

**THE ENVIRONMENTAL MANAGEMENT AND COORDINATION
(WASTE TYRE MANAGEMENT) REGULATIONS, 2013**

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**THE ENVIRONMENTAL MANAGEMENT AND
COORDINATION (WASTE TYRE MANAGEMENT)
REGULATIONS, 2013**

PART 1 – PRELIMINARY

- Citation. **1.** This Regulations may be cited as the Environmental Management and Coordination (Waste Tyre Management) Regulations, 2013
- Interpretation. **2.** (1) In this regulations, unless the context otherwise requires-
- “**Act**” means the Environmental Management and Coordination Act;
- “**Authority**” means the National Environmental and Management Authority;
- “**Cabinet Secretary**” means the cabinet secretary for the time being responsible for environmental matters;
- “**Committee**” means the Waste Tyre Management Levy Committee;
- “**licenced company**” means a company licenced under Part III of these Regulations to engage in the collection, storage, transportation, disposal or recycling waste tyres
- “**Recycling** “ means the process of changing the waste tyres for purposes of utilizing its contents for energy or new products
- “**tyre**” means a continuous pneumatic covering made of natural rubber or synthetic rubber or a combination of both encircling a wheel, whether new or used, or retreaded;
- “**Waste tyre**” means a tyre which is waste in accordance with the provisions of Section 2 of the Act;
- “**tyre importer**” means a person or institution engaged in the importation of tyres and retreaded material, including tyres affixed to imported cars into the Republic of Kenya;
- “**tyre producer**” means a person or institution engaged in the commercial manufacture of tyres for distribution in Kenya
- Purposes of the Regulations **3.** The purpose of these Regulations is to establish a cost support mechanism for the management of waste tyres.

PART II – WASTE TYRE MANAGEMENT UNIT

Establishment of the Waste Tyre Management Unit.

4. (1) There is hereby established a Unit, within the National Environmental Management Authority to be known as the Waste Tyre Management Unit(hereinafter the “Unit”)

Functions of the Unit.

5. (1) The functions of the Unit shall be to-

- (a) Administer the levy monies deposited in the Fund in consultation with the Committee.
- (b) Issue licences for the collection, transportation, storage, and disposal of waste tyres in accordance with Part III of these Regulations;
- (c) Make payments to contracted companies based on the weight of the waste tyres collected and disposed off or recycled;
- (d) Present an annual report of the operations of the unit to the committee as established under these Regulations
- (e) Investigate and determine complaints with respect to the licenses in accordance with regulation 9;
- (f) Supervise the contracted companies involved in for the services of waste tyre management, collection, transportation, storage and disposal;
- (g) Investigate and report any other person who is involved in the collection, transportation and storage of waste tyres other than in the manner prescribed under these Regulations.
- (h) Carry out any other activity as may be conferred to it under the Act or other law.

(2) All the functions stipulated in paragraph 1 shall be exercised by the Unit on behalf of the Authority.

PART III– LICENCES AND CONTRACTS

Licences required.

6. No person shall be engaged in the collection, transportation, storage or disposal of waste tyres without a valid licence from the Authority.

Application for and, grant of, licences

7. Any person desirous of obtaining a licence shall make application to the Authority in such form, accompanied by such information, as may be prescribed under the Waste Management Regulations, 2006.

Contracting of

companies

8. The Authority shall from time to time invite applications from licenced companies through a public tender for provision of waste tyre management services.

Method of contracting

9. (1)The Authority shall determine the qualified applicants through the process of open tender by inviting bids from qualified companies.

(2) After considering an application under this section and all matters appearing relevant thereto the Authority, subject to the succeeding provisions of this section, grant to the applicant the contract for provision of waste tyre management services on such terms and conditions as the Committee may recommend.

(3) The Authority shall not award a contract to a licenced company unless it is satisfied that;

(a) the applicant is a limited liability company incorporated in the Republic of Kenya;

(b) the applicant is duly licenced in accordance with the provisions of Regulation 7;

(c) the applicant has the necessary and adequate facilities for collection, storage , transportation, and disposal of Waste Tyres as required under the Waste Management Regulations ;

(d) the applicant has furnished evidence of a proper disposal system of the waste either by itself or in partnership with third parties.

(e) The bid presented by the applicant addresses environmental aspects like reuse of material and energy, emissions and other impact; and

(f)The bid submitted by the applicant addresses social aspects of the project like income generation and job creation

(4) For the purpose of paragraph 3(c) and 3(d) above, the Authority may conduct an inspection of the storage and disposal facilities that may be proposed to be utilized by the applicant for purposes of verifying the suitability of such premises or facilities for purposes of these Regulations

(5) Any person who makes or causes to be made, either orally or in writing, any declaration or representation which he knows or has reason to believe to be false for the purpose of obtaining an award of the contract shall be guilty of an offence and liable to imprisonment of a term not exceeding six months, or to a fine not exceeding one hundred thousand shillings or to both.

PART IV -WASTE TYRE MANAGEMENT COMMITTEE

Establishment and composition of Committee

10. (1) There is hereby established a committee within the Authority, to be known as the Waste Tyre Management Committee , which shall consist of-

- (a) a Chairperson to be elected by the members from the persons under paragraph (b)
- (b) six persons appointed by the Director-General, of whom-
 - (i) one person to be nominated by the Authority;
 - (ii) one person to be nominated by Tyre Producers;
 - (iii) one person to be nominated by Tyre importers;
 - (iv) one person to represent the interests of the consumers;
 - (v) one person nominated to represent interests of waste tyre disposal facilities;
 - (vi) one person to represent licenced companies; and
 - (vii) two other members that may be co-opted to represent any other interest or provide technical support to the committee

(2) the Unit shall provide the all the secretarial services to the Committee required for the carrying out of the its functions.

Functions of the Committee

11. (1) The functions of the Committee shall be to –

- (a) consider and recommed to the Authority , any policy initiatives and guidelines concerning the licencing and contracting of companies involved in the collection, transportation, storage, and disposal of Waste Tyres.
- (b) Recommend to the Authority on the operations and functions of the Unit.
- (c) review and examine reports as presented by the Unit
- (d) Recommend to the Authority on the proposed rate of the waste tyre management levy to be imposed by the Authority from time to time under Regulation 13.
- (e) consider and approve the contracting requirements and conditions under Regulation 8
- (f) undertake any other purpose or function as may be prescribed under these Regulations

Regulation of affairs of the Committee

12. (1) The Committee may meet together to conduct its business and otherwise regulate its meetings as it may think fit.

(2) The quorum necessary for the transaction of the business of the Committee shall be Five Members.

(3) If the Chairman of the Committee is absent from any meeting, the members present at the meeting shall elect one of their number to preside thereat, and the Chairman or person so presiding shall have a casting in addition to his deliberative vote.

(4) There shall be paid to the Committee Members such allowance for as may be approved by the Director-General to facilitate the attendance of the Committee meetings.

PART V – WASTE TYRE MANAGEMENT LEVY

Waste tyre management levy

13. (1) The Cabinet Secretary shall, on the recommendations of the Authority, by Order published in the Gazette, impose a waste tyre management levy (in this Regulations referred to as “the levy”) as may be recommended by the Authority in consultation with the Committee from time to time and in such manner as the Cabinet Secretary may specify in the Order.

(2) All monies, received in respect of the levy shall be paid into a separately designated account in the National Environmental Restoration Fund by virtue of the provisions of Section 25 (2)(b) of the Act.

(3) There may be paid into the account any money, from any other source, provided for or donated for purposes of Waste Tyre Management.

(4) If any person fails to pay any amount payable by him by way of the levy on or before the date prescribed by the order, such person shall be liable to a penalty of one hundred thousand shillings and thereafter to an additional penalty of three per centum of the amount of the levy due; for each month or part thereof during which the amount due remains unpaid.

(5) Where any amount of levy which is payable under these Regulations remains unpaid after the date when it becomes due and payable, a penalty equal to three per centum of the unpaid amount shall be forthwith due and payable for each month or part thereof that the amount remains unpaid.

(6) A penalty imposed under sub-regulation 4 and 5 shall be recoverable as if it were a levy.

Determination of the levy and

14. (1) The levy shall be charged as a percentage of the market price of the tyres. The market value of tyres shall be determined from

penalty

time to time by the Committee.

(2) The provisions of paragraph (1) shall apply to tyres affixed on imported vehicles in which case an assessment of the market price of the tyres shall be determined.

(3) In the case of retreading materials the levy shall be charged as a percentage on the weight thereof.

(3) For the purposes of the provisions of paragraph 1 and 2, the percentage rate of the levy charged shall not be more than two percent of the market price of the tyres.

(4) Any levy or penalty imposed under this Act shall be summarily recovered as a civil debt due by the Authority in accordance with the provisions of the Customs and Excise Act (Cap. 472) as if it were duty due and payable under that Act.

(5) The Authority shall engage the services of the governmental agency for time being responsible for collection of national duties and taxes in the collection and/or recovery of the levy.

Purpose and use of the levy funds

15. (1) The levy monies held in the Fund in accordance with Regulation 13 shall be utilized for the purpose of administering the waste tyre management system and in particular to make payments to contracted companies in order to support the costs of collection, storage, transportation and disposal of waste tyres.

(2) Any levy money in the Fund not utilized in the preceding year may be considered by the Committee in the review of the levy as the circumstances may render it necessary.

(3) The Unit shall apply ninety five per cent of the levy monies held in the account of the Fund to make payments to companies contracted by the Authority to collect, store, transport and dispose the waste tyres.

(4) The remainder of five percent of the levy monies may be applied to meet the costs of administration and other miscellaneous expenses.

Criteria for making Payments to licenced companies

16. (1) In determining how the payments shall be made out to contracted companies, the Unit shall apply such criteria as may be recommended by the Committee.

(2) For the purposes of determining the criteria for making payments under paragraph 1, the Committee shall have regard to the weight of the waste tyres disposed off or recycled in an environmentally friendly manner by the contracted company.

(3) The amount of payments to be made to a contracted company shall be a fixed sum based on the weight of the waste tyres disposed or recycled by the licenced company.

(4) Before the Unit makes payment, the contracted company shall be required to provide proof of the disposal or recycling of the waste tyres either from a disposal or recycling facility.

Accounts

17. (1) The Unit shall cause to be kept all proper books of account and other books, and records in relation to the proceeds of the levies and to all their undertakings, activities and property and shall, within a period of four months after the end of the financial year, cause to be prepared;

- (a) a balance sheet showing in detail the assets and liabilities of the Fund as at the end of that financial year;
- (b) Such other statements of account as may be necessary to indicate the financial status of the waste tyre management levy as at the end of the year.

(2) The accounts of the levy monies deposited in the Fund shall be examined, audited and reported annually to the Auditor-General.

PART VI – MISCELLENEOUS

Offences and penalties

18. Notwithstanding the provisions of Regulation 9, any person who fails to comply with any provision of a levy order shall be guilty of an offence, and liable to a fine not exceeding two hundred thousand shillings, or to imprisonment for a period not exceeding twelve months or to both.

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Cabinet Secretary responsible for Environment

Dated.....2013