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ENVIRONMENTAL PROTECTION (CONTROL OF PLASTIC POLLUTION) ACT, 2019

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No. 38 of 2019

**ENVIRONMENTAL PROTECTION (CONTROL OF
PLASTIC POLLUTION) ACT, 2019**

**AN ACT TO PROHIBIT SINGLE USE PLASTIC FOODWARE AND
NON-BIODEGRADABLE, OXO-BIODEGRADABLE AND
BIODEGRADABLE SINGLE USE PLASTIC BAGS; PROHIBIT THE
RELEASE OF BALLOONS; REGULATE THE USE OF
COMPOSTABLE SINGLE USE PLASTIC BAGS, AND FOR
CONNECTED MATTERS**

[Date of Assent - 19th December, 2019]

Enacted by the Parliament of The Bahamas

1. Short title and commencement.

- (1) This Act may be cited as the Environmental Protection (Control of Plastic Pollution) Act, 2019.
- (2) This Act shall come into force on the 1st day of January, 2020.

2. Interpretation.

In this Act -

"balloon" means a flexible nonporous bag that -

- (a) is made from material such as, but not limited to rubber, latex, polychloroprene, or nylon fabric;
- (b) can be inflated or filled with liquid or gas, such as water, helium, hydrogen, nitrous oxide, oxygen, or air;
- (c) can be sealed at the neck; and
- (d) is commonly used as a toy or decoration;

"biodegradable" when used in relation to means a single use plastic bag, means a single use plastic bag that is capable of being decomposed by bacteria or other living organisms;

"compostable", when used in relation to single use plastic food ware or a single use plastic bag, means single use plastic food ware or a single use plastic bag that -

- (a) meets the ASTM D6400, Standard Specification for Labelling of Plastics Designed to be Aerobically Composted in Municipal or Industrial Facilities, or another widely recognised standard for composability specified in any regulation made by the Minister under this Act;
- (b) is clearly labelled as compostable; and
- (c) has been certified as compostable by the Biodegradable Products Institute or a similar international certification authority;

"expanded polystyrene" means polystyrene that has been expanded or "blown" using a gaseous blowing agent into a solid foam, and includes polystyrene beads;

"Minister" means the Minister responsible for the environment;

"oxo-biodegradable" when used in relation to a single use plastic bag, means plastic that biodegrades through a two stage process where

- (a) in the first stage, additives in the plastic help to catalyse and accelerate oxidation, which aids in the breakdown of polymer chains in the plastics to smaller and wettable fragments; and
- (b) in the second stage, microorganisms access the carbon and hydrogen making the remaining fragments biodegrade into carbon dioxide, water and biomass, leaving no plastic or harmful residues behind;

"polystyrene" includes expanded polystyrene that is a thermoplastic petrochemical material, which is a styrene monomer and processed by any number of techniques including, fusion of polymer spheres (expanded bead polystyrene), injection moulding, foam moulding, and extrusion-blow moulding (extruded foam polystyrene);

"single use plastic bag" means any bag made either in whole or in part from plastic that is -

- (a) typically provided at a check-out stand, cash register, or other point of sale; and
- (b) commonly used for the transport of merchandise, food, or other tangible item;

"single use plastic food ware" means any object made in whole or in part from plastic that is commonly used to consume, contain, store, separate, serve, or transport any food or drink;

"reusable" when used in relation to plastic food ware means an object that is specifically designed and manufactured for multiple reuse, and composed of durable material suitable for multiple washings and reuse;

"VAT" has the meaning assigned thereto in the Value Added Tax Act, 2014 (*No. 32 of 2014*).

3. Non-application of Act.

This Act shall not apply to a person who manufactures expanded polystyrene in The Bahamas for export.

4. Prohibition on single use plastic food ware.

- (1) No person shall import, distribute, manufacture, possess, sell, supply, or use in The Bahamas any of the single use plastic food ware set out in the *Schedule*.
- (2) For the avoidance of doubt, subsection (1) does not apply to -
 - (a) reusable plastic food ware;
 - (b) compostable plastic food ware; or
 - (c) plastic food ware that is an integral part of the packaging in which food or drink is sealed prior to its delivery to a point of sale.
- (3) The Minister may by Order amend the *Schedule* to this Act.

5. Prohibition on release of balloons.

- (1) No person shall release any number of balloons at or about the same time if such balloons are filled with gas that causes them to rise in the air.
- (2) A person does not commit an offence under this section if a balloon is released -
 - (a) unintentionally and without negligence;
 - (b) inside a building or structure and does not make its way into the open air; or
 - (c) for scientific purposes, including meteorological purposes.
- (3) Any person who contravenes subsection (1) commits an offence and is liable on summary conviction -
 - (a) in respect of a first offence to a fine not exceeding two thousand dollars; and
 - (b) in respect of a second or subsequent offence to a fine not exceeding three thousand dollars.

- (4) Where an offence under this section has been committed by a body corporate and is proved to have been with the consent or connivance of, or to be attributable to any neglect or default on the part of, any director, manager, secretary or other similar officer of the body corporate, or any person who was purporting to act in any such capacity, such director, manager, secretary or other officer as well as the body corporate commits an offence and is liable to a fine not exceeding five thousand dollars.

6. Prohibition on permitting or causing release of balloons.

- (1) No person shall cause or permit the release, whether by one or more than one person, any number of balloons at or about the same time if such balloons are inflated with a gas that causes them to rise in the air.
- (2) A person does not commit an offence under this section if a balloon is released-
 - (a) unintentionally and without negligence;
 - (b) inside a building or structure and do not make its way into the open air; or
 - (c) for scientific purposes, including meteorological purposes.
- (3) Any person who contravenes subsection (1) commits an offence and is liable on summary conviction -
 - (a) in respect of a first offence to a fine not exceeding two thousand dollars; and
 - (b) in respect of a second or subsequent offence to a fine not exceeding four thousand dollars.
- (4) Where an offence under this section has been committed by a body corporate and is proved to have been with the consent or connivance of, or to be attributable to any neglect or default on the part of, any director, manager, secretary or other similar officer of the body corporate, or any person who was purporting to act in any such capacity, such director, manager, secretary or other officer as well as the body corporate commits an offence and is liable to a fine not exceeding five thousand dollars.

7. Prohibition on non-biodegradable, etc. single use plastic bags.

- (1) No person shall import, distribute, manufacture, possess, sell, supply, or use in The Bahamas any non-biodegradable, oxo-biodegradable, or biodegradable single use plastic bags.
- (2) For the avoidance of doubt, subsection (1) does not apply to the following types of plastic bags -
 - (a) a compostable single use plastic bag;

- (b) a bag intended to be used solely to contain wholly or partly unwrapped food for human consumption, including fruits, vegetables, nuts, ground coffee, grains, or candies;
 - (c) a bag intended to be used solely to contain uncooked fish or fish products, meat or meat products, or poultry or poultry products;
 - (d) a bag intended to be used solely to contain wholly or partly unwrapped loose seeds, bulbs, corns, rhizomes, flowers, or goods contaminated by soil;
 - (e) a bag intended solely to be used for pea rock, stone, sand, keys, bulk fasteners;
 - (f) a bag used for pharmaceutical dispensing or any other medical use;
 - (g) a bag intended to be used solely to contain newspapers for delivery;
 - (h) a bag intended to be used solely for dry cleaning;
 - (i) a bag intended to be used solely for the disposal of waste from households, public places, business establishments, or any other place;
 - (j) a bag intended to be used solely to contain live aquatic creatures in water;
 - (k) a bag intended to be used solely for the transport or storage of agricultural products;
 - (l) a bag that is intended to be used solely to package hardware items;
 - (m) a bag that is an integral part of the packaging in which a good is sealed prior to its delivery to a point of sale;
 - (n) a bag intended to be used solely to contain ice for retail;
 - (o) a bag intended to be solely used for wet umbrellas;
 - (p) a bag that is intended to be used solely as a party bag; or
 - (q) any other bag that the Minister may by Order exempt.
- (3) Any person who contravenes subsection (1) commits an offence and is liable on summary conviction -
- (a) in respect of a first offence to a fine not exceeding two thousand dollars, and in the case of a continuing offence, to a further fine of five hundred dollars for each day or part thereof during which the offence continues;
 - (b) in respect of a second or subsequent offence to a fine not exceeding three thousand dollars, and in the case of a continuing offence, to a further fine of seven hundred dollars for each day or part thereof during which the offence continues.

8. Confiscation of prohibited items.

The Minister shall cause the confiscation of any item prohibited under this Act.

9. Sale of compostable single use plastic bags.

- (1) Subject to subsection (2), no business establishment shall sell any compostable single use plastic bag to a customer at the point of sale.
- (2) Upon the date of commencement of this Act, a business establishment shall sell a compostable single use plastic bag for a fee of not less than twenty-five cents and no greater than one dollar per bag, excluding VAT.
- (3) Where, in accordance with this section, a business establishment sells a compostable single use plastic bag to a customer at the point of sale the fee for the sale of the bag must be -
 - (a) separately stated on the receipt provided to the customer; and
 - (b) identified on the receipt as "Checkout bag fee".
- (4) A fee collected by a business establishment for the sale of a compostable single use plastic bag shall be retained by the business establishment.

10. Inspection.

- (1) An environmental health officer may, at all reasonable times, for any purpose related to the enforcement of this Act and any regulations made thereunder, inspect the premises of a business establishment, or any matter relating thereto that may assist the environmental health officer in monitoring compliance with the provisions of this Act.
- (2) For the purposes of subsection (1), the environmental health officer may require the owner or manager of the business establishment to give the environmental health officer all reasonable access and assistance and to answer all proper questions relating to the business establishment's compliance with the provisions of this Act.
- (3) Any person who -
 - (a) assaults, resists, impedes or otherwise obstructs an environmental health officer in the execution of his duties under this Act; or
 - (b) knowingly makes any false or misleading statement to an environmental health officer engaged in the carrying out of his duties under this Act,commits an offence and is liable on summary conviction to a fine not exceeding five thousand dollars or a term of imprisonment not exceeding six months, or to both such fine and imprisonment.

11. Record keeping.

- (1) Every business establishment that sells -
 - (a) single use plastic bags pursuant to section 14; or
 - (b) compostable single use plastic bags in accordance with section 8,must keep a record in relation to a reporting year.
- (2) A record kept under this section must include the following -
 - (a) the number of plastic bags supplied by the business establishment during a reporting year;
 - (b) the gross proceeds of the sale of the plastic bags; and
 - (c) the net proceeds of the sale of the plastic bags.
- (3) Any business establishment that fails to keep a record required under this section commits an offence and is liable on summary conviction to a fine not exceeding two thousand dollars.
- (4) For the purposes of this section, a **"reporting year"** means the period of 1st January to 31st December in respect of any year.

12. Duty to supply records.

- (1) Every business establishment that is required to keep a record in accordance with section 11 must, on or before the 31st January in the reporting year following that to which the record relates, supply a copy of the record to the Minister.
- (2) A record supplied in accordance with this section must be in an electronic or other format as reasonably required by the Minister.
- (3) Any business establishment that fails to supply a copy of a record to the Minister in accordance with this section commits an offence and is liable on summary conviction to a fine not exceeding one thousand dollars.

13. Regulations.

The Minister may make regulations for giving effect to and carrying out the purpose, intention, and provisions of this Act, and, without prejudice to the generality of the foregoing, may make regulations to -

- (a) prescribe standards for compostability, biodegradability, and reusability;
- (b) establish the manner in which single use plastic bags and other similar use products are to be received, processed, disposed of, or recycled; and
- (c) any other matter that the Minister considers necessary for the carrying out of this Act.

14. Transitional.

Notwithstanding sections 7 and 4, upon the commencement of this Act, a business establishment shall -

- (a) sell items prohibited under section 7 until 30th June, 2020 to a customer at a fee that -
 - (i) is no less than twenty-five cents and no greater than one dollar per bag, excluding VAT; and
 - (ii) shall be retained by the business establishment;
- (b) possess items prohibited under section 7 until 30th June, 2020.
- (c) sell items prohibited under section 4 until 30th June, 2020;
- (d) possess items prohibited under section 4 until 30th June, 2020;

SCHEDULE

(section 4(1))

PROHIBITED SINGLE USE PLASTIC FOOD WARE

The following single use plastic food ware are prohibited -

1. Polystyrene cups
2. Polystyrene plates and other similar polystyrene food ware used to contain food
3. Plastic knives
4. Plastic forks
5. Plastic spoons
6. Plastic straws