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MOZAMBIQUE

ENVIRONMENT | NEW REGULATION ON THE EXTENDED RESPONSIBILITY OF PRODUCERS AND IMPORTERS OF PACKAGING

On 29 December 2017, **Decree 79/2017, of 28 December 2017**, approving the Regulation on the Extended Responsibility of Producers and Importers of Packaging (the “Regulation”), came into force.

The Regulation’s objective is the adoption of principles, rules and guidelines to increase the **responsibility of producers and importers of packaging** in order to safeguard the environment and public health, in the context of sustainable development.

To whom is it applicable?

To all public and private entities, natural or legal persons engaged in the production, import and management of packaging.

What kind of packaging falls within its scope?

Any packaging placed on the market, used or produced, namely at a domestic, industrial, agricultural or commercial level, including offices, shops and services, regardless of the materials used, as well as packaging waste which can be collected and processed by systems currently in place or to be put in place.

Who has authority and responsibility for the management of packaging and packaging waste?

Article 5 of the Regulation determines that the **Ministries responsible for the Environment** (e.g. the drafting and disclosure of rules and procedures in the context of the production and import of packaging and packaging waste, its supervision and the imposition of sanctions), **Industry and Commerce** (e.g. establishment of rules and standards applicable to import and production of packaging), and **Finance** (e.g. the collection of fees and fines and the supervision of the rules applicable to packaging in the context of the clearance of goods).

Article 5 of the Regulation also attributes the following responsibilities and authority on **producers and importers of packaging** and **waste operators**:

Entities	Responsibilities Authority
Producers and importers of packaging and packaging waste	<ul style="list-style-type: none"> • Jointly responsible for the management of packaging and packaging waste, pursuant to the Regulation and other applicable legislation • Payment of fees for the management of packaging • Return and recovery of packaging waste, whether directly or through organisations created for waste recovery
Waste operators	<ul style="list-style-type: none"> • Ensure the environmentally safe, sustainable and rational management of packaging, in view of the need to reduce, recycle and reuse it, including the sorting, collection, handling, transportation, storage and/or elimination of packaging waste • Foster the protection of human health and the environment against the harmful effects that may result from the disposal of packaging • Promote community education and awareness initiatives regarding the proper management of packaging • Register with the Ministry responsible for the Environment

How does the framework of producer and importer responsibility work?

Packaging producers and importers assume their responsibility through the following:

- **Internal Management System**
- **Packaging Environmental Fee System**
- **Packaging Standardisation System**

Systems	Description
Internal Management Systems (may be adopted at the producer's initiative and has two forms)	<ul style="list-style-type: none"> • Direct Internal Management System: the producer or the importer may opt, whether individually or jointly, for any one of the following procedures: i) reduction; (ii) re-use; (iii) recycling; (iv) organic recovery; (v) energetic recovery; vi) incineration. In this system the consumer of products that uses packaging pays a specific deposit amount upon purchase which is reimbursed once the used packaging is returned. • Indirect Internal Management System: producer and importer responsibility for the treatment of packaging or packaging waste can be transferred, contractually, to an entity duly licensed to undertake that activity. In this system the producer or importer must bear the necessary financial costs of the processes of selective collection and sorting of packaging waste, as well as for the take back and recovery of packaging waste. The producer or importer's responsibility for the final destination of the packaging ends when a declaration of assumption of responsibility is issued by the certified waste operator to whom the packaging is delivered.

Systems	Description
Packaging Environmental Fee System	<p>Article 13 of the Regulation creates a Packaging Environmental Fee (<i>Taxa Ambiental sobre a Embalagem, "TAE"</i>) which must be paid by all producers and importers of packaging, and it varies depending on the packaging's environmental and public health impact and the complexity of the treatment of the waste resulting from the packaging.</p> <p>In the case of imported packaging, the TAE is charged by the Mozambican Tax Authority (<i>Autoridade Tributária de Moçambique</i>).</p> <p>In the case of packaging produced in national territory, the TAE is paid annually on the basis of the company's production report.</p>
Packaging Standardisation System	<p>This system requires that all packaging be produced with preferably biodegradable materials or materials which can be re-used, recycled or recovered.</p> <p>It is for (i) producers, (ii) manufacturers of packaging or those who supply materials for the manufacture of packaging, and (iii) those who import or put packaging, materials for the manufacture of packaging or packaged goods into circulation to ensure that packaging:</p> <ul style="list-style-type: none"> • Is limited to the volume and dimensions required for the protection of its contents and the sale of the good • Is designed so that it is reusable in a technically viable way which is compatible with the requirements of the good it contains • Is recyclable

Symbol and labelling of packaging

In the context of the Packaging Standardisation System, **the use of specific symbols is mandatory for reusable, recyclable or packaging that can be subject to recovery**, and it should be placed on the packaging itself or its label so that it is clearly visible, legible and that it shall last as long as the expected lifetime of the packaging.

Who supervises and what are the sanctions for breaches of the Regulation?

The Ministry responsible for the Environment is responsible for the supervision, with the cooperation of Municipal Councils and District Administrations.

Breaches to the Regulation are sanctionable with a fine which **amount may vary between 10 and 15 times the Minimum Salary and may be increased by 30% in the event of reoccurrence.**

Together with the imposition of a fine, ancillary sanctions may also be imposed as stipulated in Article 21.

Observations

The Regulation creates a wide scope of responsibilities including financial charges, on producers and importers of packaging, as well as responsibilities for waste operators.

We anticipate that the Regulation will have considerable impact on companies, who will be under an obligation to assume the management of packaging waste through the three systems of producer and importer responsibility, and will be required to pay the fees and costs, as well as the fines and ancillary sanctions in the event of breach of the Regulation.

The effectiveness of the Regulation's application will depend on the approval of complementary and regulatory legislation, on the proper functioning of the Commission for the Supervision and Evaluation of the Management of Packaging ("Comissão de Monitoria e Avaliação da Gestão de Embalagens") created by this Regulation, and on the operation of the various entities involved in the extended responsibility framework.