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DEPARTMENT OF ENVIRONMENT, FORESTRY AND FISHERIES

NO. 317

7 April 2021

NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT NO. 107 OF 1998)

AMENDMENTS TO THE REGULATIONS MADE IN TERMS OF SECTION 24(d) OF THE ENVIRONMENT CONSERVATION ACT, 1989 (ACT NO. 73 OF 1989) IN RESPECT OF PLASTIC CARRIER BAGS AND PLASTIC FLAT BAGS

I, Barbara Dallas Creecy, Minister of Forestry, Fisheries and the Environment, hereby, under section 44(1)(aA), (aB) and (b) of the National Environmental Management Act, 1998, (Act No. 107 of 1998), amend the Regulations made in terms of section 24(d) of the Environment Conservation Act, 1989 (Act No. 73 of 1989) in respect of Plastic Carrier Bags and Plastic Flat Bags, published under Government Notice R.625 in Government Gazette No. 24839, on 9 May 2003, and saved by section 80(2) of the National Environmental Management: Waste Act, 2008 (Act No. 59 of 2008), as set out in the Schedule hereto.



BARBARA DALLAS CREECY
MINISTER OF FORESTRY, FISHERIES AND THE ENVIRONMENT

SCHEDULE

Definitions

1. In this Schedule, unless the context indicates otherwise —

“the Regulations” means the Regulations made under section 24(d) of the Environment Conservation Act, 1989 (Act No. 73 of 1989) in respect of Plastic Carrier Bags and Plastic Flat Bags, published under Government Notice R.625 in *Government Gazette* 24839 of 9 May 2003.

Amendment of regulation 1 of the Regulations

2. Regulation 1 of the Regulations is hereby amended by the insertion, after the definition of **“plastic film”**, of the following definition:

“post-consumer recyclate” means material generated by households or commercial, industrial or institutional facilities, in their role as end-users of the product, which can no longer be used for its intended purpose, and includes returns of material from the distribution chain, as well as in-house scrap that already contains post-consumer recyclate content;”

Amendment of regulation 2 of the Regulations

3. Regulation 2 of the Regulations is hereby amended by the substitution for regulation 2 of the following regulation:

“Prohibition of certain plastic bags

- 2 (1) The manufacture, trade or commercial distribution of domestically produced or imported plastic carrier bags and plastic flat bags, for use within the Republic of South Africa, other than those which comply with the Compulsory Specification for Plastic Carrier Bags and Flat Bags - VC 8087-2013, is hereby prohibited.
- (2) From the dates indicated in subregulation (3), no person may manufacture, trade or commercially distribute domestically produced or imported plastic carrier bags and plastic flat bags, for use within the Republic of South Africa, unless they comply with the minimum post-consumer recyclate content specified in subregulation (3)
- (3) (a) Plastic carrier bags and plastic flat bags must be made from a minimum of 50% post-consumer recyclate from 1 January 2023;

- (b) Plastic carrier bags and plastic flat bags must be made from a minimum of 75% post-consumer recycle from 1 January 2025; and
 - (c) Plastic carrier bags and plastic flat bags must be made from 100% post-consumer recycle from 01 January 2027.”
- (4) A person who is unable to comply with the requirements contained in regulation 2(3)(c) may apply to the Minister for an exemption in terms of section 24M of the National Environmental Management Act, 1998 (Act No. 107 of 1998) read with the National Exemption Regulations promulgated in terms of section 44(1)(a) and section 24M(3) of the Act.

Amendment of regulation 3 of the Regulations

4. Regulation 3 of the Regulations is hereby amended by the substitution for subregulation (1) of the following subregulation:

“(1) Any person who contravenes regulation 2 is guilty of an offence and liable on conviction, to a fine not exceeding R5 million or to imprisonment for a period not exceeding 5 years, and in the case of a second or subsequent conviction, to a fine not exceeding R10 million or to imprisonment for a period not exceeding 10 years, or in both instances, to both such fine and such imprisonment.”

Short Title and Commencement

5. These Regulations are called “the Amendment Regulations regarding Plastic Carrier Bags and Plastic Flat Bags, 2021”, and will come into effect on the date of the publication of the Regulations in the *Government Gazette*.