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PART C - LEGAL NOTICE

155. The Control of Plastic Bags Regulations, 2021 S1
156. The Appointment of Acting Principal Secretaries Notice, 2021 S8

PUBLISHED BY AUTHORITY

LEGAL NOTICE NO. 155 OF 2021

THE ENVIRONMENTAL MANAGEMENT ACT, 2002
(Act No. 5 of 2002)THE CONTROL OF PLASTIC BAGS REGULATIONS, 2021
(Under Section 89)

In exercise of the powers conferred by Section 89 of the Environmental Management Act No. 5 of 2002, the Minister for Tourism and Environmental Affairs issues the following Regulations-

Citation and Commencement.

1. (1) These Regulations may be cited as the Control of Plastic Bags Regulations, 2021.
- (2) These Regulations shall come into force on the date of publication in the Gazette.

Interpretation.

2. (1) In these Regulations, unless the context otherwise requires -

“Act” means the Environmental Management Act No. 5 of 2002;

“accountable person” means a person or an operator of a business at the point of sale of plastic bags (end user distributor);

“Authority” means the Eswatini Environment Authority as defined in the Act;

“authorized officer” means a person authorized in writing to exercise the powers conferred by these Regulations;

“Eswatini Revenue Authority” means the Eswatini Revenue Authority as established in terms of Section 3 of the Eswatini Revenue Authority Act No. 1 of 2008;

“Importer” means a person who brings plastic bags or goods from any other country through the customs entry points in large scale;

“Manufacturer” means a large scale maker or producer of plastic material using virgin material or waste material;

“plastic levy” means an amount of money to be paid in respect of a plastic bag and packaging material at the point of sale of goods or products at any shop, supermarket, service station or other sales outlet;

“Record” means a set of information on the quantities produced, received or dispatched at any point of sale or retail;

“plastic film” means a thin, unwoven membranous skin or layer of flexible material made of polymers of ethylene or propylene and combinations thereof.

“plastic bag” means -

- (a) aplastic carrier bag with handles which is designed for the general purpose of carrying goods purchased by consumers;
- (b) a plastic flat bag constructed with no gussets or handles which is designed for the general purpose of carrying goods purchased by consumers; and
- (c) a plastic refuse or waste bag which is designed for the general purpose of carrying waste.

Objects of Regulations.

3. The objects of these Regulations are to-

- (a) regulate the production, importation and use of plastic bags;
- (b) promote the re-use, recycling and safe handling of plastic bags; and
- (c) ultimately ban the production, importation and use of plastic bags with a wall thickness of less than twenty-four (24) micrometres in Eswatini.

Licensing.

4. (1) A person who intends to manufacture or import plastic bags with a wall thickness of less than twenty-four (24) micrometers shall apply to the Authority for a licence.

(2) An application for a licence under sub-regulation (1) shall be in the prescribed form A or B set out in the First Schedule and signed-

- (a) in the case of a corporation, by an officer of the corporation authorized to do so; or
- (b) in any other case, by the person making the application or by a person authorized to act on behalf of that person.

(3) A person who imports or manufactures plastic bags without a licence commits an offence and shall on conviction be liable to a fine not exceeding fifty-thousand Emalangeni (E50,000.00) or to imprisonment for a period not exceeding one (1) year or both.

Keeping of Register.

5. The Authority shall keep a Register of all importers and manufacturers of plastic bags.

Suspension, Amendment and Cancellation of a Licence.

6. (1) If, on the basis of information which has become available to the Authority after the issuance of a licence, the Authority considers that the manufacture or import of the plastic bags is causing, or is reasonably likely to cause danger to the environment or to the public, the Authority may-

- (a) suspend the licence and give notice to the licence holder to rectify or remove the cause of danger or potential danger in accordance with such directions as the Authority shall prescribe;

- (b) give the licence holder a reasonable opportunity of proposing amendments to the conditions to the licence which are acceptable to the Authority; and
- (c) subject to sub-regulation (2), amend or cancel the licence and give notice in writing to the licence holder.

(2) The Authority shall not cancel a licence unless the Authority is of the view that the danger to, or adverse effect on, the environment or the public cannot be satisfactorily mitigated.

Appeal to Minister.

7. (1) A person aggrieved by the decision of the Authority not to grant, suspend or cancel a licence to manufacture or import plastic bags may appeal to the Minister against the decision of the Authority.

(2) A person who intends to appeal the decision of the Authority shall note the intention to appeal within fourteen (14) days of the Authority's decision.

(3) In deciding an appeal, the Minister shall seek advice of a panel of advisors, appointed by the Minister composed of experts in the following fields-

- (a) socio-economics;
- (b) environmental issues; and
- (c) environmental law or trade.

Levy.

8. (1) The charge to be levied on plastic bags shall be-

- (a) twenty (20) cents per bag for plastic bags made of plastic film of not less than thirty (30) micrometres and twenty-four (24) litres volume;
- (b) thirty-five (35) cents per bag for plastic bags made of plastic film of more than thirty (30) micrometres and above twenty-four (24) litres in volume; and
- (c) thirty-five (35) cents per packet of twenty (20) bags for plastic refuse or waste bags.

(2) The amount of the plastic levy imposed may be varied by the Minister from time to time by notice in the Gazette.

Exemption from the requirement to charge.

9. Notwithstanding regulation 8 (1), plastic material intended for use as food wrapping material shall not be subject to any levy.

Restriction on manufacture, production, import or use.

10. (1) A person shall not manufacture, produce, import or use-

- (a) plastic bags made of plastic film of less than twenty-four (24) micrometres; or
-

- (b) plastic carrier bags less than twenty-four (24) Litres and of all micrometer sizes, in Eswatini.

(2) A person who contravenes sub-regulation (1), commits an offence and shall be liable on conviction to a fine not exceeding fifty-thousand Emalangeni (E50,000.00) or to imprisonment for a period not exceeding one (1) year or both.

Payment of net proceeds of the levy.

11. (1) An accountable person is liable and accountable for collecting the plastic levy and shall not freely distribute plastic bags to customers at the point of sale of goods or products at any shop, supermarket, service station or other sales outlet.

(2) The levy charged under regulation 8(1) shall be itemized on an invoice, receipt or docket issued to the customer and remitted by the accountable person to the Eswatini Revenue Authority.

(3) A person who contravenes any of these sub-regulations commits an offence and shall, on conviction, be liable to a fine not exceeding twenty- thousand Emalangeni (E20, 000.00) or to imprisonment for a period not exceeding six (6) months or both.

Records.

12. (1) An accountable person shall keep in a permanent form, a full and true record of the number of all plastic bags-

- (a) in stock before the commencement date of these Regulations; and
- (b) manufactured or imported and supplied.

(2) An accountable person shall retain the records referred to in sub-regulation (1), together with all other books and documents containing particulars on which the records are based for a period of at least six years.

Listing of plastic bags.

13. (1) The Minister shall, by notice in the gazette, keep and maintain a list of plastic bags for purposes of controlling and banning their use and import.

(2) In listing the plastics, the Minister shall protect, conserve and enhance the environment and the sustainable management of natural resources.

Ban of plastic bags.

14. The Minister may, after consultations, issue a notice within two (2) years or at any other time as the Minister may determine, on the ban of the use and import of plastic bags after the promulgation of these Regulations.

Enforcement.

15. (1) The Authority shall appoint inspectors or delegate other public institutions to enforce the Act and the Regulations.

(2) An inspector may, at reasonable times and in accordance with the law relating to search and seizure, enter premises in which that inspector has a reasonable suspicion that plastic bags are kept manufactured or used, inspect and carry out such search and investigation as the inspector may consider to be proper and take particulars of-

- (a) any plastic bags found; or
- (b) any records, books, documents or other equipment found and reasonably believed to relate to the manufacture, import and supply of the plastic bags or, in the case of information in non-legible form including information in a computer, require the person in charge of such premises to produce it to the officer in a permanent legible form.

(3) An inspector may remove and retain all records, books, documents or other equipment required in terms of these Regulations for a period as may be reasonable for further investigation or for the purposes of monitoring compliance with these regulations.

Obstruction.

16. A person who resists, obstructs or impedes an inspector in the exercise of a power conferred on that inspector commits an offence and shall, on conviction be liable to a fine not exceeding ten-thousand Emalangeni (E10,000.00) or to imprisonment for a period not exceeding Six (6) months or both.

Inspection at entry points.

17. The Eswatini Revenue Authority shall, before and after the banning of the use and import of plastic bags as provided for under regulation 14, conduct inspections at all entry points in Eswatini in order to ensure compliance with these Regulations.

FIRST SCHEDULE
(Under Regulation 4)

Application for a licence to Import and Manufacture Plastic Bags.

Form A

A: Information concerning the importer

- 1. Name or trade of importer
- 2. (a) Address:
- (b) Telephone No:
- (c) Fax No:
- (d) E-mail address:
- 3. Name of person authorised to act on behalf of importer (where applicable)
 - (a) Designation:

- (b) Telephone No:
- (c) Fax
- (d) E-mail address:
- 4. Quantity to be imported:
- 5. Purpose and use of the plastic bags to be imported:
- 6. Point of entry
- 7. Mode of transport and intended carrier:

I declare that the information stated in this application is correct.

I undertake to observe the conditions under which this licence is issued.

.....
 Date Signature

C: FOR OFFICIAL USE ONLY

- 1. Application received on:
- 2. Application approved/rejected:
- 3. Conditions of approval/reasons for rejection:

.....
 Date Executive Director

FORM B

A: Information concerning the manufacturer

- 1. Name or trade name of the manufacturer:
- 2. Address:
- (a) Telephone No:
- (b) Fax No:
- (c) E-mail address:
- 4. Name of person authorized to act on behalf of the manufacturer
- (a) Designation:
- (b) Telephone No.
- (c) Fax:



(d) E-mail address:

1. Quantity to be manufactured:

2. Purpose and use of plastic bags to be manufactured:

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3. Physical Address of manufacturer

I declare that the information stated in this application is correct. I undertake to observe the conditions under which this licence is issued

.....
Date

.....
Signature

C: FOR OFFICIAL USE ONLY

1. Application received on:

2. Application approved/rejected:

3. Conditions of approval/reasons for rejection:

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Date

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Signature