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NATIONAL ENVIRONMENTAL MANAGEMENT: WASTE ACT 59 OF 2008

EXTENDED PRODUCER RESPONSIBILITY SCHEME FOR PAPER, PACKAGING AND SOME SINGLE USE PRODUCTS

Published under Government Notice 1187 in Government Gazette 43882 on 5 November 2020 and amended by:

GN 20 GG 44078 20210115

GN 400 GG 44539 20210505

I, Barbara Dallas Creecy, Minister of Forestry, Fisheries and the Environment, hereby, in terms of section 18(1)(a) and (3) of the National Environmental Management: Waste Act, 2008 (Act No. 59 of 2008), require the producers of the identified products to implement the specified extended producer responsibility measures as set out in the Schedule hereto.

Signed

BARBARA DALLAS CREECY

MINISTER OF FORESTRY, FISHERIES AND THE ENVIRONMENT

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ANNEXURE 1

1. Definitions

In this Notice any word or expression to which a meaning has been assigned in the Act and in the Extended Producer Responsibility Regulations, 2020, bears that meaning, and unless the context indicates otherwise-

"biodegradable plastic" means products that degrade by biological activity, resulting in a specific change in the chemical structure of the material. Degradation can occur under aerobic or anaerobic conditions. The end products are gas (carbon dioxide or methane), water, biomass and mineral components;

[Definition of "biodegradable plastic" substituted by GN 400/2021 w.e.f. 5 May 2021]

"brand owner" means a person, category of persons or company who makes and/or sells any identified product under a brand label;

[Definition of "brand owner" substituted by GN 400/2021 w.e.f. 5 May 2021]

"compostable plastic" means plastic that undergoes degradation by biological processes during composting to yield Carbon dioxide, water, inorganic compounds and biomass at a rate consistent with other known compostable materials

and leave no visible, distinguishable or toxic residue (IS0 14088);

“compostable products” mean a group of biodegradable products that break down in an aerobic composting process through the action of naturally occurring microorganisms and do so to a high extent within a specified timeframe. The biological processes yield carbon dioxide, water, inorganic compounds and biomass, leaving no visible contaminants or toxic residues;

[Definition of "compostable products” inserted by GN 400/2021 w.e.f. 5 May 2021]

"extended producer responsibility" means that a producer's responsibility for an identified product is extended to the post-consumer stage of an identified product’s life cycle;

[Definition of "extended producer responsibility" substituted by GN 400/2021 w.e.f. 5 May 2021]

"importer" means a person or category of persons that brings identified products or items that contain identified products into the country from abroad and including but not limited to the one that first places them into the market for sale;

[Definition of "importer" substituted by GN 400/2021 w.e.f. 5 May 2021]

"packaging" means any material, container or wrapping or corrugated cases, used for the containment, transport, handling, protection, promotion, marketing or sale of any product or substance, which may be primary packaging, containing the actual product or secondary packaging or tertiary packaging, typically containing products already packaged in primary packaging, but excludes-

(a) shipping containers used solely for the transportation of any consumer commodity in bulk to manufacturers, packers, or processors, or to wholesale or retail distributors thereof;

(b) packaging made of timber and textile; and

(c) plastic pallets and industrial bulk containers with a capacity exceeding 1000 litres;

"paper" means any substance made from wood pulp, rags, straw, or other fibrous material used for writing, printing, or as a wrapping material;

“pre-consumer materials” means materials diverted from the waste stream during a manufacturing process, excluding materials, such as rework, regrind or scrap generated in a process, capable of being reclaimed within the same process that generated them and which are reutilized;

[Definition of “pre-consumer materials” inserted by GN 400/2021 w.e.f. 5 May 2021]

"post-consumer material” means material generated by households or by commercial, industrial and institutional facilities in their role as end-users of the product which can no longer be used for its intended purpose. This includes returns of material from the distribution chain;

[Definition of “post-consumer materials” inserted by GN 400/2021 w.e.f. 5 May 2021]

"producer" means the entity, person or category of persons identified by the Regulations as being responsible for extended producer responsibility in terms of Section 18. Producers who place in excess of 10 tonnes of identified products onto the market on an annual basis, responsible for extended producer responsibility under the regulations shall be identified subject to the following criteria:

(a) In the case where branded goods, either are identified products or are sold accompanied by or within identified products and the registered owner of the brand operates an enterprise, domiciled in South Africa, that makes and/or sells such goods, the producer shall be the paper, packaging and single use product manufacturer, converter and/or the brand owner.

(b) In the case where branded goods, either are identified products or are sold accompanied by or within identified products and the registered owner of the brand does not operate or have a controlling interest in an enterprise domiciled in South Africa, that makes and or/sells such goods, the Producer shall be either -

(i) the licensed agent of the branded goods, or

(ii) where no official agency agreement may be in place, the importer of the branded goods as depicted on the Bill of Lading;

(c) In the case of all other identified products not covered by subparagraphs (i) and (ii) the producer shall be the

Retailer;

[Definition of "producer" substituted by GN 400/2021 w.e.f. 5 May 2021]

“recycled content” means the proportion, by mass, of post-consumer recycled material in a product or packaging excluding any pre-consumer waste;

[Definition of “recycled content” inserted by GN 400/2021 w.e.f. 5 May 2021]

"recyclate" means post-consumer waste or material used for recycling purposes;

"single-use plastics" means disposable plastics (petrochemicals, compostable & biodegradable), that are commonly used for plastic packaging and include items intended to be used only once before they are thrown away or recycled including but not limited to food packaging, bottles, straws, containers, tubs, cups and cutlery;

“single-use products” means items/materials designed to be commonly used for products or packaging and include items intended to be used only once before they are thrown away or recycled and could be made from any material;

[Definition of "single-use plastics" inserted by GN 400/2021 w.e.f. 5 May 2021]

"the Act" means the National Environmental Management: Waste Act, 2008 (Act No. 59 of 2008); and

"the Regulations" means the Extended Producer Responsibility Regulations, 2020, issued under section 69(1)(b), (g), (i), (l), (o), (dd) and (ee) of the Act.

2. Purpose of the Notice

(1) The purpose of this Notice is to require a producer of products or class of products listed in paragraph 4 of this Notice to set up procedures, processes and invest resources to implement the extended producer responsibility measures linked to-

(a) collection of their products in the post-consumer stage;

(b) reuse;

(c) recycling;

(d) recovery; and

(e) disposal of their products in the post-consumer stage.

(2) This Notice must be read in conjunction with the Extended Producer Responsibility Regulations, 2020, published in the Government Gazette by the Minister.

3. Scope of the Notice

This Notice applies to the following identified products at the end of their life-

(1) paper & paper packaging material;

(2) plastic packaging;

(3) biodegradable and compostable packaging;

(4) single-use products;

(5) single-use compostable products;

(6) single-use biodegradable products;

(7) glass packaging; and

(8) metal packaging containers; but excludes

(9) plastic carrier bags and plastic flat bags.

[Para. 3 substituted by GN 400/2021 w.e.f. 5 May 2021]

4. The identification of a product or class of products to which extended producer responsibility applies

(1) Extended producer responsibility applies to the following identified products or class of products:

(a) Paper & paper packaging material:

(i) Liquid board packaging - filled and unfilled;

(ii) Paper packaging;

(iii) Paper packaging boards - unprinted;

(iv) Paper packaging boards - printed;

(v) Paper - corrugated case materials;

(vi) Paper, including but not limited to (cardboard);

(vii) Laminated, printing and writing paper;

(viii) Plastic coated paper;

(ix) Labels; and

(x) Paper sack.

(b) Plastic packaging (both printed and unprinted):

(i) Type 2,4,5 Polyolefin - rigid;

(ii) Type 2,4,5 Polyolefin - flexible;

(iii) PolyEthylene Terephthalate (PET) - rigid

(iv) PolyEthylene Terephthalate (PET) - flexible /strapping;

(v) Polystyrene (including expanded polystyrene protective packaging and high impact polystyrene packaging);

(vi) Poly Vinyl Chloride (PVC) (Resin Code 3)

(vii) Vinyls (rigid and flexible); and

(viii) Other (multilayer plastic packaging including those with resin code 7).

(c) Biodegradable and compostable packaging (approved compostable raw materials complying to relevant SABS and/or ISO standards 17088).

(d) Single use products:

(i) Films/flexibles: agricultural mulch films, garbage bags, pallet wrap;

(ii) Injection moulded products: cups, tubs, cutlery (knives, forks, and spoons), stirrers;

(iii) Blow moulded products: bottles, containers, jars;

(iv) Extruded products: straws, sheets; and

(v) Thermoformed products: trays, punnets, cups, various packaging.

[Item (d) substituted by GN 400/2021 w.e.f. 5 May 2021]

(e) Single-use compostable products:

(i) Compostable films/flexibles: agricultural mulch films, garbage bags, pallet wrap;

(ii) Compostable injection moulded products: cups, tubs, cutlery (knives, forks, spoons), stirrers;

(iii) Compostable blow moulded products: bottles, containers, jars;

(iv) Compostable extruded products: straws, sheets; and

(v) Compostable products: trays, punnets, cups, various packaging;

[Item (e) substituted by GN 400/2021 w.e.f. 5 May 2021]

(f) Single-use biodegradable products:

(i) Biodegradable films/flexibles: agricultural mulch films, garbage bags, pallet wrap;

(ii) Biodegradable injection moulded products: cups, tubs, cutlery (knives, forks, spoons), stirrers;

(iii) Biodegradable blow moulded products: bottles, containers and jars;

(iv) Biodegradable extruded products: straws, sheets; and

(vi) Biodegradable products: trays, punnets, cups, various packaging.

[Item (f) substituted by GN 400/2021 w.e.f. 5 May 2021]

(g) Glass packaging:

(i) Glass (Bottles and Jars); and

(h) Metal packaging including:

(i) Tinplate (ferrous) products; and

(iii) Aluminium (non-ferrous) products.

[Item (h) substituted by GN 400/2021 w.e.f. 5 May 2021]

5. Identification of the person or category of persons responsible for developing and implementing an extended producer responsibility scheme

Producers of the items listed in paragraph 4 of this Notice will be responsible for developing and implementing an extended producer responsibility scheme.

6. Responsibilities of producers

(1) A producer, in operation at the time of the commencement of this Notice in the Gazette, of any of the products listed in paragraph 4 of this Notice, must on or before 5 November 2021, either-

(a) develop and submit an extended producer responsibility scheme to the Minister; or

(b) establish a producer responsibility organisation which must prepare and submit an extended producer responsibility scheme to the Minister.

[Subpara. (1) substituted by GN 20/2021 w.e.f. 5 May 2021]

(2) A producer of any of the products listed in paragraph 4 of this Notice that commences operations after publication of this Notice in the Gazette must either-

(a) develop and submit an extended producer responsibility scheme according to the Extended Producer Responsibility Regulations, 2020 to the Department within 6 months of commencing operations; or

(b) subscribe to an existing extended producer responsibility scheme within 3 months of commencing operations.

7. Targets for each identified waste stream for the products listed in paragraph 4 of this Notice

The targets for each identified waste stream for the products as contained in Annexune 1 to this Notice apply for a period of 5 years from the date of the implementation of the extended producer responsibility scheme.

[Para. 7 substituted by GN 400/2021 w.e.f. 5 May 2021]

8. This Notice comes into effect on 5 May 2021.

[Para. 9 added by GN 20/2021 w.e.f. 5 May 2021]

ANNEXURE 1

[Annexure 1 susbstituted by GN 400/2021 w.e.f. 5 May 2021]