

		v. Emissions measurements are conducted for only parameters relevant for the sector vi. All equipment used in testing for the particular parameters are validly calibrated vii. Emissions tests are done in line with methods set in this Regulations viii. Emission measurement results are not falsified
6	Consequences of non-compliance	Any designated laboratory which contravenes this code of conduct risks having its designation withdrawn by the Director General.

Made on the 14th October, 2024.

ADEN DUALE,  
*Cabinet Secretary Ministry of Environment,  
Climate Change and Forestry.*

LEGAL NOTICE NO. 181

THE ENVIRONMENTAL MANAGEMENT AND CO-ORDINATION  
ACT

(Cap. 387)

THE ENVIRONMENTAL MANAGEMENT AND CO-ORDINATION  
(MANAGEMENT AND CONTROL OF PLASTIC PACKAGING  
MATERIALS) REGULATIONS, 2024

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THE ENVIROMENTAL MANAGEMENT AND CO-ORDINATION  
ACT

(Cap. 387)

IN EXERCISE of the powers conferred by section 147 of the Environmental Management and Co-ordination Act, the Cabinet Secretary for Environment, Climate Change and Forestry makes the following Regulations—

THE ENVIROMENTAL MANAGEMENT AND CO-ORDINATION  
(MANAGEMENT AND CONTROL OF PLASTIC PACKAGING  
MATERIALS) REGULATIONS, 2024

PART I— PRELIMINARY

1. These Regulations may be cited as the Environmental Management and Co-ordination (Management and Control of Plastic Packaging Materials) Regulations, 2024. Citation.

2. In these Regulations, unless the context otherwise requires— Interpretation.

“carrier bag” means a plastic bag, constructed with or without handles, and supplied to consumers at the point of sale of goods or products;

“export” means to take or cause to be taken out of Kenya any plastic packaging material;

“extended producer responsibility” has the meaning assigned to it under the Sustainable Waste Management Act; Cap. 387C.

“flat bag” means a plastic bag constructed without handles and with or without gussets;

“gussets” means an extension of a bag on the sides or bottom that allow packaging of thicker or bulkier items having extra material on the side or bottom that expands;

“handles” means holes or holding support of a bag or the crotch or handle bracket;

“industrial packaging” means packaging of goods during or after the manufacturing process;

“import” means to bring or cause to be brought into Kenya of any plastic packaging material from a foreign country;

“manufacture” means the transformation of raw material into finished goods for sale, or other use including intermediate processes involving production or finishing or semi-manufactured goods;

“non-industrial packaging” means packaging of the items listed in the First Schedule;

“plastic bag” means a carrier bag or flat bag made from any polymer including polyethylene, polypropylene, polyethylene terephthalate that could be laminated or non-laminated, film or fabric, woven or non-woven;

“plastic film” means flexible plastic of thickness of up to 250 microns which could be simple or complex depending on a particular product or package;

“plastic packaging material” means flat plastic bags and plastic film;

“polymer” means a large molecule composed of repeating structural units typically connected by covalent chemical bonds;

“producer responsibility organization” means a collective entity set up by manufacturers, users and importers which is approved by the Authority and becomes responsible for meeting the collection and recycling obligations of the individual manufacturers, users and importers;

“Resin Identification Codes” means symbols appearing on plastic products that identify the plastic resin out of which the product is made; and

“user” means industries, individuals or other outlets who use plastic carrier bags or plastic packaging materials to pack, re-pack or wrap products to deliver goods to consumers.

3. The objective of these Regulations shall be to—

Objective of the Regulations.

- (a) establish a framework for the management and control of the use of plastic packaging material;
- (b) promote the use of environmentally-friendly packaging material;
- (c) preserve and promote a clean and healthy environment for sustainable development; and
- (d) promote the recycling of plastic packaging material.

4. (1) These Regulations shall apply to—

Application.

- (a) all plastic carrier bags and plastic packaging materials; and
- (b) all plastic packaging materials on imported products.

(2) These Regulations shall apply in addition to any other requirements imposed by or under the Act or any other written law.

5. The Authority may collaborate with lead agencies to ensure the effective implementation of these Regulations.

Collaboration with lead agencies.

## PART II — REGULATION AND EXEMPTION

6. (1) A person shall not manufacture, import, export, possess, use or offer for sale a flat bag, plastic bag or plastic film without authorization from the Authority.

Prohibition.

(2) Notwithstanding sub-regulation (1), the Authority may authorize the manufacture, import, export or use of plastic packaging materials for industrial packaging and non-industrial packaging of the items specified in the First Schedule.

7. (1) A person who wishes to manufacture, import, export, possess, use or offer for sale flat plastic bags or plastic films shall apply to the Authority for a licence in Form A as set out in the Second Schedule.

Authorization to manufacture, import, use or export plastic flat bags and plastic film products.

(2) The application under sub-regulation (1) shall be accompanied by an extended producer responsibility plan and the fee prescribed in the Third Schedule.

(3) An applicant may specify the portion of information that should be treated as confidential by the Authority during the consideration of the application under sub-regulation (1).

(4) The Authority shall, within twenty-one days of receiving the application under sub-regulation (1), determine the application and communicate, in writing, to the applicant.

(5) The Authority may, in considering an application—

- (a) approve the application;
- (b) request for further particulars from the applicant; or
- (c) reject the application.

8. The Authority shall, after approving an application, issue a licence in Form B set out in the Second Schedule on such terms and conditions as may be appropriate to facilitate sustainable development and sound environmental management.

Issuance of licence.

9. A licence issued under regulation 8 shall be valid for a period of twelve months.

Validity of licence.

10. The Authority may suspend, revoke or cancel a licence issued under regulation 8 where—

Suspension, cancellation or revocation of a licence.

- (a) the licensee contravenes any conditions of the licence;
- (b) the plastic packaging material to which the licence relates poses an environmental threat which could not be reasonably foreseen before the licence was issued; or
- (c) it is established that the information given by the applicant in support of the application under regulation 7 was false, incorrect or intended to mislead.

11. An applicant who is aggrieved by any decision of the Authority under these Regulations may appeal to the National Environment Tribunal within sixty days of delivery of the decision.

Appeals against decisions of the Authority.

12. The Authority shall deposit all fees collected under regulation 7(2) into the National Environmental Restoration Fund.

Fees to be deposited in Environmental Restoration Fund. Register of licences.

13. (1) The Authority shall maintain a register of all licences issued under these Regulations.

(2) The register shall be a public document and may be inspected by any person at any reasonable time.

14. In determining whether to issue a licence under these Regulations, the Authority shall be guided by the following criteria—
- Criteria for authorization.
- (a) the degree of recyclability of the plastic packaging material;
  - (b) whether the plastic packaging material is required for product preservation and public health concerns;
  - (c) whether the plastic packaging material is required as a security measure;
  - (d) whether the plastic packaging material is required for water and dust proofing;
  - (e) whether the plastic packaging material is required to maintain product integrity while on transit;
  - (f) whether the plastic packaging material constitutes over-packaging or not;
  - (g) whether there is any other reasonably feasible non-plastic alternative packaging material;
  - (h) whether the plastic packaging material is in accordance with any international rules and standards applicable in Kenya;
  - (i) whether the plastic packaging material for export is in accordance with relevant standards and requirements of the country where the good is being exported to; and
  - (j) whether or not the plastic packaging material is used in conformity with an industry standard for which there is no viable alternative.

### PART III— MANAGEMENT OF PLASTIC PACKAGING MATERIALS

15. (1) In addition to the provisions of any other written law relating to extended producer responsibility—
- Extended Producer Responsibility Plan.
- (a) each manufacturer, importer or user of plastic packaging materials shall develop and maintain an extended producer responsibility plan to support the collection, reduction, re-use, recycling, recovery, treatment and disposal of plastic packaging materials and the waste therefrom and submit a copy of the plan to the Authority for approval;
  - (b) each manufacturer, importer or user of plastic packaging material may develop and implement the extended producer responsibility plan individually, jointly with other manufacturers, importers or users or through an extended producer responsibility organization; and
  - (c) the extended producer responsibility shall include—
    - (i) a description of the distribution coverage of the plastic packaging material or product wrapped with plastic packaging material, whether countrywide or regionally;

- (ii) the mode of the distribution network, whether to production entities or direct consumers, factory-owned distribution or agent distribution or retail collection or a mixture thereof;
- (iii) an indication of the estimated quantities of plastic packaging material to be released into Kenya;
- (iv) a description of the programs for the reduction, re-use, recycling, recovery, treatment and disposal of plastic packaging materials and their waste to be implemented including collection sites and implementation plans;
- (v) a description of the performance measures to document and demonstrate plastic packaging material reduction, re-use, recycling and recovery efforts;
- (vi) a description of the monetary and non-monetary measures for supporting the plan; and
- (vii) a public education plan on the re-use and recycling of plastic packaging materials.

(2) During the preparation of the extended producer responsibility plan, the manufacturer, importer and user shall seek the views of persons who may be affected by the plan.

16. A person who manufactures, imports, exports, or offers for sale plastic packaging materials shall submit an annual report to the Authority that includes a description of the status and implementation of the extended producer responsibility plan that includes —

Extended producer responsibility plan report.

- (a) information relating to the collection locations for plastic packaging materials and the processing locations for collected plastic packaging materials;
- (b) the total weight in kilograms of plastic packaging materials introduced in Kenya by that person;
- (c) the total weight in kilograms of plastic packaging materials collected and processed for recycling;
- (d) the proportions of pre-consumer recycled content and post-consumer recycled content in the plastic packaging materials introduced in Kenya by that person; and
- (e) samples of the education materials provided to consumers.

17. (1) A person who manufactures, imports, exports, or offers for sale plastic packaging materials shall conduct and document due diligence assessment of any person with whom that person contracts to—

Due diligence.

- (a) implement the extended producer responsibility plan;
- (b) manage a recycling collection center;
- (c) collect, process or transport plastic bags or plastic film product wrap; or

(d) recycle plastic packaging materials.

(2) Upon completion of due diligence under sub-regulation (1), that person shall prepare a due diligence report and submit the same to the supervising entity for review.

(3) Where the due diligence report is found to be satisfactory, a “no objection” for the proposal to proceed to full design will be issued within seven days.

18. (1) Each person who sells plastic packaging materials in Kenya shall label each bag to identify the recycled content in the bag. Recycled content.

(2) Each manufacturer of plastic packaging materials shall ensure that the materials are made up of at least thirty percent total recycled material in cases where recyclable content is required to make up part of the materials.

19. The Authority shall publish on its website— Publication.

(a) a list of licensed producer responsibility organizations and their addresses; and

(b) the location of collection centres identified by persons who manufacture, import, export, or offer for sale plastic packaging in their extended producer responsibility plans and annual reports.

20. (1) A person shall not sell or offer for sale plastic packaging materials in Kenya unless the name and contacts of that person are printed on the materials. Labelling.

(2) The Authority may, on the application of a person who intends to sell or offer for sale plastic packaging materials in Kenya, approve the use of any other identifiable mark in place of the contact details of that person.

(3) A person shall not sell or offer for sale plastic packaging materials in Kenya unless—

(a) the plastic packaging materials are clearly marked recyclable or non-recyclable with Resin Identification Codes;

(b) the details of the prices and buying location are printed on the plastic packaging materials where the materials have a buy back scheme; and

(c) the percentage of the recycled content is printed on the plastic packaging materials where the materials are made from recycled content.

(4) A person who fails to comply with this regulation commits an offence.

21. (1) A person shall not purchase plastic packaging materials directly from any other person for use or distribution in Kenya unless— Prohibition on purchase of plastic packaging materials.

(a) that other person has been licensed by the Authority in accordance with regulation 7; and



- (b) the name of that other person is printed on the materials in accordance with regulation 16.

(2) A person who fails to comply with this regulation commits an offence.

#### PART IV—RECORDS AND INSPECTION

22. (1) Every manufacturer, importer, exporter and user of plastic packaging materials shall keep a record of the quantities of plastic packaging materials manufactured, exported, imported or used annually by that manufacturer, importer, exporter or user.

Record Keeping.

(2) Every manufacturer, importer, exporter and user of plastic packaging materials shall submit the records kept under sub-regulation (1) to the Authority annually in the format set out in the Fourth Schedule.

23. (1) Every importer of plastic packaging materials shall declare, at the port of entry in Kenya, the quantities and purpose of the plastic packaging materials being imported.

Declaration at the point of entry.

(2) An importer who fails to comply with the provisions of sub-regulation (1) commits an offence.

#### PART V—OFFENCES AND PENALTIES

24. (1) A person who manufactures, imports, exports, uses, sells, offers for sale or possess plastic carrier bag without a licence commits an offence and shall, on conviction, be liable to the penalties set out in section 144 of the Act.

Offences.

(2) A person who manufactures, imports, exports, uses, sells or offers for sale plastic flat bags without authorization commits an offence and shall, on conviction, be liable to the penalties set out under section 144 of the Act.

(3) A person who manufactures, imports, exports, uses, sells or offers for sale plastic film product without authorization commits an offence and shall, on conviction, be liable to the penalties set out under section 144 of the Act.

#### PART VI—TRANSITIONAL PROVISIONS

25. Each manufacturer, importer, seller or user in possession of plastic packaging materials shall, within one month of the commencement of these Regulations—

Transitional provisions.

- (a) declare the stock of plastic packaging materials to the Authority; and
- (b) comply with these Regulations.

## FIRST SCHEDULE

(r. (2),6(2))

## ITEMS FOR NON-INDUSTRIAL PACKAGING

1. Materials used in the construction sector.
2. Materials used in the agricultural sector.
3. Materials used for manufacture of tents.
4. Materials used in mechanical and machine parts.
5. Materials used for packaging of household wares and packaging.
6. Garbage bags and bin liner bags.
7. Caution tapes.
8. Vegetable and food packing bags.
9. Diaper and sanitary disposal bags.
10. Any other material that may be determined by the Authority from time to time

## SECOND SCHEDULE

(r. 7(1), 8)

## FORM A

APPLICATION FOR LICENCE TO MANUFACTURE, IMPORT, EXPORT OR USE  
OF PLASTIC PACKAGING MATERIAL FOR INDUSTRIAL AND NON-  
INDUSTRIAL PACKAGING

Application reference No.....

(For official use)

## Part A: DETAILS OF THE APPLICANT

A1. Name (Individual Firm) .....

A2. Business Registration No. ....

A3. Address: .....

A4. Name of contact person .....

A5. Position of contact person .....

A6. Address of contact person .....

Telephone No. ....

Email: .....

## PART B: CATEGORY OF EXEMPTION BEING SOUGHT

B1. Manufacturer

☐

Importer

☐

User

☐

B2. Nature of the plastic packaging material for which authority is sought—

- (a) Printed flat bags for industrial packaging;
- (b) Printed flat bags for non-industrial packaging;
- (c) Printed courier bags;
- (d) Printed hazardous/biomedical waste plastic liners;
- (e) Printed garbage bags;
- (f) Plastic film;
- (g) Other (specify) .....

B3. Product to be packaged in the plastic packaging material – (attach list where necessary)

.....

B4. Certification by the Kenya Bureau of Standards (KEBS) [where applicable]

(Attach evidence)

.....  
B5. Source of the plastic packaging material (for non-manufacturers)

.....  
B6. Quantity applied for

.....  
B7. Expected duration of use/consumption per month

.....  
B8. Expected normal points of use

.....  
B9. Extended producer/plan to be put in place to manage the resultant waste from the plastic packaging materials (Attach the Extended Producer Plan)

.....  
**Part C: DECLARATION BY APPLICANT**

I hereby certify that the particulars given above are correct and true to the best of my knowledge and belief. I understand my clearance may be suspended, varied or cancelled if any information given above is false, misleading, wrong or incomplete.

Name .....

Position .....

Signature..... Date .....

Company/ Entity name and Seal/Stamp

**Part F: OFFICIAL USE**

Approved / Not approved .....

Comments .....

Officer.....Signature.....Date.....

**Important Note:**

Please submit 1(one) copy of this completed Form and all the requisite documentary evidence to:

The Director-General,

National Environment Management Authority

FORM B

(r. 7(7))

LICENCE TO MANUFACTURE, IMPORT, EXPORT OR USE OF PLASTIC  
PACKAGING MATERIAL FOR INDUSTRIAL AND NON-INDUSTRIAL  
PACKAGING

*Licence No:*

This is to certify that (name and address).....is hereby issued  
with a licence to..... plastic flat bags/Plastic film for the  
purpose of .....

This license is valid for a period of 1 (one) year with effect from.....

Dated this..... day..... of ..... 20.....

Signature.....

(seal)

Director General  
The National Environment Management Authority

CONDITIONS OF THE LICENCE

1.....

2.....

## FORM C

(r. 11(2))

## APPLICATION FOR A PRODUCER RESPONSIBILITY ORGANISATION

## Part A: DETAILS OF THE APPLICANT

- A1. Name (Organization) .....
- A2. Business Registration No. ....
- A3. Address .....
- A4. Name of contact person .....
- A5. Position of contact person .....
- A6. Address of contact person .....

## Part B: PLASTIC PACKAGING MATERIALS MANAGEMENT

1. Registration number and type of vehicles to transport plastic packaging materials .....
  2. Quantity of plastic packaging materials per vehicle to be transported .....
  3. Licensed sites/plant to which plastic packaging materials are to be transported .....
  4. Collection schedule .....
  5. Any other information .....
  6. Is Application for: ☐ Initial licence ☐ Renewal
  7. Previous License Number .....
- Date ..... Signature .....
- Telephone No. ....
- E-mail: .....

## PART C: NATURE OF EXTENDED PRODUCER RESPONSIBILITIES AGREEMENTS

1. Agreement/Contracts of entities enlisted for this service for plastic packaging materials .....
  2. Nature of products to be collected .....
  3. Physical Location of the facility .....
  4. Documentation for the collection, sorting and recycling of packaging waste .....
  5. ....
- B3. Period of the of the licence
- Date issued .....
- Expiry date .....

Part D: DECLARATION BY APPLICANT

I hereby certify that the particulars given above are correct and true to the best of my knowledge and belief.

Name .....

Position .....

Signature..... Date .....

Company/ Entity name and Seal/Stamp

Part E: OFFICIAL USE

Receiving officer.....Signature.....Date.....

The Director-General,  
National Environment Management Authority

## FORM D

(r. 11(4))

## LICENCE FOR A PRODUCER RESPONSIBILITY ORGANISATION

Licence No. ....

This is to certify that (name and address). .... is a registered Producer Responsibility Organization licenced to provide extended producer responsibility services to—

- a. Collect [ ]
- b. Sort [ ]
- c. Recycle [ ]
- d. Package waste [ ]

This licence is valid for a period of 1 (one) year with effect from.....

Dated this..... day..... of ..... 20.....

Signature.....(seal)

Director General  
The National Environment Management Authority

## CONDITIONS OF THE LICENCE

- 1.....
- 2.....



## FORM E

(r. 21(2))

## Seizure Form

At..... (Time) on ..... (Date). .....

At (location) .....

.....

.....

.....

Officer's full name .....

From (give address of NEMA Office) .....

.....

.....

being an Environmental inspector appointed and gazette under section 117 (1) of the Environmental Management Co-ordination Act 1999 and having entered land / premises/vessel/motor vehicle/ox-drawn cart, other (specify).....at above time, date and location did seize from (specify from whom or where seized)-

Name/address .....

Items seized .....

.....

.....

.....

Being an article/vessel/motor vehicle/plant/substance/any other thing (specify).....  
.....which I reasonably believed to have been  
used in the commission of an offence under the Act or regulations thereunder.

Signed (inspector).....Date.....

Print name.....

Delete as appropriate

## THIRD SCHEDULE

(r. 7(2))

APPLICATION FEES MANUFACTURE, IMPORT, EXPORT OR USE OF PLASTIC  
PACKAGING MATERIALS FOR INDUSTRIAL AND NON- INDUSTRIAL  
PACKAGING.

Item	Total quantities of plastic packaging materials imported/exported/manufactured/used per annum (Kilograms)	Fees (Ksh.)
1.	1- 500,000	10,000.00
2.	501,000- 1,000,000	20,000.00
3.	Over 1,000,000	50,000.00

Item	Total quantities of plastic packaging materials imported/exported/manufactured/used per annum In (kilograms)	Fees (Ksh.)
1	1-50,000	3,000
2	51,000-100,000	5,000
3	101,000-500,000	10,000
4	501,000-1,000,000	20,000
5	Over 1,000,000	50,000

## FOURTH SCHEDULE

(r.22(2))

## RECORD OF PLASTIC PACKAGING MATERIALS

## PART A: DETAILS OF THE APPLICANT

A1. Name (Individual or Firm) .....  
A2. Business Registration No. ....  
A3. Address .....  
A4. Name of contact person .....  
A5. Position of contact person .....  
A6. Address of contact person .....  
Telephone No. ....  
E-mail: .....

## PART B: CATEGORY OF EXEMPTION GRANTED

B1. Manufacturer/Importer/User .....  
B2. Type of the plastic packaging material used .....  
B3. Period of the exemption  
Date issued .....  
Expiry date .....  
B4. Quantity of the plastic packaging materials used in a given year.  
.....  
B5. Destination of the plastic packaging material (Please state whether destined for local  
or international use)  
.....

## PART C: DECLARATION BY APPLICANT

I hereby certify that the particulars given above are correct and true to the best of my  
knowledge and belief.

Name .....  
Position .....  
Signature..... Date .....  
Company/ Entity name and Seal/Stamp

## PART D: OFFICIAL USE

Receiving officer.....Signature.....Date .....

The Director-General,  
National Environment Management Authority

Made on the 14th October, 2024.

ADEN DUALE,  
*Cabinet Secretary for Environment,  
Climate Change and Forestry.*