

Regulations under section 24 of the Environment Conservation Act, Act 73 of 1989

The Minister of Environmental Affairs and Tourism has, under section 24(d) of the Environment Conservation Act, 1989 (Act No. 73 of 1989), made the regulations as set out in the schedule hereto.

SCHEDULE

PLASTIC BAG REGULATIONS

1. Definitions

In these regulations the Act means the Environment Conservation Act (Act No. 73 of 1989) and any word or expression to which a meaning has been assigned in the Act shall bear the meaning so assigned to it in these regulations and, unless the context indicates otherwise -

"distribute" means making plastic bags directly or indirectly available to consumers for the packaging or carrying of goods purchased by consumers in the Republic of South Africa and distribution has a corresponding meaning;

"plastic bag" means a plastic bag or a plastic packet, made of plastic film, which is distributed to a consumer; and includes flat bags and carrier bags;

"competent authority" means the competent authority to whom the administration of this Act has, under section 235(8) of the Constitution of the Republic of South Africa, 1993 (Act No. 200 of 1993) been assigned in that province;

"trading" means the sale of plastic bags as a commodity to any person (including, but not limited to manufacturers, wholesalers and retailers of goods) for use in the Republic of South Africa.

2. Prohibition of certain plastics

2. (1) Any manufacturing, trade, and commercial distribution of plastic bags, for use within the Republic of South Africa, with wall thickness less than 80 micrometres (microns), is hereby prohibited. The prohibition contemplated in this sub-regulation shall come into effect one year from the date of publication of this notice.

2. (2) In enforcing these regulations, and at the discretion of the authorised person, a tolerance of 10% micrometre (microns) variation in the measurement of the minimum thickness may be permitted to make allowance for variability of thickness of plastic film produced under the normal operating conditions by machinery that is set to produce film of minimum thickness. The term plastic film is used in the context of the customs tariff line headings used to cover plastic bags.

3. Administration of these regulations

3. (1) The regulations in this schedule apply throughout the Republic of South Africa and are administered in the territory by the competent authority.

3. (2) Any person authorized thereto, in writing, by the competent authority may, after reasonable notice to the owner or occupier of any land, at any reasonable time enter upon that land in order to determine whether the provisions of these regulations have been complied with, as contemplated in s. 41A of the Act.

4. Offences and penalties

4. (1) Any person who contravenes any provision of these regulations shall be guilty of an offence and liable on conviction to a fine not exceeding R100 000 or to imprisonment for a period not exceeding 10 years, or to both such fine and such imprisonment, and to a fine not exceeding three times the commercial value of any thing in respect of which the offence was committed, and, in the event of a continuing contravention, to a fine not

exceeding R250 or to imprisonment for a period of not exceeding 20 days or to both such fine and such imprisonment in respect of every day on which such contravention continues.

EXPLANATORY MEMORANDUM

The collection and disposal of plastic bags is a growing problem in South Africa. The use of plastic bags made of thin plastic film has increased significantly in recent years and the discarding of large numbers of bags has resulted in pollution and degradation of the environment. Thin non-reusable bags are indiscriminately dumped and not collected for recycling or disposal because the thin plastic film they are made of has little commercial value, either as a cost to the consumer, or a raw material for recyclers. The problem is severe in low-income areas where waste collection services are inadequate. The primary aim of the regulations is to restrict the production of non-reusable plastic bags, and unnecessary use of excessive amounts of disposable thin plastic film for packaging.