



2012/09

**PROHIBITION ON IMPORTATION OF PLASTIC SHOPPING BAGS
REGULATIONS 2012**

Sir F. Goodwin, KBE
Queen's Representative

ORDER IN EXECUTIVE COUNCIL

At Avarua, Rarotonga this **19th** day of **June** 2012

Present:
HIS EXCELLENCY THE QUEEN'S REPRESENTATIVE
IN EXECUTIVE COUNCIL

PURSUANT to section 70 of the Environment Act 2003, His Excellency, the Queen's Representative, acting by and with the advice and consent of the Executive Council, makes the following regulations:

ANALYSIS

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REGULATIONS

1. **Title** - These regulations are the Prohibition on Importation of Plastic Shopping Bags Regulation 2012.
2. **Commencement** - These regulations come into force three months after the day it is assented to by the Queen's Representative.

Price \$3.00

3. Interpretation – In these Regulations, unless the context otherwise requires,-

“Act” means the Environment Act 2003;

“authorised officer” means a person authorised in writing by the Director to be an authorised officer for the purposes of these Regulations;

“supplier” means a person licensed by the Director to import specified plastic products;

“biodegradable” means when the starch contents of the plastic product is capable of being broken down by bacteria and other micro-organisms;

“Director” means the Director of the National Environment Service;

“importation” means the importing of plastic bags into the Cook Islands for the purpose of being used to pack and cart goods from a shop;

“minimum standards of biodegradability” means the standards specified in regulation 6;

“non-biodegradable product” means a product not capable of meeting the minimum standards of biodegradability;

“plastic shopping bags” means plastic shopping bags used for packing and carting goods from a shop;

“shop” means a business which operates for the purpose of supplying goods to the public for gain or reward.

4. Importation of non-biodegradable plastic shopping bags – The importation into the Cook Islands of non biodegradable plastic shopping bags is prohibited.

5. Importation of biodegradable plastic shopping bags – The importation into the Cook Islands of biodegradable plastic shopping bag is prohibited unless:

- (a) the person importing the plastic shopping bags is the holder of a licence to import those plastic shopping bags granted by the Director or an authorised person; and
- (b) where that licence is granted subject to specified conditions, those conditions are complied with.

6. Minimum standards of biodegradability - A plastic shopping bag complies with the minimum standards of biodegradability where:

- (a) the chemical make up or raw materials of the bag contains a maximum of 98% polyethylene; and
- (b) 2% of other chemicals; and
- (c) the plastic bag’s total physical structure will degrade within 6-18 months when disposed of under natural conditions.

7. Application for a licence to import plastic shopping bags - (1) A person wishing to import plastic shopping bags must apply for a licence in Form 1 of the Schedule to the Director or an authorised officer.

(2) An applicant must provide the following information:

- (a) the name and contact details of the supplier or manufacturer of the plastic shopping bags; and
- (b) written confirmation from the applicant that the plastic shopping bags comply with the minimum standards for biodegradability as defined in regulation 6; and
- (c) samples of the plastic shopping bags proposed to be imported; and
- (d) any other information reasonably requested by the Director or an authorised officer.

(3) Unless exempted by the Director, an application must be accompanied by a fee of \$50.00.

8. Issue of licence - (1) The Director or an authorised officer may on application in such form grant or refuse to grant a licence subject to such conditions as he thinks fit and as stipulated by these regulations.

(2) When considering an application for a licence and without limiting the discretion to grant a licence in sub-regulation (1), the Director or authorised officer must take into consideration:

- (a) the commitment of the government to ban non-biodegradable plastic shopping bags to protect the environment of the Cook Islands; and
- (b) the availability of 100% biodegradable local products that can be used for the same purpose; and
- (c) any other relevant matter as the Director or authorised officer thinks fit.

9. Conditions of licence - (1) A licence is subject to:

- (a) conditions specified in these Regulations; and
- (b) conditions specified by the Director or an authorised officer at the time a licence is issued; and
- (c) any conditions imposed by the Director under sub-regulation (2) after the licence has been granted.

(2) The Director may at any time, by notice in writing given to the licence holder amend a licence to:

- (a) impose any additional conditions; or
- (b) remove or vary any existing condition on such terms as he thinks fit.

10. Labelling of plastic shopping bags - It is a condition of a licence to import biodegradable plastic shopping bags that each bag has labelled on it that it is a biodegradable plastic bag.

11. Licensed importer to keep records - (1) It is a condition of a licence to import plastic shopping bags that the importer keeps full and accurate records of the product.

(2) The importer must make that information available for inspection at the written request of the Director.

12. Period of licence -- (1) A licence continues in force for 3 years unless it is cancelled or surrendered.

- (2) A licence can only be surrendered if:
- (a) the importer ceases to operate; or
 - (b) lawfully transfers ownership of the business to another person.

13. Cancellation and suspension of licence - (1) The Director may, by notice in writing given to the licence holder, suspend or cancel a licence if:

- (a) a condition of the licence has been breached; or
- (b) the Director believes on reasonable grounds that the licence holder has committed an offence against these regulations; or
- (c) the licence was obtained improperly.

(2) A person who has been given a notice under sub-regulation (1) suspending or cancelling a licence may lodge an objection against that cancellation or suspension with the Minister within 7 working days of service of the notice stating the grounds of objection.

(3) After considering the objection, the Minister must:

- (a) confirm the cancellation or suspension; or
- (b) vary the cancellation or suspension in any way the Minister thinks fit; or
- (c) overturn the cancellation or suspension.

14. Offences and penalties - (1) Every person commits an offence who does any act in contravention of, or fails to comply with, these regulations.

(2) Where the Director or an authorised officer has reason to believe that a person has committed an offence against these regulations, the Director or authorised officer may issue a minor offence in Form 2 of the Schedule requiring the person to pay a fine not exceeding \$500.00.

(3) Every person required to pay a fine pursuant to sub-regulation (2) may

- (a) elect to pay the fine within 7 days of the notice of infringement being issued, in which event a receipt shall be issued and the person shall not be liable to any further prosecution of any kind in respect of that offence;
- (b) elect not to pay the fine within the 7 days of the notice of infringement being issued, in which event that person shall be liable to prosecution under sub-regulation (4).

(4) Every person who commits an offence against these regulations is liable upon conviction to a fine not exceeding \$1,000.00.

15. Protection from liability - A person exercising a function or power under these regulations does not incur civil liability for an act or omission done honestly and without negligence for these regulations.

16. Amendment to Schedule - Any form provided in these regulations may be amended at any time by notice in the Gazette.

Clerk of the Executive Council

These regulations are administered by the National Environment Services.

BY AUTHORITY:
Cook Islands Government 2012

SCHEDULE**FORM 1**

Regulation 7(1)

NATIONAL ENVIRONMENT SERVICE
TU'ANGA TAPOROPORO
COOK ISLANDS

APPLICATION TO IMPORT BIODEGRADABLE PLASTIC SHOPPING BAGS INTO
THE COOK ISLANDS

<u>NAME OF APPLICANT:</u>			
<u>COMPANY NAME</u>		<u>PH:</u>	
<u>COMPANY ADDRESS</u>			

<u>DETAILS OF PLASTIC BAGS TO BE IMPORTED:</u>			
<u>LEVEL OF BIODEGRADABILITY:</u>			
<u>LEVEL OF POLYETHELENE:</u>			
<u>LEVEL OF OTHER CHEMICALS:</u>			
<u>REASONS FOR IMPORTING PLASTIC SHOPPING BAG?</u>			
<u>NAME OF SUPPLIER</u>		<u>CONTACT DETAILS OF SUPPLIER</u>	
<u>PHYSICAL ADDRESS:</u>			
<u>STREET No:</u>	<u>STREET NAME:</u>		
<u>SUBURB:</u>	<u>CITY:</u>	<u>COUNTRY:</u>	

FORM 2

Regulation 14(2)

MINOR OFFENCE NOTICE
ISSUED UNDER THE AUTHORITY OF THE PROHIBITION ON IMPORTATION OF
PLASTIC SHOPPING BAGS REGULATIONS 2012

ENFORCEMENT AUTHORITY

NOTICE NO: 000



NATIONAL ENVIRONMENT SERVICE
TU'ANGA TAPOROPORO
COOK ISLANDS

First Name:	Surname:
Address:	Phone:

ALLEGED MINOR OFFENCE(S) DETAILS

Date:	Time: <i>am/pm</i>	Day of week S M T W T F S
OFFENCE NUMBER:	OFFENCE	MINOR OFFENCE FEE

The Minor Offence(s) Fee(s) is/are payable within 7 days from the date of issue.	Tentative Date of Prosecution in the High Court:
Officer's Name: Officers Signature:	THIS MINOR OFFENCE(S) FEE(S) NOTICE IS PAYABLE AT THE NATIONAL ENVIRONMENT SERVICE OFFICE ON THE ISLAND WHERE THE NOTICE WAS ISSUED