

Kenya bans use of plastic bags: Things you need to know

1. Background

The countdown is on until Kenya's national ban on plastic bags takes effect, with retailers, exporters, manufacturers, and various other categories of users across the country instructed to be ready to comply with the new law, by putting in place the necessary alternative arrangements, when it goes into force on 28 August 2017. The Cabinet Secretary, Ministry of Environment and Natural Resources through a Gazette Notice No. 2536 of 28th February 2017 banned the use, manufacture and importation of plastic bags used for commercial and household packaging.

The Ban applies to;

1. Carrier bags constructed with handles and with or without gussets;
2. Flat bags constructed without handles and with or without gussets

A summary of the meaning of the ban, highlights of stakeholder engagement, compliance implications and the way forward for the university community is the subject of the following sub-sections.

2. Unpacking the Ban

The National Environment Management Authority (NEMA) elaborated this ban by way of the following Eight Frequently Asked Questions (FAQs) which can be downloaded from the NEMA website:

Question 1: Which plastics have been banned?

Answer: The ban applies to all plastic carrier bags and flat bags used for commercial and household packaging.

Question 2: What is a plastic carrier bag?

Answer: This is a single-use plastic bag constructed with handles and may have a gusset or not.

Question 3: What is a flat bag?

Answer: A flat bag is a plastic bag constructed without handles and may have a gusset or not.

Question 4: What are the major concerns of plastics bags?

Answer: Plastic bags are usually manufactured for single use and generally tear or puncture after a first use. They are easily transported by the wind and are some of the most visible components of roadside and shoreline litter. Plastic bags are produced from oil and natural gas, and never fully biodegrade, remaining in the environment as small or even microscopic particles, essentially forever.

Question 5: Are plastics used for primary industrial packaging also banned by the Gazette Notice?

Answer: NO. The Ban does not apply to plastics used in primary industrial packaging in accordance with approved packaging standards.

Question 6: When are manufacturers and importers required to stop providing plastic single-use carrier bags to customers?

Answer: By August 28th, 2017. Furthermore, all manufacturers and importers shall declare all their remaining stocks by the due date to the National Environment Management Authority for necessary action.

Question 7: Will exporters of plastic single-use carrier bags continue to manufacture the bags?

Answer: NO. The manufacturing of all plastic carrier bags shall cease by 28th August 2017.

Question 8: Will there be a “grace period” for retailers to comply?

Answer: The Gazette Notice was published on 28th February 2017, allowing six (6) months grace period for necessary adjustments and compliance.

In addition to these questions, the following are other FAQs

Question 9: What is a plastic carrier bag with a gusset?

Answer: Gussets are added material that increase the amount of volume of the bag. Thus a single-use plastic bag constructed with handles with a gusset is one with added material for an expanded capacity.

Question 10: What is can University of Nairobi (UoN) do to lead the way?

Answer: To be among the leaders on implementation of this notice, UoN can declared a PLASTIC FREE ZONE with immediate effect. This should be implemented in all UoN premises and field stations.

Question 11: What is purpose of the ban?

Answer: The purpose of the Government to ban the use of plastic bags is to avoid health and environmental effects resulting from the use of plastic bags. These effects include, the inability of plastic bags to decompose and thus affecting soil quality; The littering of such bags at various parts of the country; The blockage of sewerage and water drainage infrastructure causing floods during the raining season; damage of ecosystems and biodiversity due to plastics bags, death of animals after consuming plastic material; endangering human health when used for packaging food in particular hot food; poisonous gaseous and when used as fuel to light charcoal; and air pollution when disposed by burning in open air.

The NEMA's compliance and enforcement technical team deliberated on the interpretation of the plastic ban and came up with the following guidelines on alternatives and exemptions which are available at the NEMA website:

A. ALTERNATIVES

The following guideline on the potential alternatives has been agreed with KEBs;

1. All bags made from non-plastic materials e.g. jute/sisal, Paper, cloth, Papyrus
2. Woven polypropylene plastic bags (gunny bags)
3. Non-woven polypropylene plastic bags (cloth-like bags)
4. Laminated polypropylene bags
5. Polyolefin fibre bags
6. 100% biodegradable bags (starch and cassava bags)

The 2 & 3 options are subject to the development of the standard by KEBs whose process has already started. The standard development will be based on the following six parameters:-

- The specific material;
- Gauge;
- Tensile Strength;

- Basting Strength;
- Toxicity of the material and;
- Its safety for use (Heavy metals will also be tested among others).

B. EXEMPTIONS

Category 1: Plastic carrier bags

All bags in this category are banned. For clarity these are bags commonly known as “Juala” that are used as secondary packages for items in shops, markets etc. There is no contention in this category of banned plastic as there are NO EXEMPTIONS.

Category 2: Flat bags

Flat bags used for carrying items outside industrial setting e.g. groceries, garbage, are banned. However, in this category EXEMPTION is extended for bags used for industrial primary packaging where the product is direct contact with the plastic and is done at the source.

The exemption is subject to:

- i. Extended Producer/User Responsibility and/or effective Take Back Schemes**
- ii. Legibly and permanently labelled bags to indicate the name of the industry manufacturing the product, the end-user and physical addresses for ease of monitoring, traceability and therefore ease of enforcement intervention.

**Keeping of inventory/record with the aim of implementing the take back scheme.

Category 3: Flat bags used as Garbage and hazardous (e.g. medical waste, chemicals etc.) waste liners

- i. Hazardous waste liners are exempted so long as they are legibly and permanently labeled (as indicated in 2 ii above) and color-coded and are incinerated together with the waste.
- ii. Garbage Liners are also exempted on condition that they are clearly labeled (as indicated in 2 ii above) and have demonstrated effective and efficient Extended Producer/User Responsibility and/or effective Take Back Schemes. The liners will NOT be dumped together with the waste but will

be emptied and reused or recycled by the licensed waste collector and transporter (the end user).

Category 4: Duty Free shop bags

The ban applies to the use, manufacture and importation of the banned plastics within Kenya. Since duty free shops at airports are considered to be outside the Kenyan territory, bags used at this point are not affected by the ban. However, any traveler coming into Kenya with duty free bags shall be required to leave the same at the entry points.

3. Stakeholder engagement

Several awareness creation events have been organised in this regard. For instance, in a stakeholders' forum hosted by UN Environment, in partnership with the Ministry of Environment and Natural Resources, on 21 June, Prof. Geoffrey Wahungu, Director-General of Kenya's National Environment Management Authority, they had served notice to manufacturers to declare their stock and are working with the Kenya Revenue Authority, the Kenya Bureau of Standards and county governments to effect the ban.

UN Environment Deputy Executive Director Ibrahim Thiaw told the forum "We support the efforts of the Kenyan Government and people in their efforts to reduce the negative impact of plastics on their environment, on their health and on their economy." Thiaw further added that at abattoirs in Western Kenya, veterinarians are finding an average of 2.5 plastic bags as well as other plastic waste inside the stomachs of cows.

The forum provided a platform for the Government and stakeholders to discuss preparations for the ban, what to do with stocks of plastic bags, and alternatives to single-use plastic bags, such as cloth, sisal or hyacinth bags. Participants exchanged views on how to implement the ban, including the possible use of incentives; partners who had been through a similar experience shared their lessons learned. The event brought together government officials, importers, manufacturers, retailers, academia as well as national- and county-level government officials.

Representatives of several countries that have implemented similar bans were also present. University of Nairobi (UoN) was represented in the forum by

Wangari Maathai Institute. Cabinet Secretary Judi Wakhungu, the Kenyan Minister of Environment, alluded to the need to do more outreach to better educate the public, including schoolchildren, on the importance of the ban.

4. Compliance: Need for Clearance letter?

In summary, all manufacturers, importers and users are informed by NEMA, vide its website, that plastic bags used for primary industrial packaging are exempted as long as they are used for industrial primary packaging at the source of the product and are not available on sale at the counter or given freely outside the industrial setting. The exemption also includes disposal bags for handling of biomedical and hazardous waste and garbage bin liners. Furthermore, these bags must be clearly labeled (printed) the name of the industry manufacturing the product and the end-user.

In a bid to enhance compliance to this Ban, all manufacturers, importers and users of plastic bags used for primary industrial packaging, including the UoN community, are required to obtain Clearance Letters (on application and justification to NEMA) allowing them to continue with the manufacture, importation and use of the above defined plastic bags packaging. The applicants shall demonstrate to the satisfaction of the Authority, an effective Take Back Schemes (TBS) and/or Extended Producer Responsibility (EPR). The clearance letters can be obtained from NEMA-HQs in South C, Popo Road, off Mombasa Road, Nairobi.

5. Way Forward

Implementation of packaging alternatives with immediate effect across the university is recommended. The UoN units involved in primary or secondary packaging need to apply for clearance letters from NEMA. This should be done before 28th August 2017. The potential alternatives present new research opportunities which the UoN researchers may take up for the benefit of the nation.

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