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THE ENVIRONMENTAL MANAGEMENT AND CO-ORDINATION (CONTROLLED SUBSTANCES) REGULATIONS, 2007

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THE ENVIRONMENTAL MANAGEMENT AND CO-ORDINATION ACT, 1999

/ (No. 8 of 1999)

IN EXERCISE of the powers conferred by sections 56 and 147 of the Environmental Management and Co-ordination Act, 1999, the Minister for Environment and Natural Resources in consultation with the relevant lead agencies makes the following Regulations:—

THE ENVIRONMENTAL MANAGEMENT AND CO-ORDINATION (CONTROLLED SUBSTANCES) REGULATIONS, 2007

FART I-PRELIMINARY PROVISIONS

1. These Regulations may be cited as the Environmental Management and Co-ordination (Controlled Substances) Regulations, 2007.

2. In these Regulations, unless the context otherwise requires:

Interpretation.

Citation.

'competent authority' means a competent authority on matters relating to controlled substances designate by an importing country;

'consumption' means production including imports excluding exports of controlled substances;

'controlled substances' means the controlled substances as set out in the First Schedule to these Regulations;

'Material data safety sheet' includes written instructions given by a manufacturer on how to store, transport or handle controlled substances;

'Ozone Secretariat' means the Secretariat for the 1985 Vienna Convention on the Protection of the Ozone Layer and the 1987 Montreal Protocol on Substances that Deplete the Ozone Layer;

'Prior Informed Consent" means such consent as may be given by the competent Authority before the importation or exportation of a controlled substance;

'production' means amount of controlled substances produced minus the amount destroyed by approved technologies and minus the amount entirely used as feedstock in the manufacture of other chemicals and does not include recycled and reused amounts;

'Secretariat to the Multilateral Fund' means the Secretariat for the Multilateral Fund for the Implementation of the Montreal Protocol as established in 1990.

PART II—CLASSIFICATION AND CONTROL MEASURES

3. (1) The Authority, shall, in consultation with the relevant

Classification of controlled substances.

lead agency, prepare and submit to the Minister for approval, a list of controlled substances.

(2) The list to be prepared under this Regulation shall be divided into three groups as follows—

- (a) group 1 of the list shall consist of partially halogenated flourochemicals with ozone depleting substances of less than 0.12 and defined as transitional substances;
- (b) group 2 of the list shall consist of hydrobromoflourocarbons with ozone depleting substances estimated to vary from 0.1 to 1.00; and
- (c) group 3 of the list shall consist of bromochloromethane with ozone depleting substances.

(3) The Minister may, on the advice of the Authority, in consultation with the relevant lead agency, ban or restrict the production or consumption of specified controlled substances by Order in the Gazette.

4. No person shall keep, sell or consign for transport a controlled substance unless—

- (a) the controlled substance is in a container impervious to the controlled substance; and
- (b) the container is sufficiently strong to prevent leakage arising from the ordinary risks of handling and transport.

5. (1) No controlled substance shall be supplied without a label on the container.

(2) Every label on a controlled substance container shall show-

- (a) the name of the controlled substance or product;
- (b) the name and address of the manufacturer of the controlled substance or product;
- (c) the name of the country of origin of the controlled substance or product;
- (d) the words 'Controlled Substance- Not ozone friendly';
- (e) a symbol indicating that the substance or product is harmful to the ozone layer;
- (f) the name of the seller and address of the premises on which it is sold if supplied on sale, other than wholesale; and
- (g) the name and address of the supplier if supplied otherwise than on sale.

6.(1) No person shall store, distribute, transport or otherwise handle a controlled substance unless the controlled substance is accompanied by the material safety data sheet.

(2) Any person producing or importing a controlled substance shall at the time of production, packaging or importation, ensure that

controlled substances.

Packaging of

Labeling of controlled substances.

Storage, distribution, transportation or handling a controlled substance. the material safety data sheet accompanies the produced, packaged or imported controlled substance.

7. (1) Any person wishing to dispose of a controlled substance shall inform the Authority which shall ensure that the controlled substance is disposed of in an environmentally sound manner.

(2) The Authority shall liaise with the Ozone Secretariat in matters relating to the disposal of a controlled substance.

8. Any person who advertises any controlled substances shall ensure that the advertisement carries the words- 'Warning: contains chemicals, materials or substances that deplete or have potential to deplete the stratospheric ozone layer'.

PART III—LICENSING AND PERMIT PROVISIONS

9. (1) No person shall manufacture for sale a controlled substance unless the person has a valid licence issued by the Authority.

(2) An application for a licence to produce or manufacture a controlled substance shall be made to the Authority in the prescribed Form I set out in the Second Schedule to these Regulations and shall be accompanied by the prescribed fee.

(3) Upon the application for a licence under this Regulation, the Authority may grant the licence unconditionally, impose conditions on the licence or refuse to grant the licence.

(4) The licence under this Regulation shall be in the prescribed Form 6 set out in the Second Schedule.

10. (1) No person shall export a controlled substance unless such person has a valid licence issued by the Authority.

(2) An application to export a controlled substance shall be made to the Authority in the prescribed Form 4 set out in the Second Schedule to these Regulations and shall be accompanied by—

- (a) a Prior Informed Consent issued by the competent Authority of the importing country; and
- (b) the prescribed fee.

11. (1) No person shall import into Kenya a controlled substance unless such person has a valid licence issued by the Authority.

(2) The application shall be in the prescribed form and the applicant shall indicate the purpose for which the controlled substance is required.

(3) An application to import a controlled substance shall be made to the Authority in the prescribed Form 2 set out in the Second Schedule to these Regulations and shall be accompanied by the prescribed fee.

(4) Upon the application for a licence under this Regulation, the Authority may grant the licence unconditionally, impose conditions on the licence or refuse to grant the licence. Importation of controlled substances

Application for

Export.

Manufacturing

of controlled

substances.

Advertisement

of controlled

substances.

Disposal of controlled substance.

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