Sabinet
Facilitating access to information

COPYRIGHT: This work has been transmitted to you as a subscriber or by a Sabinet subscriber. All works and portion of works published on Sabinet are the copyright of the publisher. No part of any work may be reproduced or used to create works by the recipient or user, in any form or by any means, for any commercial or non-commercial purpose whatsoever, without the publisher's prior written permission. Any unauthorised reproduction of a work subject to copyright will constitute a copyright infringement and render the doer under both civil and criminal law.

All questions on rights and licensing should be addressed to info@sabinet.co.za.

NATIONAL ENVIRONMENTAL MANAGEMENT ACT 107 OF 1998

REGULATIONS TO PROHIBIT THE PRODUCTION, DISTRIBUTION, IMPORT, EXPORT, SALE AND USE OF PERSISTENT ORGANIC POLLUTANTS THAT ARE LISTED BY THE STOCKHOLM CONVENTION ON PERSISTENT ORGANIC POLLUTANTS, 2021

Published under Government Notice 414 in Government Gazette 44559 on 12 May 2021

I, Barbara Dallas Creecy, Minister of Forestry, Fisheries and the Environment, hereby, in terms of section 25(3) of the National Environmental Management Act, 1998 (Act No. 107 of 1998), make Regulations to Prohibit the Production, Distribution, Import, Export, Sale and Use of Persistent Organic Pollutants that are listed by the Stockholm Convention on Persistent Organic Pollutants, for implementation, as set out in the Schedule hereto.

Signed

BARBARA DALLAS CREECY

MINISTER OF FORESTRY, FISHERIES AND THE ENVIRONMENT

SCHEDULE

CHAPTER 1

DEFINITIONS, PURPOSE AND APPLICATION OF THE REGULATIONS

1. Definitions

2. Purpose and application of the Regulations

CHAPTER 2

GENERAL PROHIBITIONS

3. General prohibitions

CHAPTER 3

GENERAL MATTERS

4. Offences and Penalties

5. Transitional Provision

6. Short title and Commencement

CHAPTER 1

DEFINITIONS, PURPOSE AND APPLICATION OF THE REGULATIONS

1. Definitions

In these Regulations any word or expression to which a meaning has been assigned in the Act has that meaning, and unless the context indicates otherwise-

"distribution" means a direct or indirect transfer of a listed substance by a company or individuals for the benefit of one or more users or companies;

"export" in relation to the Republic, means to take out or transfer, or attempt to take out or transfer, from a place within the Republic to another country or to international waters;

"import" in relation to the Republic means to land on, bring into or introduce into the Republic, or attempt to land on, bring into or introduce into the Republic, and includes to bring into the Republic for re-export to a place outside the Republic;

"listed substance" means any chemical listed in regulation 3 of these Regulations, as well as formulations and products containing any of these chemicals and their wastes;

"Persistent Organic Pollutants" means chemicals that are of global concern due to their potential for long-range transport, persistence in the environment, ability to bio-magnify and bio-accumulate in ecosystems, as well as their significant negative effects on human health and the environment;

"production" means the action of making or manufacturing from components or raw materials, or the process of being manufactured;

"sale" means offer, advertise, keep, transmit, consign, convey or deliver for purpose of reselling or exchange or dispose of to any person whether for consideration or otherwise;

"Stockholm Convention" means the Convention on Persistent Organic Pollutants, done at Stockholm on 23 May 2001; and includes the Annexes to the Convention, and any amendments to, or substitutions of, those documents that are or will become binding on South Africa;

"the Act" means the National Environmental Management Act, 1998 (Act No. 107 of 1998); and

"use" means to utilise the listed substance for a similar or different purpose with intention to achieve desired result.

2. Purpose and application of the regulations

(1) The purpose of these Regulations is to prohibit the production, distribution, import, export, sale and use of the substances contemplated in regulation 3.

(2) These Regulations apply uniformly to any person who produces, distributes, imports, exports, sells and uses a listed substance within the Republic of South Africa.

CHAPTER 2

GENERAL PROHIBITIONS

3. General prohibitions

No person may produce, distribute, import, export, sell or use any of the following listed substances:

(a) Hexabromocyclododecane;

(b) Hexachlorobutadiene;

(c) Polychlorinated naphthalenes;

(d) Decabromodiphenyl ether;

(e) Short-chain chlorinated paraffins; and

(f) Perfluorooctanoic acid (PFOA), its salts and PFOA-related compounds.

CHAPTER 3

GENERAL MATTERS

4. Offences and Penalties

(1) A person commits an offence if that person -

(a) contravenes regulation 3 of these Regulations; or

(b) furnishes false or misleading information regarding the production, distribution, import, export, sale or use of the substances listed in regulation 3.

(2) A person convicted of an offence under these Regulations is liable to -

(a) a minimum fine of 5 million Rand or 5 years imprisonment for a first offence; or

(b) a maximum fine of 10 million Rand or 10 years imprisonment in the case of a second or subsequent offence; or

(c) both a fine and imprisonment.

5. Transitional Provision

(1) Despite the provisions of regulation 3 of these regulations, a person who at the time of the commencement of these regulations, is in possession of the substances listed in regulation 3, may continue to distribute, sell or use the substances for period of 12 months from the commencement of these regulations, but may not import or export it.

(2) A person who wishes to rely on subregulation (1) in order to continue to distribute, sell or use the substances after the commencement of this regulations, must notify the Director-General in writing thereof within 30 days of the commencement of these regulations and must identify the substances which he/she or the company has in its possession.

6. Short title and Commencement

These Regulations are the Regulations Prohibiting the Production, Distribution, Import, Export, Sale and Use of Persistent Organic Pollutants that are listed by the Stockholm Convention on Persistent Organic Pollutants, 2021, and they come into effect on the date of publication in the Government Gazette.