economy Act, 2016, S.O. 2016, c. 12, Sched. 1* [O. Reg. 391/21: Blue Box].

This publication is a general summary of the law. It does not replace legal advice tailored to your specific circumstances.