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THE EAST AFRICAN COMMUNITY POLYTHENE MATERIALS
CONTROL BILL, 2016

MEMORANDUM

Chapter 19 of the Treaty for establishment of the East African Community enjoins the Partner States to Cooperate in all issues of environmental and Natural Resources Management, while in its articles 112 (1) and (112 (2) (a),(c) and, (h) urges the Partner States to adopt common environment control regulations, incentives and standards; encourage the manufacture and use of bio-degradable pesticides, herbicides and packaging materials and to adopt common environmental standards for the control of atmospheric, terrestrial and water pollution arising from urban and industrial development activities. The EAC Partner States are also signatories to various International Environment Agreements that are intended to regulate the environment.

It should be noted that Polythene products like polythene bags are a menace to the environment and its habitat and their use needs to be controlled. Polythene waste pollution has worsened these last few years due to preference for polythene as packaging material for shopping bags and other uses. This has led to mounting quantities of plastic in household waste. Apart from its slow degradation rate (as long as 400 years), polythene is a source of environmental pollution, especially

visual, with the urban areas being the worst hit. This is compounded by inability to manage waste, and recycling of polythene is more expensive than producing new ones.

While plastic waste is considered to be harmful to the environment and a health hazard, the problem has not received due attention.

The Object of this bill therefore, is to provide a legal framework for the preservation of a clean and healthy environment through the prohibition of manufacturing, sale, importation and using of polythene materials.

HON. PATRICIA M. HAJABAKIGA
East African Legislative Assembly

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THE EAST AFRICAN COMMUNITY POLYTHENE
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A Bill For an Act

ENTITLED

THE EAST AFRICAN COMMUNITY POLYTHENE
MATERIALS CONTROL ACT, 2016

An act to provide for the control and regulation of use, sale, manufacture and importation of polythene materials and products and for other related matters.

ENACTED by the East African Community and assented to by the Heads of State.

PART I—PRELIMINARY PROVISIONS.

1. (1) This Act may be cited as the East African Community Polythene Materials Control Act, 2016. Short title

(2) This Act shall come into force on such a date as the Council may, by notice in the Gazette appoint.

2. In this act, unless the context otherwise requires — Inter-pretation

“bio-degradable” means a material or item that has the ability to break down or which can decompose back into the natural environment without causing harm;

“Council” means the Council of Ministers of the East African Community established by Article 9 of the Treaty;

“environment authority” means a government body designated by a Partner State to deal with environmental management and compliance;

“environmentally friendly material” means a material or item that has no negative impact to the environment;

“gazette” means the Official Gazette of the Community;

“import” means to bring or cause to be brought into the territories of the EAC Partner States, any polythene material from a foreign country;

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

“polythene” means a thermoplastic which is a polymer of the gas ethane (C_2H_4) with multiple uses;

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

“public prosecutor” means the office in every Partner State responsible for public prosecutions;

“recidivism” means a habitual relapse into a similar offence;

“relevant officer” means staff of the government body designated by a Partner State to deal with environmental management and compliance, or any other office authorized by any other law;

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“Treaty” means the Treaty for the establishment of the East African Community.

3. The objectives of this Act are to—

Objectives

- (a) establish a legal framework for the control of the use of polythene in the Community;
- (b) promote the use of environmental friendly packaging materials;
- (c) preserve and promote a clean and healthy environment and land use management for sustainable development;
- (d) prevent any type of pollution caused by polythene materials in lakes, rivers and oceans;
- (e) protect infrastructure including drainage systems, biodiversity and livestock;
- (f) promote recycling; and
- (g) brand the East African Community as green and clean.

4. This Act applies to all types of polythene materials.

Application

PART II—REGULATION AND EXCEPTION

5. (1) Use, sale, manufacturing and importation of polythene is regulated in all the East African Community Partner States.

Prohibition

(2) Notwithstanding the provisions of subsection (1), the Council may, in consultation with the Partner States establish a list of polythene materials necessary to be used in exceptional cases in the Community, and the list may be updated at such time as the Council deems necessary.

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(3) The initial list of polythene materials referred to under subsection (1) is specified in the Schedule.

(4) For the avoidance of any doubt, the elimination of polythene bags shall be complete in all the Partner States within one year from the coming into force of this Act.

Authorisation

6. (1) Any person who wishes to use, sell, manufacture or import any polythene material not specified in the Schedule shall apply for a written authorization from the relevant authority and shall provide the following information —

(a) the reasons for the application;

(b) quantities required and estimated period for use;

(c) how the applicant intends to manage or dispose of the polythene waste arising from their use.

(2) The relevant authority shall, within a period not exceeding twenty working days determine the application under subsection (1) and inform the applicant accordingly.

(3) In the event that the applicant is not satisfied with the decisions of the relevant authority, such applicant may seek redress from the Minister.

PART III—SANCTIONS, ENFORCEMENT AND INCENTIVES

Penal Provisions:

7. (1) Any person who contravenes section 5 commits an offence and shall be liable on conviction to a fine not exceeding five thousand United States dollars or to imprisonment for a term not exceeding twelve months or both.

(2) Where an offence under this Act is committed by a body corporate, and it is proved to have been committed with the consent connivance of, or to be attributable to any act default on the part of any director, manager, secretary or other

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similar officer of the body corporate or any other purporting person as well as the body corporate, shall be deemed to have committed the offence and shall accordingly be liable.

(3) All polythene materials found in possession of any person in contravention of this Act shall be seized and taken to the appropriate stores established by the relevant authority for disposal.

(4) Where recidivism is established on any person under this section, the penalty against such person shall be doubled.

8. The relevant authority in a Partner States shall enforce this Act. Enforcement

9. The relevant officer may inspect any premises or vehicle suspected to be in possession of polythene materials in contravention of this Act and may — Inspection

(a) inspect and check the operation of any industry or factory and any associated premises or vehicle which he or she has reasonable cause to suspect is in possession of any polythene material;

(b) seize any material, equipment or machine or information, where such seizure is necessary for an examination or investigation.

10. (1) Any person who obstructs, impedes, assaults or interferes with a relevant officer in the performance of his or her functions under this Act commits an offence and shall be liable to a fine not exceeding five thousand United States dollars or to imprisonment for a term not exceeding twelve months or both. Obstruction

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(2) In exercising any of the powers of enforcement under this Act, a relevant officer shall on demand produce to the person against whom he or she is acting, the authority issued by the relevant authority to the relevant officer.

Compliance

11. (1) The relevant authority may by notice in writing rescind its earlier decision.

(2) Any person who fails to comply with any direction specified in a notice issued under subsection (1) commits an offence and shall be liable on conviction to a fine not exceeding five thousand United States dollars or to imprisonment for a term not exceeding 12 months or both.

(3) No prosecution in respect of any offence under this Act shall be instituted except by or with the sanction of the public prosecutor.

PART VI—MISCELLANEOUS

Incentives

12. Any activity aiming at controlling the polythene waste pollution or any person investing in biodegradable packaging materials may—

(a) receive support from the East African Community Development Fund; or

(b) receive support from the government or a Partner State in form of subsidies, grants or tax regimes as such Partner State may determine.

Regulations

13. The Council may make regulations generally for giving effect to the provisions of this Act

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SCHEDULE

s.5 (3)

LIST OF EXEMPTED POLYTHENE MATERAILS

1. Materials used in medical stores
2. Materials used in industrial packaging
3. Materials used in the construction industry
4. Materials used in the manufacture of tents
5. Materials used in the agricultural industry
6. Materials used in mechanical and machine parts
7. Materials used for production of household wares and furniture
8. Materials used in plumbing including water pipes