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LawAge Digest

Know the Regulations Banning Plastic Carriers Bag to Avoid Financial Loss and Imprisonment

Introduction

Pursuant to Section 230 (2) (f) of the Environmental Management Act the Minister responsible with environmental protection enacted the Environmental Management (Prohibition of Plastic Carrier Bags) Regulations, 2019 which will come into force on 1st June 2019. These Regulations intend to;

- a. Ban totally the manufacture, export, import, supply and use of prohibited plastic carrier bags,
- b. Protect human and animal health from being affected by the utilization of prohibited carrier bags,
- c. Facilitate and support persons who want to produce, import and supply alternative carrier bags in Tanzania Mainland and,
- d. Prohibits any authority to register, license or permit any person intending to import, export, sell or manufacture prohibited carrier bags.

Are all Plastic Bags Prohibited?

No, only carrier plastic bags are banned regardless of their thickness. Moreover, the Regulations prohibit the offering or selling of any beverage or commodity in plastic containers unless the nature of such beverage or commodity requires it to be wrapped by a plastic bag.

Plastic packaging for use in agricultural sector, construction industry, food processing, industrial products, medical products and in sanitary and waste management are exempted from the ban as long as they have a tamper proof seal and are labeled to describe the product's use before the sale, distribution or offer.

Are there Punishments for Contravening the Regulations?

When a person is found guilty of contravening the Regulations, the punishment can be a fine, imprisonment or both depending on the offence as follows;

OFFENCE	FINE	IMPRISONMENT
Manufacturing or importing prohibited plastic carrier bags	From TZS 20 Mil. To TZS 1 Billion.	Two years and above
Storing, supplying and distributing prohibited plastic carrier bags	From TZS 5 Mil. To TZS 50 Million.	Not more than Two years
Selling prohibited plastic carrier bags	From TZS 100,000 to TZS 500,000	Not more than 3 months
Possessing and/or using prohibited plastic carrier bags	From TZS 30,000 to TZS 200,000	Not more than 7 days

Can the Punishment be made lenient?

Yes, the Regulations allow compounding of offences. Any person who has been given powers to enforce these Regulations may compound an offence if the person who committed it is willing to pay a penalty agreed between the two. Once an offence has been compounded by a competent officer, no other punishment shall be given to that offender. Compounding an offence means reaching to an agreement with an offender by him/her paying anything of value not necessarily equal to the fine provided for that offence in exchange of full prosecution.

What Institutions or persons are responsible in enforcing the Regulations?

The Regulations place their implementation on several institutions including;

- The Minister responsible with environmental protection in Tanzania Mainland, who is responsible with issuing guidelines, orders and directives on the implementation of the Regulations,
- The National Environmental Management Council which is the first appellate tribunal,
- Any relevant government Ministry, Department and Agency including ministry responsible for trade and industry, Tanzania Revenue Authority, The Tanzania Ports Authority, The Tanzania Airports Authority, The Police Force, The Tanzania Food and Drugs Authority, Chief Government Chemist Laboratory Agency, Tanzania Bureau of Standards and the Immigration Department among others,
- Local Government Authorities and persons appointed by them,
- Environmental Officers under NEMC

Are there any real or Anticipated Financial Implication Accruing from the Regulations?

Yes, such implication not only arise out of noncompliance but can also arise when comply with these regulations especially for persons who have plastic carriers when these Regulations come into force. Such implications include;

- a. Surrender of prohibited plastic carriers without compensation
- b. Disposal of prohibited plastic carrier bags still in possession of manufacturers, importers, sellers and users at their own costs,
- c. Fine and/or imprisonment for not surrendering them or disposing them,
- d. Costs for undertaking a take-back operation of waste plastic bottles by manufacturers or suppliers of products contained in plastic bottles for recycling purposes at their own cost,
- e. Costs of repatriating prohibited plastic carriers from the point of entering Tanzania Mainland to the country of origin,
- f. Cost of confiscating, disposing or recycling plastic carriers found in contravention to these Regulations,
- g. Costs for disposing exempted plastic packaging after use.

Can one Appeal the Decision Made Under these Regulations?

Yes, one can appeal the decision made by the enforcers of these Regulations as follows;

- a. A person aggrieved by decision of any Officer in these Regulations shall appeal to the Minister responsible for environmental protection within 30 days from the delivery of such decision and,
- b. A person aggrieved by the decision of the Minister shall appeal to the Environmental Tribunal within 30 days from the day of the Minister's decision.

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