Republic of the Marshall Islands
*Jepilpilin Ke Ejukaan*

# STYROFOAM CUPS AND PLATES, AND PLASTIC PRODUCTS PROHIBITION, AND CONTAINER DEPOSIT ACT 2016

**Introduced by:**

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**HON. MINISTER MATTLAN ZACKHRAS**

**Received:**

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**HON. SPEAKER KENNETH A. KEDI**

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NITIJELA OF THE REPUBLIC OF THE MARSHALL ISLANDS
37TH CONSTITUTIONAL REGULAR SESSION, 2016

Republic of the Marshall Islands
*Jepilpilin Ke Ejukaan*

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# STYROFOAM CUPS AND PLATES, AND PLASTIC PRODUCTS PROHIBITION, AND CONTAINER DEPOSIT ACT 2016

**AN ACT** to ban the importation, manufacturing, sale or distribution of Styrofoam cups and plates, disposable plastic cups and plates and plastic shopping bags and to implement container deposits provisions.

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**BE IT ENACTED BY THE NITIJELA OF THE REPUBLIC OF THE MARSHALL ISLANDS**

## PART I - PRELIMINARY

### §1. Short title

This act may be cited as the *Styrofoam cups and plates, and Plastic Products Prohibition and Container Deposit Act 2016*.

### §2. Interpretation.

(1) In this Act, unless the context otherwise requires:

(a) "**Board**" means the Board of Directors established under the *National Environmental Protection Act 1984* (35 MIRC Ch. 1);

(b) "**Disposable**" means an article designed to be thrown away after use once;

(c) "**Deposit Beverage**" means beer, ale, or other drink produced by fermenting malt, mixed spirits, mixed wine, tea and coffee drinks, regardless of dairy-derived product content, soda, or

non-carbonated water, and all non-alcoholic drinks in liquid form and water intended for internal human consumption that is contained in a deposit beverage container;

(d) "**Deposit Beverage Container**" means the individual, separate, sealed, glass, polyethylene terephthalte, high density polyethylene, or metal container less than or equal to thirty-two fluid ounces, used for containing, at the time of sale to the consumer, a deposit beverage intended for use or consumption in the Republic.

(e) "**Deposit Beverage Distributor**" means a person who is a manufacturer of beverages in deposit beverage containers in the Republic, or who imports and engages in the sale of filled deposit beverage containers to a dealer or consumer. The term does not include airlines and shipping companies that merely transport deposit beverage containers, unless said containers are deposited in the Marshall Islands;

(f) "**Distribution**" means to supply, give or deliver to another person;

(g) "**Environmental Protection Authority**" means the National Environmental Authority established under the *National Environmental Protection Act 1984* (35 MIRC Ch. 1). "**Authority**" shall have the corresponding definition;

(h) "**Import**" means to buy, bring, or accept delivery of deposit beverage containers from an address, supplier, or any entity outside of the Republic;

(i) "**Importer**" means any person who buys, brings, or accepts deliver of deposit containers from outside the Republic for sale or use within the Republic;

(j) "**Importation**" means to bring into the Republic from a foreign source;

(k) "**Manufacture**" means the making of goods or wares by manual labor or machinery, especially on a large scale;

(l) "**Minister**" means the Minister-in-Assistance-to-the-President;

(m) "**Person**" includes individual, retail company or corporation, and association or body of persons corporate or unincorporated;

(n) "**Plastic**" means a synthetic material made from a wide range of organic polymers such as polyethylene, PVC, nylon, etc., that can be melded into shape while soft and then set into a rigid or slightly elastic form;

(o) **"Plastic products"** means plastic cups and plates, shopping plastic bags and any other related products prohibited under this Act;

(p) "**Prescribed date for prohibition**" means the five (5) months after promulgation of regulations.

(q) "**Redeemer**" means a person, other than a dealer or distributor, who demands the refund value in exchange for the empty deposit beverage container;

(r) "**Recyclable**" means an article designed to be recycled;

(s) "**Recycled paper bag**" means a paper bag that is manufactured from recycled content and displays the words made from recycled material and/or is recyclable;

(t) "**Redeemer**" means a person, other than a dealer or distributor, **who** demands the refund value in exchange for the empty deposit beverage container;

(u) "**Republic**" means the Republic of the Marshall Islands;

(v) "**Reusable**" means an article designed to be reused again repeatedly recyclable means an article designed to be recycled Prescribed date for prohibition' means the five (5) months after promulgation of regulations;

(w) "**Reusable shopping bag**" means shopping bags which are not plastic that can be reused many times, including local baskets; this is an alternative to plastic shopping bags;

(x) **"Sells"** means to give or hand over something in exchange plastic bags for money cash or other items. "Sale" shall have a corresponding definition;

(y) "**Shopping Plastic shopping bags**" mean a carryout bag composed primarily of thermoplastic synthetic polymeric material, which is provided by a store to a customer at the point of sale and incidental to the purchased of other goods;

(z) "**Styrofoam**" means any goods that contain plastic foam which are formed with the use of any gas or volatile liquid introduced into liquid plastic to make polystyrene bubbles.

## PART II – STYROFOAM CUPS AND PLATES, PLASTIC CUPS AND PLATES, AND PLASTIC SHOPPING BAGS

### §3. Prohibition on the importation, manufacturing, sale or distribution of Styrofoam cups and plates, disposable plastic cups and plates, and plastic shopping bags.

(1) It shall be unlawful for a person to import, manufacture, sell or distribute Styrofoam cups and plates, disposable plastic cups and plates, and plastic shopping bags.

(2) Nothing in this Section shall prevent a person from importing, manufacturing, selling or distributing use recycled paper bags or reusable shopping bags.

### §4. Offense and Penalties.

Any person, who violates Section 3 of the Act, shall be guilty of an offense and upon conviction liable for up to six (6) months imprisonment or ten thousand five hundred dollars ($10,000) fine, or both.

### §5. Power to Seize, forfeiture and Destruction.

For the purpose of this Act, an immigration officer, customs officer or EPA officer may at all reasonable times and based on reasonable suspicion, seize, forfeit or destroy any imported or manufactured plastic shopping bags, Styrofoam cups and plates, or disposable plastic cups and plates, or plastic shopping bags water bottle in violation of Section 3 of this Act.

Before exercising powers to seize, forfeiture and destruction under this Section, the officers named under section 1 of this Act, shall, with the assistance of the Attorney General's Office or the Police Commissioner, obtain a warrant in accordance with a Article II, Section 3, of the Constitution.

# PART III – CONTAINER DEPOSIT PROVISIONS

## §6. Exemption of certain containers.

(1) This Division does not apply to the following:

(a) A liquid, which is:

(i) a syrup

(ii) In a concentrated form; or

(iii) Typically added as a minor flavoring ingredient in food or drink, such as extracts, cooking additives, sauces, or condiments.

(b) A liquid which is ingested for medicinal purposes only;

(c) A liquid that is designed and consumed only as a nutritional supplement and not as a beverage;

(d) Products frozen at the time of sale to the consumer, or in the case of institutional uses such as hospital, at the time of sale to the users;

(e) Products designed to be consumed in a frozen state;

(f) Instant drink powders;

(g) Seafood, meat, or vegetable broths, or soups, but not juices; and

(h) Milk and all other dairy-derived products, except tea and coffee drinks with trace amounts of these products.

## §7. Recycling Program.

There is hereby established a Recycling Program in the Republic of the Marshall Islands, the purpose and aim of which is to create a self-supported, safe and efficient system of disposal of beverage container throughout the Marshall Islands.

## §8. Administration.

(1) The Environmental Protection Authority shall have the duty and authority to administer the Recycling Program.

(2) Such authority includes, but is not limited to,

(a) the administration of the Recycling Fund;

(b) hiring of employees and contractors and consultants;

(c) purchasing and selling of property and services;

(d) leasing or obtaining interests in land on behalf of the Government;

(e) receipt of donations and contributions; and

(f) entering into agreements to further the proposes of the Recycling Program.

(3) The Authority may, from time to time, delegate or contract out the administration of the Recycling Program to other governmental agencies of the Government, local governments or private companies; provided that the ultimate responsibility and authority for the Recycling Program shall rest with the Minister.

## §9. Deposit fee.

(1) A beverage distributor shall pay to the Authority a deposit beverage container fee on each deposit beverage container manufactured in or imported to the Republic, which shall be imposed only once on the same beverage container.

(2) The fee shall be $0.10 per beverage container.

(3) The Authority shall review the amount of deposit beverage containers recovered during the first six months of the Program and recommend to its Board of Directors and the Minister any modification in the fee structure.

## §10. Payment of Deposit Fee.

(1) The deposit fee levied under Section 10 of this Division shall be assigned as follows:

(a) If intended for resale, at the time of the first retail sale in the Marshall Islands; or

(b) If intended for personal use, at the point of import.

(2) All deposits collected during a calendar month shall be paid, through the Ministry of Finance, into the Fund on or before the fifteenth day of the succeeding month.

(3) Deposit fees may be prepaid.

(4) The first seller of beverages subject to the deposit fee under this Division shall keep accurate records of all sales and shall provide the Ministry of Finance with supporting documents to substantiate the accuracy of all reports filed.

## §11. Redemption centers.

(1) The Authority shall establish one or more redemption centers at which empty beverage containers may be returned and payment received.

(a) The application for approval of a redemption center shall be filed with the Ministry and contain such information as the Ministry may require.

(b) The approval of a redemption center may contain such terms and conditions as the Authority deems appropriate which may be amended from time to time.

(c) Using the money in the Recycling Fund, the Minister may provide compensation not to exceed $0.025 per container to the redemption center for their services.

(d) Non-compliance with this Act or any laws of the Republic shall result in the removal of an applicant to serve as a redemption center.

(2) Any person may operate a redemption center subject to the approval of the Board.

## §12. Deposit beverage distributors, registration and record keeping requirements.

(1) Six months after the effective date of this Act, all deposit beverage distributors shall register with the Authority under the prescribed form(s).

(2) Notwithstanding Section 1, any person who desires to conduct business in the Republic as a new deposit beverage distributor shall register with the Authority no later than one month prior to the commencement of the business.

(3) All deposit beverage distributors shall maintain records reflecting the manufacture of their beverages in deposit beverage containers as well as the importation of deposit beverage containers.

(a) The records shall be made available upon request for inspection provided that any proprietary information obtained shall be kept confidential and shall not be disclosed to any other person except:

(i) As may be reasonably required in an administrative or judicial proceeding to enforce any provision herein, or

(ii) Pursuant to a court order.

## §13. Offense and Penalties.

Any person who violates this Division shall be guilty of an offense and upon conviction liable for up to six (6) months imprisonment or ten thousand dollars ($10,000) fine, or both.

# PART IV – FINANCE

## §14. Environment Fund.

(1) The Environmental Fund is hereby established as a special revenue account within the National Treasury and under the control and supervision of the Ministry of Finance, which must provide for its administration in accordance with the Financial Management Act of 1990.

(2) The sources of the Fund consist of:

(a) money appropriated by the Nitijela in respect of the functions of the Authority under this Act;

(b) other moneys provided by the Cabinet for the work of the Authority pursuant to this Act by way of grant or otherwise; and

(c) money paid to Government by any person or body, whether in or outside the Marshall Islands, for the work of the Authority pursuant to this Act.

(3) If the sum available in the Fund is not sufficient to meet the purposes of this Act,

(a) the Minister may request the Nitijela to provide finance for the implementation of this Act in addition to the annual appropriation; and

(b) the Cabinet may:

(i) make available monies from the Contingencies Fund or by reprogramming; and

(ii) seek assistance from international and other sources.

(4) Money made available and received under Subsection (3) must be credited to the Fund.

(5) This Section does not limit the authority of the Cabinet to apply for, administer or expend any grants, gifts, or payments or pass-through funds for the purpose of this Act.

(6) Fines payable under this Act are to be paid to the Ministry of Finance and deposited into the General Fund of the Marshall Islands.

(7) The Secretary of Finance shall maintain proper accounts and records of the Fund, and the accounts are to be provided to the Nitijela by the Minister of Finance pursuant to Article VIII, Section 5(4), of the Constitution.

## PART V - MISCELLANEOUS

### §15. Regulations.

The Environment Protection Authority shall promulgate the necessary regulations to ensure the proper administration and enforcement of the provisions of this Act.

### §16. Effective Date

This Act shall take effect on the date of certification and shall apply on February 01, 2017.

## CERTIFICATE

**I hereby certify:**

1. That Nitijela Bill No: 28ND1 was passed by the Nitijela of the Republic of the Marshall Islands on the 29th day of September 2016; and

2. That I am satisfied that Nitijela Bill No: 28ND1 was passed in accordance with the relevant provisions of the Constitution of the Republic of the Marshall Islands and the Rules of Procedures of the Nitijela.

I hereby place my signature before the Clerk this 18th day of October 2016.

**Attest:**

**Hon. Kenneth A. Kedi**
Speaker
Nitijela of the Marshall Islands

**Morean Watak**
Clerk
Nitijela of the Marshall Islands