

THE NATIONAL SOLID WASTE MANAGEMENT ACT, 2001

(Act 27 of 2001)

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JAMAICA

No. 27–2001

I assent,

[L.S.]

HOWARD F. COOKE,
Governor-General
20th day of December, 2001

AN ACT to Provide for the Regulation and Management of solid waste, to establish a body to be called the National Solid Waste Management Authority and for matters connected therewith or incidental thereto.

[The date notified by the Minister
bringing the Act into operation]

BE IT ENACTED by The Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and House of Representatives of Jamaica, and by the authority of the same, as follows:—

PART I. *Preliminary*

1. This Act may be cited as the National Solid Waste Management Act, 2001 and shall come into operation on a day to be appointed by the Minister by notice published in the *Gazette*.

Short title and
commence-
ment.

2.—(1) In this Act—

“authority” means the National Solid Waste Management Authority established under section 3;

Interpre-
tation.

“authorized officer” means—

- (a) any person appointed as a traffic warden under section 117 (1) of the Road Traffic Act;
- (b) a person appointed as an authorized officer under the Natural Resources Conservation (Marine Parks) Regulations, 1992 or the Natural Resources (National Parks) Regulations, 1993, or any person duly authorized by the Minister or by the Authority under section 20 of the Natural Resources Conservation Authority Act;
- (c) a public health officer;
- (d) any member of the Jamaica Constabulary Force or the Island Special Constabulary Force;
- (e) a person designated as an authorized officer by the Authority under section 4 (2) (k);
- (f) an inspector,

and any other person acting in aid of such person acting in the execution of his office or duty shall be deemed to be an officer acting in the execution of his duty;

“container” means a receptacle or portable device in which solid waste is stored, transported, treated, disposed of or otherwise handled;

“disposal facilities” includes motor vehicles, containers and equipment used for the management of solid waste, transfer stations, sanitary and other landfills, composting sites, recycling plants, sites and depots, dumps and other solid waste disposal operations and sites;

“financial assurance” means proof provided to the Authority by an applicant, licensee or former licensee of his ability to secure or guarantee funding—

- (a) for or towards the carrying out of any works, projects or programmes—
 - (i) to restore, ameliorate, replace or remedy, any loss, damage or injury which is reasonably likely to be caused by the operation of the facility;
 - (ii) to reduce pollution;
- (b) to provide corrective action during the operation of a facility, to properly close the facility or to provide for post-closure care thereof; or
- (c) to correct or ameliorate any environmental harm caused by the operation of a facility;

“functions” includes powers and duties;

“hazardous waste” means—

- (a) waste which, because of its chemical or other property, may cause, promote or result, directly or indirectly, in—
 - (i) hazard or harm to human health or create a nuisance;
 - (ii) hazard to the natural living condition of plants and animals;
 - (iii) pollution of land, water, the atmosphere or the environment;
 - (iv) fire or explosion;
 - (v) excessive sound or noise;
 - (vi) the appearance and multiplication of harmful animals or plants;
 - (vii) the encouragement of pathogens;

(viii) disturbance of public order and safety;
and

(b) such other waste as the Minister may, by order,
declare to be hazardous;

“landfill” means a facility or part of a facility where solid
waste is placed in or on land for disposal but does not
include a surface impoundment or an injection well;

“leachate” means liquid that has percolated through solid
waste or other medium;

“litter” means solid waste in any public place and includes
any refuse, rubbish, bottles, glass, debris, dirt, rubble,
ballast, stones, noxious or contained substances or waste
matter or any other matter likely to deface, make untidy,
obstruct or cause a nuisance in a public place;

“local authority” means—

(a) in relation to the parishes of Kingston and St.
Andrew, the Council of the Kingston and St.
Andrew Corporation; and

(b) in relation to any other parish, the Parish Council
of that parish;

“Operating certificate” means a certificate issued by the
Authority signifying that—

(a) a solid waste disposal facility;

(b) a provider of solid waste collection or transfer
services; or

(c) a provider of other solid waste management
services,

is licensed under this Act;

“packaging” means the container in which usable goods are
supplied;

“poster” includes any notice, bill, graffiti and any other similar publication;

“public place” includes—

- (a) every public highway, street, road, square, court, alley, lane, bridle way, footway, parade, wharf, jetty, quay, bridge, sidewalk, verge;
- (b) any public garden, park or open space, theatre, stadium, place of public entertainment of any kind, or other place of general resort to which the public have, or are permitted to have, access with or without payment of any fee;
- (c) any beach or foreshore or the bank of any river or stream or the margin of any lake, pond, lagoon or any gully, to which the public have, or are permitted to have, access with or without payment of any fee;
- (d) any other open space to which the public has access as of right without payment of any fee;
- (e) such other place to which the public has access, as may be prescribed;

“receptacle” means any container or vessel provided or approved by the Authority for the deposit therein of solid waste;

“recycling” includes composting and any process by which material that would otherwise become solid waste is collected, separated, or processed and reused or returned to use in the form of raw materials or products but does not include energy or fuel production;

“resource recovery” includes—

- (a) recycling;

(b) the extraction of economically usable material or energy from solid waste; and

(c) the conversion of solid waste into different use;

“reuse” means the use of waste material or products in the same or similar application, without changing their identity;

“sanitary landfill” means a land disposal site employing an engineered method of solid waste disposal in a manner that minimizes environmental hazards and meets any prescribed design and operation standards;

“solid waste” includes medical and hazardous waste and—

(a) refuse or sludge from a waste treatment facility, water supply plant, air pollution control facility and garbage;

(b) solid, semi-solid or contained gaseous or liquid matter resulting from industrial, commercial, mining or agricultural operations or domestic activities; and

(c) any contained substance or object which is or is intended to be, or required by law to be, disposed of,

but does not include—

(i) animal manure and absorbent bedding used for soil enrichment;

(ii) suspended solid or dissolved material in sewage; and

(iii) industrial discharges from pipelines conveying such waste;

“solid waste management” includes—

(a) the systematic control of the generation, collection, separation, storage, reuse, recycling, transportation,

transfer, treatment, and disposal of solid waste; and

(b) the characterization and measurement of solid waste;

“storage” means the containment of waste, on a temporary or permanent basis, so as not to constitute its disposal;

“transfer” means to carry, remove, transport or shift solid waste from one place, disposal facility or container to another;

“transfer station” means a facility where solid waste is collected, aggregated, sorted, stored, or processed for the purpose of subsequent transfer to another facility for further processing, treatment, transfer or disposal;

“vehicle” means any motor vehicle, cart, dray, pushcart, wagon and any other vehicle of like nature.

(2) For the purpose of carrying out his duties in relation to this Act, every authorized officer shall have the same privileges and immunities as a Constable.

*PART II. National Solid Waste Management Authority
Establishment and Functions*

3.—(1) There is hereby established, for the purposes of this Act, a body to be called the National Solid Waste Management Authority which shall be a body corporate to which section 28 of the Interpretation Act shall apply.

Establishment
of Authority.

(2) The provisions of the First Schedule shall have effect as to the constitution of the Authority and otherwise in relation thereto.

First
Schedule.

4.—(1) The Authority shall—

Functions of
Authority.

(a) take all such steps as are necessary for the effective management of solid waste in Jamaica in order to safeguard public health, ensure that the waste is collected, stored, transported, recycled, reused or disposed of, in an environmentally sound manner and promote safety standards in relation to such waste;

- (b) promote public awareness of the importance of efficient solid waste management and foster understanding of its importance to the conservation, protection and proper use of the environment;
- (c) advise the Minister on matters of general policy relating to solid waste management in Jamaica;
- (d) perform such other functions pertaining to solid waste management as may be assigned to it by the Minister or by or under this Act or any other enactment.

(2) In performing the functions specified in subsection (1), the Authority may—

- (a) convert existing dumps into sanitary landfills;
- (b) designate, develop and manage new sanitary landfills and other solid waste disposal operations;
- (c) provide facilities for the collection, treatment and disposal of solid waste;
- (d) institute measures to encourage waste reduction and resource recovery;
- (e) introduce cost recovery measures for services provided by or on behalf of the Authority;
- (f) establish procedures and develop, implement and monitor a national plan and other plans and programmes relating to solid waste management;
- (g) formulate standards, guidelines and codes of practice relating to solid waste management and monitor compliance with such standards, guidelines and codes;
- (h) initiate, carry out or support, by financial means or otherwise, research which, in its opinion, is relevant to any of its functions;
- (i) conduct seminars and provide appropriate training programmes and consulting services and gather and disseminate information relating to solid waste management;

- (j) define the minimum specifications of equipment used for solid waste management;
- (k) from time to time, designate any person (whether employed by the Authority or not) possessing the prescribed qualification to be an authorized officer; and
- (l) do anything or enter into any arrangement which, in the opinion of the Authority, is necessary to ensure the proper performance of its functions.

5. The Minister may, after consultation with the chairman, give to the Authority such directions of a general character as to the policy to be followed by the Authority in the performance of its functions as appear to the Minister to be necessary in the public interest and the Authority shall give effect thereto.

Ministerial
directions.

6.—(1) The Authority may delegate any of its functions under this Act (other than the power of delegation or the power to make regulations) to any local authority, member, officer or agent of the Authority.

Delegation.

(2) Every delegation under subsection (1) is revocable by the Authority and the delegation of a function shall not preclude the performance of that function by the Authority.

7. Any person, body or agency having authority over any matter in respect of which the Authority has functions to perform under this Act shall not, whether provisionally or finally, approve or determine such matter until the Authority has been consulted.

Authority to
be consulted.

Administration

8.—(1) The Authority shall appoint and employ, at such remuneration and on such terms and conditions as it thinks fit, an Executive Director, a Secretary, and such other officers and employees as the Authority deems necessary for the proper carrying out of its functions:

Appointment
of officers and
other
employees.

Provided that—

- (a) no salary in excess of the prescribed rate shall be assigned to any post without the prior approval of the Minister; and

- (b) no appointment shall be made to any post to which salary in excess of the prescribed rate is assigned without the prior approval of the Minister.

(2) For the purposes of subsection (1), the “prescribed rate” means such rate as the Minister may, by order, prescribe.

(3) The Governor-General may, subject to such conditions as he may impose, approve the appointment of any public officer in the service of the Government to any office within the Authority, and any public officer so appointed shall, while so employed, in relation to any pension, gratuity or other allowance and in relation to any other rights as a public officer, be treated as continuing in the service of the Government.

Pensions,
gratuities and
other retiring
benefits.

9. The Authority may, with the approval of the Minister—

- (a) enter into arrangements respecting schemes, whether by way of insurance policies or otherwise; and
- (b) make regulations,

for medical benefits, pensions, gratuities and other retiring benefits or disability or death benefits, relating to employees of the Authority and such arrangements or regulations may include provisions for the grant of benefits to the dependants and the legal personal representatives of such employees.

Financial Provisions, Accounts and Reports

Funds and
resources of
Authority.

10.—(1) The funds and resources of the Authority shall consist of—

- (a) such sums as may, from time to time, be placed at the disposal of the Authority by Parliament;
- (b) all other sums and other property which may, in any manner, become payable to or vested in the Authority in respect of any matter incidental to its functions.

(2) The expenses of the Authority, including the remuneration of members and employees, shall be paid out of the funds of the Authority.

11. All moneys of the Authority not immediately required to be expended for the purpose of meeting any of the obligations or discharging any of the functions of the Authority may be invested in such securities as may be approved by the Minister and the Authority may, with the approval of the Minister, sell all or any of such securities.

Power to
invest
moneys.

12.—(1) The Authority shall keep proper accounts and other records in relation to its functions and shall prepare annually a statement of accounts in a form satisfactory to the Minister and conforming to established accounting principles.

Accounts and
audit.

(2) The accounts of the Authority shall be audited annually by an auditor appointed in each year by the Authority with the approval of the Minister.

(3) The Auditor-General shall be entitled at all times to examine the accounts of the Authority.

13.—(1) The Authority shall, within six months after the end of each financial year or within such longer period as the Minister may in special circumstances approve, cause to be made and transmit to the Minister a report dealing generally with the activities of the Authority during the preceding financial year.

Annual
reports.

(2) The Minister shall cause a copy of the report together with the annual statement of accounts and the auditor's report thereon to be laid in the House of Representatives and the Senate.

14. The Authority shall, in each financial year, before a date specified by the Minister, submit to the Minister for his approval—

Estimates and
operating
plan.

- (a) estimates of income and expenditure for the ensuing financial year; and
- (b) an operating plan for that year as to the projects to be promoted or sponsored, or both, by the Authority, the operational framework within which the Authority shall carry out its functions, and such other matters as the Minister may require.

15. The Authority shall furnish the Minister with such returns, accounts and other information as he may require with respect to

Returns, etc.

the activities of the Authority, and shall afford him facilities for verifying such information in such manner and at such times as he may reasonably require.

Exemption
from taxes
and duties.

16.—(1) The income of the Authority shall be exempt from income tax.

(2) The Authority shall be exempt from liability to stamp duty in respect of any instrument executed by it or on its behalf.

(3) Any transfer by the Authority of any property belonging to it or of any right or interest created in, over or otherwise with respect to, any such property shall be exempt from transfer tax.

(4) No customs duty, general consumption tax or other similar impost shall be payable upon any article imported into Jamaica or taken out of bond in Jamaica by the Authority and shown to the satisfaction of the Commissioner of Customs to be required for the use of the Authority in the performance of its functions.

Recovery of
debts.

17. Without prejudice to any other method of recovery, all debts due to the Authority may be recovered in a Resident Magistrate's Court as a civil debt notwithstanding any limitation as to the amount recoverable under the Judicature (Resident Magistrates) Act.

Borrowing
powers.

18.—(1) Subject to the provisions of subsection (2), the Authority may borrow such sums as may be required by it for meeting any of its obligations or discharging any of its functions.

(2) The power of the Authority to borrow shall, as to amount, as to the source of borrowing, and as to the terms on which the borrowing may be effected, be exercisable only with the approval of the Minister responsible for finance and any approval given in any respects for the purposes of this subsection may be either general or limited to a particular borrowing or otherwise and may be either unconditional or subject to conditions.

Minister of
Finance may
guarantee
loans to
Authority.

19.—(1) With the approval of the House of Representatives signified by resolution, the Minister responsible for finance may guarantee, in such manner and on such conditions as he thinks fit,

the repayment of the principal and the payment of interest and charges on any authorized borrowing of the Authority.

(2) Where the Minister responsible for finance is satisfied that there has been default in the repayment of any principal moneys guaranteed under the provisions of this section or in the payment of interest or charges so guaranteed he shall direct the repayment or, as the case may be, the payment, out of the Consolidated Fund of the amount in respect of which there has been such default and any such repayment or payment shall be a charge on the Consolidated Fund.

(3) The Authority shall make to the Accountant-General, at such times and in such manner as the Minister responsible for finance may direct, payments of such amounts as may be so directed in or towards repayment of any sums issued in fulfilment of any guarantee under this section, and payments of interest on what is outstanding for the time being in respect of any sums so issued at such rate as the Minister may direct, and different rates of interest may be directed as respects different sums and as respects interest for different periods.

PART III. *Inspection*

20.—(1) The Authority may, from time to time, appoint as inspectors for the purpose of this Act, public officers or other persons who, by training and experience, are, in its opinion, qualified to be so appointed.

Appointment
of inspectors.

(2) The Authority shall issue each inspector with an identification card and the inspector shall, on entering any place for the purpose of carrying into effect any of the functions specified in section 21, produce the identification card to the operator or other person in charge thereof.

(3) The appointment of any person as an inspector shall be published in the *Gazette*.

21. An inspector shall—

Functions of
inspectors.

- (a) inspect disposal facilities in order to ensure compliance with—
 - (i) the provisions of this Act or any regulations made hereunder;

- (ii) any condition subject to which a licence is granted; or
- (iii) the requirements of the Public Health Act and any other law pertaining to the disposal of waste and the regulation of waste operations;
- (b) keep such records, as may be specified by the Authority, in respect of disposal facilities that are inspected;
- (c) report generally to the Authority at such times and in such manner as the Authority may determine; and
- (d) perform such other functions as may be prescribed or as may be authorized by the Authority for the purposes of this Act.

*PART IV. Management of Solid Waste
Restriction on Solid Waste Management*

Restriction on
solid waste
management.

22. Subject to section 23, a person shall not manage solid waste except under and in accordance with the provisions of this Act and any regulations made hereunder.

*Application, Grant, Refusal, Renewal, Modification, Surrender,
Suspension and Revocation of Licences*

Application
for solid waste
licence.

23.—(1) Every person who—

- (a) operates or proposes to operate a solid waste disposal facility;
- (b) provides or proposes to provide solid waste collection or transfer services; or
- (c) otherwise manages solid waste,

shall apply in the prescribed form and manner to the Authority for the appropriate licence.

(2) An application under subsection (1) shall be accompanied by the prescribed application fee.

(3) Where the Authority thinks necessary it may require an applicant for a licence to furnish such additional information or document as it may specify.

(4) The Minister may, on the recommendation of the Authority, exempt categories of persons from the operation of this section or section 33.

24.—(1) Upon receipt of an application under section 23, the Authority shall— Grant or
refusal of
licence.

- (a) cause an inspector to carry out an inspection of any solid waste disposal facility to which the application relates;
- (b) invite, within such period as the Authority may specify, the written comments or recommendations of the following organizations—
 - (i) the Natural Resources Conservation Authority;
 - (ii) the Water Resources Authority;
 - (iii) the Ministry responsible for health; and
 - (iv) the relevant local authority; and
 - (v) such organization as the Authority thinks appropriate.

(2) The inspector shall submit to the Authority a report in the prescribed form in respect of an inspection carried out under subsection (1).

(3) Upon receipt of the report and any written comments or recommendations, the Authority may, subject to subsection (4)—

- (a) grant a licence upon payment of the prescribed licence fee; or
- (b) refuse to grant a licence.

(4) A licence granted under this section shall be subject to such terms and conditions, including the provision of financial assurance or insurance in accordance with section 33, as may be specified therein.

(5) Where the Authority grants a licence under this section it shall issue an operating certificate to the licensee.

(6) Where the Authority refuses to grant a licence under this Act, it shall so inform the applicant in writing stating the reasons therefor.

Non-transferability and validity of licence.

25. A licence granted under this Act shall not be transferable and shall be valid for such period as is specified therein.

Grounds for refusal to issue licence.

26.—(1) The Authority may refuse to issue a licence under this Act—

- (a) where, in the opinion of the Authority, the issue of the licence would not be in the public interest, having regard to such factors as the Authority considers relevant;
- (b) where an application contains or is based on a false or misleading representation or information which is false in a material particular;
- (c) to an individual who—
 - (i) is under the age of eighteen years;
 - (ii) is an undischarged bankrupt; or
 - (iii) has been convicted, during the period of five years immediately preceding the application, of an offence specified in subsection (2);
- (d) to a body corporate—
 - (i) in respect of which a resolution has been passed for voluntary winding up or an order has been made by a court of competent jurisdiction for its winding up;
 - (ii) if a receiver has been appointed to manage any of its assets;
 - (iii) if any of its directors has been convicted of an offence specified in subsection (2) during the period of five years immediately preceding the application; or
 - (iv) which has been convicted during the period of five years immediately preceding the

application of an offence specified in subsection (2);

- (e) if, in the opinion of the Authority, the applicant is not a fit and proper person to be granted a licence.

(2) The offence referred to in subsection (1) is—

- (a) an offence against this Act or any regulations made hereunder; or
- (b) an offence involving fraud or dishonesty.

27.—(1) A licence granted pursuant to this Act may be renewed by the Authority if—

Renewal of
licence.

- (a) an application for renewal is made not later than thirty days before the date of expiry or within such longer period as the Authority may allow;
- (b) the Authority is satisfied that the licensee is operating in compliance with the provisions of this Act or any regulations made hereunder;
- (c) the applicant has paid all fees payable to the Authority under this Act or any regulations made hereunder;
- (d) there has been no material change in the circumstances which existed at the time the licence was granted which would justify the application being treated as a new application in the manner specified in subsection (2); and
- (e) the applicant has not been convicted of an offence specified in section 26 (2) or, in the case of a body corporate, a director, the manager, the secretary or other officer thereof has not been convicted of such an offence.

(2) Where the Authority—

- (a) receives an application for the renewal of a licence after the period specified in subsection (1) (a); or
- (b) is satisfied that a material change of circumstances has occurred since the licence had been granted, it shall treat

the application as a new application, and accordingly, the provisions of sections 23 and 24 shall apply.

Restrictions on
grant of licence
retrospectively.

28. The Authority shall not issue a licence retrospectively.

Variation,
modification,
etc. of licence.

29.—(1) A licensee may apply to the Authority for variation, modification or surrender of the licence stating clearly the reasons therefor.

(2) In considering an application under subsection (1), the Authority shall have regard to the matters specified in section 26.

Suspension of
licence.

30.—(1) Subject to subsection (2), the Authority may suspend a licence if—

- (a) the licensee has failed to pay any fees or other charges required by this Act or any regulations made hereunder;
- (b) the licensee is in breach of—
 - (i) any provision of this Act or any regulations made hereunder; or
 - (ii) any term or condition subject to which the licence is granted;
- (c) it is satisfied that it is not possible to carry out a proper inspection of the licensed facility;
- (d) a licensee notifies the Authority in writing that he intends to cease the operations for which he is licensed for the period stated in the notice.

(2) Before suspending a licence under subsection (1) (a), (b) or (c), the Authority shall notify the licensee in writing of the proposed suspension—

- (a) stating the reason therefor;
- (b) requiring the licensee, in the case of a breach, to remedy the breach within the time specified in the notice.

(3) A licensee who is served with a notice under subsection (2) shall, after remedying the breach which gave rise to the

suspension, notify the Authority in writing that the breach has been remedied.

(4) The Authority shall, upon receipt of a notice referred to in subsection (3), cause an inspection to be carried out within ten days of the receipt of the notice and if, on inspection, the inspector is satisfied that the breach has been remedied, he shall report in writing to the Authority which shall withdraw the notice of suspension.

31.—(1) The Authority may revoke a licence if it is satisfied that— Revocation of licence

- (a) a licensee has ceased to comply with the provisions of this Act or any regulations made hereunder in relation to the licensed disposal operation;
- (b) the application for the licence contained any false or misleading information in any material particular;
- (c) the licensee has failed to remedy the breach which gave rise to the suspension of the licence under section 30, within the time specified in a notice under subsection (2) of that section;
- (d) any fee or other charge payable by the licensee remains unpaid for a period of ninety days after the suspension of the licence.

(2) Before revoking a licence under subsection (1), the Authority shall notify the licensee in writing of the proposed revocation stating the reasons therefor.

(3) Where a licence is revoked pursuant to this section the licence and any operating certificate shall be returned forthwith to the Authority.

32.—(1) The Authority shall keep a record of every licence granted under this Act. Records.

(2) Every licensee shall keep such books, documents or records as may be prescribed.

Financial Assurance and Insurance

Authority may
require
financial
assurance and
insurance.

33.—(1) Subject to subsection (2), the Authority may, before or after it issues, varies, modifies, suspends or revokes a licence or before it approves of its surrender, require the applicant, licensee or former licensee, as the case may be, to provide financial assurance.

(2) The Authority may, in addition to requiring financial assurance or in substitution therefor, require that the owner or operator of a disposal facility effect and carry out contracts of insurance against loss of, or damage to, or arising out of or in connection with, the operation or proposed operation of the facility.

Financial
assurance not
to be penalty.

34. Financial assurance shall not operate as a penalty for a contravention of this Act, any regulations hereunder, the conditions of a licence or the conditions of the suspension, revocation or surrender of a licence.

Form of
financial
assurance.

35.—(1) Financial assurance may be in one or more of the following forms—

- (a) a bank guarantee;
- (b) a trust fund;
- (c) a bond;
- (d) a line of credit;
- (e) a management escrow account; or
- (f) such other form of security as the Authority considers appropriate and specifies as a condition of a licence or the operation or closure of a disposal facility.

(2) The Authority may, as a condition of a licence, specify the procedures under which financial assurance may be administered, called on or used.

Restriction
on requiring
financial
assurance.

36. The Authority shall not require financial assurance unless it is satisfied that the requirement is justified having regard to—

- (a) the degree of risk of environmental harm associated with the activities to which the licence relates;

- (b) the remedial work that may be required because of the activities to which the licence relates;
- (c) the environmental record of the applicant, licensee, or former licensee, as the case may be; or
- (d) such other matters as may be prescribed.

37.—(1) Subject to subsection (2), the amount of financial assurance shall be determined by the Authority.

Amount of
financial
assurance.

(2) The Authority shall not require financial assurance of an amount that is greater than the amount that, in its opinion, represents a reasonable estimate of the total likely costs and expenses that may be incurred in carrying out the work, project or programme required by or under this Act for which financial assurance is required, including the Authority's likely costs and expenses in directing and supervising the carrying out of the work, project or programme.

38. Financial assurance shall be provided—

Duration of
financial
assurance.

- (a) for the period specified in the licence; or
- (b) if no such period is specified, until—
 - (i) the licence is varied to remove the condition requiring the financial assurance; or
 - (ii) the licence is surrendered under section 29.

39.—(1) The Authority may, by the use of contractors, consultants or other persons, carry out, direct or supervise the carrying out of any work, project or programme covered by any financial assurance required under a licence if the licensee or former licensee fails, in the opinion of the Authority, to carry out any work, project or programme in accordance with the licence or is incapable of doing so.

Carrying out
of work,
project or
programme
when licensee
fails to do so.

(2) The Authority may enter, or authorize any other person to enter, the premises concerned to carry out the work, project or programme.

Claim on or
realizing of
financial
assurance.

40.—(1) The Authority may recover or fund the reasonable costs or expenses of the contractors, consultants or other persons in carrying out such work, project or programme (including the Authority's likely costs and expenses in directing and supervising the carrying out of the work, project or programme) by making a claim on the insurance or realizing the financial assurance or part thereof.

(2) Before making the claim on the insurance or realizing the financial assurance or part thereof, the Authority shall give to the licensee or former licensee a written notice under this section.

(3) A notice under this section shall—

- (a) specify the reason for making the claim on the insurance or realizing the financial assurance, or part thereof;
- (b) state details of the work, project or programme carried out or proposed to be carried out;
- (c) state the amount of the financial assurance to be claimed or realized;
- (d) invite the licensee or former licensee to make representations to the Authority to show why the financial assurance should not be claimed or realized as proposed; and
- (e) state the period (at least 30 days after the notice is given to the licensee or former licensee) within which written representations may be made.

(4) At the end of the period stated in the notice, the Authority shall consider any representations properly made by the licensee or former licensee.

(5) If the Authority decides to make a claim on the insurance or realize the financial assurance, or any part thereof, the Authority shall forthwith give written notice to the licensee or former licensee of its decision and the reasons therefor.

(6) The Authority shall return any excess amounts to the licensee or former licensee.

41.—(1) Where the amount recovered by the Authority under section 40 is less than the Authority's reasonable costs and expenses in taking action or remedying the environmental harm caused by the solid waste disposal facility or solid waste collection or transfer services to which a licence relates, the Authority may, by notice in writing, require the licensee or former licensee to pay the difference between the Authority's reasonable costs and expenses and the amount recovered by the Authority, within such time as may be specified therein.

Recovery of additional cost.

(2) Where—

- (a) the Authority has given a notice under subsection (1); and
- (b) the licensee has failed to pay the specified sum on or before the specified date,

the Authority shall be entitled to recover, from the licensee or former licensee, the amount or so much thereof as remains unpaid, together with interest calculated at such rate as the Minister may specify, as a civil debt in the Resident Magistrate's Court for the parish in which the place is, or premises are, situated, notwithstanding any limitation as to amount recoverable under the Judicature (Resident Magistrates) Act.

PART V. *Recycling of Waste*

42.—(1) The Authority may provide the occupier of any premises, on his request, with receptacles to be used for—

Recycling of waste.

- (a) compostable waste which is to be recycled;
- (b) non-compostable waste which is to be recycled; or
- (c) waste which is not to be recycled.

(2) Subject to subsection (4), the Authority may, in relation to a request for receptacles—

- (a) where possible, provide them free of charge; or
- (b) provide them at such cost, and on such terms as to payment, as may be agreed with the occupier.

(3) Where the Authority provides receptacles pursuant to subsection (1), it may give directions in writing to the recipients with respect to—

- (a) the placing of the receptacles for the purpose of facilitating the emptying of them and access to them for that purpose;
- (b) the substances or articles which may or may not be placed in the receptacles and the precautions to be taken where particular substances or articles are placed therein; and
- (c) the steps to be taken by occupiers of premises to facilitate the collection of waste from the receptacles.

(4) The Authority may make such arrangement as it considers necessary for another organization to provide, on its behalf, receptacles for the storage of waste which is to be recycled.

(5) No receptacles provided under subsection (1) shall be placed on a road, unless—

- (a) the local authority has consented thereto; and
- (b) arrangements have been made as to the liability for any damage arising out of their being so placed.

(6) A person who fails, without reasonable excuse, to comply with any directions given under subsection (3) commits an offence and shall be liable on summary conviction before a Resident Magistrate to a fine not exceeding one hundred thousand dollars.

(7) A person who interferes with, damages or destroys any receptacle provided under subsection (1) commits an offence and shall be liable on summary conviction before a Resident Magistrate to a fine not exceeding one million dollars.

PART VI. *Special Provisions in Relation to Litter*

Power of
Authority in
relation to
litter.

43.—(1) The Authority shall provide and maintain in public places such number of receptacles for the deposit of litter as the Authority considers necessary.

(2) The Authority may—

- (a) designate any area in any public place or, with the approval of the owner, any premises as a litter collection area;
- (b) designate as litter wardens, for the purposes of this Act, persons who, by training or experience, are, in its opinion, qualified to be so designated;
- (c) determine the nature and type of litter which shall be deposited in any receptacle or in any litter collection area; and
- (d) determine the time, place or circumstances in which litter may be deposited in any litter collection area.

PART VII. Offences and Penalties

44. Every person who—

- (a) unlawfully removes any solid waste from a disposal facility or from any place under the control of the Authority;
- (b) interferes or tampers with any disposal facility or any place where solid waste is stored or kept by the Authority,

Offence of
interference
with disposal
facility.

commits an offence and shall be liable on summary conviction before a Resident Magistrate to a fine not exceeding five hundred thousand dollars or to imprisonment for a term not exceeding six months or to both such fine and imprisonment.

45. Every person who—

- (a) disposes of solid waste in any area or in any manner not approved by the Authority;
- (b) operates a solid waste disposal facility, provides solid waste collection or transfer services or otherwise manages solid waste, without a valid licence or operating certificate under this Act or any regulation hereunder; or

Offence of
operating
disposal
facility, etc.
without
licence.

- (c) impedes in any manner the collection and disposal of solid waste,

commits an offence and shall be liable on summary conviction before a Resident Magistrate to a fine not exceeding one million dollars or to imprisonment for a term not exceeding nine months or to both such fine and imprisonment.

Offence of
littering
public place,
etc.

46.—(1) A person commits an offence if he—

- (a) throws, drops or otherwise deposits and leaves any litter in any public place; or
- (b) erects, displays (whether by writing, marking or otherwise), deposits or affixes anything in a public place or on any building, wall, fence or structure abutting or adjoining a public place, in such circumstances as to cause, contribute to or tend to the defacement of that place, building wall, fence or structure, as the case may be,

and shall be liable to a penalty under section 53.

(2) Where any person, on behalf of some other person employing or recruiting him for the purpose, does any act in contravention of subsection (1) (b), the person employing or recruiting him also commits an offence and shall be liable to a penalty under section 53 unless he proves that the act done was contrary to his express instructions and that the act, if performed as instructed, would not have been in contravention of this section.

(3) In any proceedings under this section, it shall be a defence to prove that the act that is the subject matter of the proceedings was authorized by law or was done with the consent of the owner or occupier or other person having control of the public place or building, wall, fence or structure, as the case may be.

Offence of
littering
private place
without
consent.

47. Any person who throws, drops or otherwise deposits or leaves any litter in any premises owned or occupied by another person without the consent of that other person, the proof whereof shall lie on the person charged, commits an offence and shall be liable to a penalty under section 53.

48. Any person who wilfully breaks any bottle or any glass or any article made of glass in or on any public place without lawful authority or reasonable excuse commits an offence and shall be liable to a penalty under section 53.

Offence of
breaking
bottles, etc. in
public place.

49.—(1) A person commits an offence if—

Offence of
making false
or misleading
statements.

- (a) for the purposes of obtaining, whether for himself or for any other person, the issue, grant or renewal of any licence under this Act, he makes any declaration or statement which is false or misleading in any particular;
- (b) he knowingly furnishes to an authorized officer or other person performing any duty in relation to this Act, a document that contains information which is false or misleading in any particular;
- (c) he knowingly utters, produces, or makes use of any such declaration or statement or any document containing any false declaration or statement; or
- (d) he falsifies or amends any information contained in a licence.

(2) A person who commits an offence under subsection (1) shall be liable on summary conviction before a Resident Magistrate to a fine not exceeding one million dollars or to imprisonment for a term not exceeding one year or to both such fine and imprisonment.

50.—(1) A person commits an offence if he—

Offence of
threatening,
etc. autho-
rized officer.

- (a) wilfully hinders or obstructs an authorized officer acting in the execution of his duties under this Act;
- (b) without lawful excuse, fails within a reasonable time to comply with any requirement of an authorized officer exercising a power conferred on him under this Act;
- (c) upon being required to disclose his true name and place of residence by an authorized officer acting in the execution of his duties under this Act—

- (i) refuses to disclose his true name and place of residence; or
- (ii) gives a false name or place of residence;
- (d) personates or pretends to be an authorized officer; or
- (e) assaults, threatens, intimidates, or uses threatening language or behaves in a threatening manner to any authorized officer acting in the execution of his duties under this Act.

(2) A person who commits an offence under subsection (1) shall be liable on summary conviction before a Resident Magistrate to a fine not exceeding five hundred thousand dollars or to imprisonment for a term not exceeding six months or to both such fine and imprisonment.

Offence of
failure to keep
records, etc.

51. Every person who—

- (a) fails to keep any books, documents or records required to be kept under this Act; or
- (b) fails, without reasonable excuse, to produce any such books, documents or records,

commits an offence and shall be liable on summary conviction before a Resident Magistrate to a fine not exceeding five hundred thousand dollars, or to imprisonment for a term not exceeding six months or to both such fine and imprisonment.

Breach of
offence for
which no
penalty is
provided.

52. Every person who commits an offence under this Act or any regulations hereunder in respect of which no special penalty is provided, shall be liable on summary conviction before a Resident Magistrate to a fine not exceeding five hundred thousand dollars or to imprisonment for a term not exceeding six months or to both such fine and imprisonment.

Punishment
for offence
under sections
46, 47 and 48.

53.—(1) This section applies to any offence referred to in sections 46, 47 and 48 and such other offences as may be prescribed.

(2) Where an authorized officer finds a person on any occasion and has reason to believe that on that occasion that person

is committing or has committed an offence to which this section applies, he may serve that person with the prescribed notice in writing offering the discharge of any liability to conviction of that offence by payment of a fixed penalty under this section.

(3) Where a person is served with a notice under subsection (2)—

- (a) that person shall not be liable to be convicted of that offence if the fixed penalty is paid in accordance with this section before the expiration of twenty-one days following the date of the notice or such longer period as may be specified therein or before the date on which proceedings are begun, whichever is later;
- (b) proceedings shall not be taken against him for that offence by any authorized officer until the end of the twenty-one days following the date of the notice or such longer period (if any) as may have been specified therein.

(4) Payment of a fixed penalty under this section shall be made to the Authority or to such body, on behalf of the Authority, as the Minister may, by order, designate and the Authority may retain the amount paid as part of its funds.

(5) In any proceedings, a certificate that payment of a fixed penalty was or was not made to the Authority or to a body designated under subsection (4) by a date specified in the certificate shall, if the certificate purports to be signed by the proper officer of the Authority, or of that body, be sufficient evidence of the facts stated, unless the contrary is proved.

(6) A notice under subsection (2) shall—

- (a) specify the offence alleged;
- (b) give such particulars of the offence as are necessary for giving reasonable information of the allegation; and
- (c) state—
 - (i) the period during which, by virtue of subsection (3), proceedings will not be

instituted against any person for the offence;
and

(ii) the amount of the fixed penalty.

(7) In any proceedings for an offence to which this section applies, no reference shall be made after the conviction of the accused to the giving of any notice under this section or to the payment or non-payment of a fixed penalty thereunder unless, in the course of the proceedings or in some document which is before the Court in connection with the proceedings, reference has been made by or on behalf of the accused to the giving of such notice or, as the case may be, to such payment or non-payment.

(8) The Minister may make regulations prescribing any matter incidental to the operation of this section, and in particular such regulations may prescribe—

(a) the fixed penalty for an offence to which subsection (1) applies; and

(b) the form of notice under subsection (2).

(9) In this section “proceedings” means any criminal proceedings in respect of the act or omission constituting the offence specified in the notice under subsection (2), and “convicted” shall be construed in like manner.

Offence by
body
corporate

54. Where an offence under this Act or any regulations made hereunder which has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any negligence on the part of any director, manager, secretary or other officer of the body corporate, the director, manager, secretary or other officer of the body corporate as well as the body corporate shall be liable to be proceeded against and punished accordingly.

PART VIII. Enforcement and Appeal

Enforcement

Power of
Authority to
enforce
removal of
litter.

55.—(1) Without prejudice to any proceedings for an offence under section 46, 47 or 48, where litter is left or caused to be left in any public place or on private premises in such circumstances as

to cause, contribute to or tend to the defacement thereof, the Authority may act in accordance with subsection (2).

(2) The Authority may, subject to subsection (3), give notice (whether orally or in writing) to—

- (a) the person leaving or causing the litter to be left on any public place or private premises; or
- (b) the owner or occupier of such place or premises; or
- (c) the person having control or responsibility for the place or premises,

requiring him to remove the litter in such manner as to restore the premises to a condition satisfactory to the Authority.

(3) A notice under subsection (2) shall require the litter to be removed—

- (a) forthwith, in the case of dead animals, carrion or other litter considered by the Authority to be dangerous to health or life; or
- (b) in any other case, within such time as may be limited by the notice (not being less than three days).

(4) A notice under subsection (2) may be served on a person either personally or by being sent by post to his last known business or private address or may be posted up in some conspicuous position on the premises on which the litter has been left.

(5) A person who fails to comply with the requirements of a notice under subsection (2) commits an offence and shall be liable on summary conviction in a Resident Magistrate's Court to a fine not exceeding one hundred thousand dollars.

(6) Subject to subsection (7), the Authority may, without prejudice to its right to take action under subsection (2), by its officers and servants, enter the premises and remove the litter or restore the premises to a condition satisfactory to the Authority.

(7) The Authority shall be entitled to recover from the person notified under subsection (2), the costs and expenses incurred by it pursuant to subsection (6), as to civil debt in the Resident Magistrate's Court for the parish in which the place is, or premises are, situated, notwithstanding any limitation as to amounts recoverable under the Judicature (Resident Magistrates) Act.

Referral to
Natural
Resources
Conservation
Authority.

56. Where the Authority is of the opinion that a solid waste disposal operation has, or is likely to have, an adverse effect on the environment or public health, the Authority may refer the matter to the Natural Resources Conservation Authority.

Cessation
order.

57.—(1) Where a person who—

- (a) operates a solid waste disposal facility;
- (b) provides solid waste collection or transfer services; or
- (c) otherwise manages solid waste,

fails to apply for a licence as required under or by section 23, the Authority may issue an order in writing to that person directing him to cease the activity specified in paragraph (a), (b) or (c), as the case may be, by such date as shall be specified in the order.

(2) Where the person to whom an order is issued under subsection (1) fails to comply with the order, the Authority may—

- (a) direct an authorized officer to take such steps as it considers appropriate to ensure the cessation of the activity to which the order relates; or
- (b) apply to the Supreme Court for an injunction, whether or not it has exercised or is proposing to exercise its powers under paragraph (a) or any of its other powers under this Act.

(3) In carrying out a direction pursuant to subsection (2) (a), an authorized officer may use such force as may be necessary for the purpose of ensuring compliance with the order.

Information
on pollution
control
operation.

58.—(1) The Authority may, after consultation with the Natural Resources Conservation Authority, by notice in writing, require the owner or operator of any sewage treatment plant, industrial

waste treatment facility or other solid waste disposal facility that generates sludge, to submit to the Authority, at such intervals as the Authority may specify in the notice, the information specified in subsection (2).

(2) The information referred to in subsection (1) shall relate to all or any of the following—

- (a) the performance of the operation;
- (b) the quantity, type and condition of solid waste handled;
- (c) the quantity, quality and method of treatment and disposal of leachate and other waste.

(3) Any person who refuses or fails to comply with the requirements of a notice under subsection (1) commits an offence and shall be liable on summary conviction before a Resident Magistrate to a fine not exceeding five hundred thousand dollars or in default of payment to imprisonment for a term not exceeding six months.

59.—(1) Subject to the provisions of this section, where on investigation it appears to the Authority that the activities of a disposal facility in any area are such as to pose a serious threat to the natural resources or to public health, the Authority may serve on the person who appears to have carried out or to be carrying out the activity, a notice (hereinafter referred to as “an enforcement notice”) in accordance with subsection (2).

Enforcement
of controls.

(2) An enforcement notice shall—

- (a) specify the offending activity; and
- (b) require such steps as may be specified therein to be taken within such period as may be so specified to ameliorate the effect of the activity and, where appropriate, to restore the natural resources to their condition before the activity took place.

(3) The Authority may, in the enforcement notice, order the immediate cessation of the offending activity if it is of the

opinion that the circumstances giving rise to the notice are such as to warrant an order to that effect.

(4) Where an appeal is made pursuant to section 61 against a decision of the Authority to order the cessation of an offending activity, the notice shall remain in effect pending the final determination of the appeal or the withdrawal thereof.

(5) Where a person who is served with an enforcement notice fails to comply with the notice, the Authority may direct an authorized officer to take such steps as it considers appropriate to ensure the cessation of the activity to which the notice relates.

(6) Every person on whom an enforcement notice is served who continues or authorizes the continuation of the offending activity while that notice is in effect or after the dismissal of an appeal relating to that notice, commits an offence and shall be liable on summary conviction before a Resident Magistrate to a fine not exceeding one million dollars or to imprisonment for a term not exceeding one year or to both such fine and imprisonment.

(7) The Authority shall be entitled to recover the costs and expenses incurred in the restoration, amelioration or replacement of any natural resources damaged or destroyed by an offending activity.

(8) In carrying out a direction under subsection (5), an authorized officer may use such force as may be necessary for the purpose of ensuring compliance with the enforcement notice.

Supplemen-
tary
provisions as
to enforce-
ment.

60.—(1) Where an enforcement notice takes effect and, within the time specified therein or such extended period as the Authority may allow, any steps required by notice to be taken have not been taken, the Authority may enter on the land on which the offending activity took place and take such steps.

(2) A person who, being entitled to appeal against a decision of the Authority under section 61, fails to do so, shall not be entitled in proceedings under subsection (2) of that section to dispute the validity of the action taken by the Authority on any ground that could have been raised in such appeal.

Appeal

61.—(1) There is hereby established for the purposes of this Act an Appeal Tribunal and the provisions of the Second Schedule shall have effect as to the constitution of the Appeal Tribunal and otherwise in relation thereto.

Appeal
Tribunal
Second
Schedule

(2) The Appeal Tribunal shall hear appeals made to it in respect of the issue of enforcement notices by the Authority pursuant to section 59 and in respect of any such appeal the Tribunal may, subject to the provisions of this section—

- (a) quash or vary the notice;
- (b) dismiss the appeal; and
- (c) make such order as to costs and fees as it deems necessary.

(3) Where a notice is varied or the appeal dismissed under subsection (2), the Appeal Tribunal may direct that the enforcement notice shall not take effect until such date (not being later than twenty-eight days from the determination of the appeal) as the Tribunal thinks fit.

(4) Before determining an appeal, the Appeal Tribunal shall give the applicant, who may be represented by an Attorney-at-Law or any other person, the opportunity to be heard by the Tribunal.

62.—(1) A person who is aggrieved by the decision of the Authority—

Appeal to
Minister.

- (a) not to grant a licence;
- (b) to require financial assurance or insurance as a condition of a licence or to include any other term or condition in a licence; or
- (c) to suspend or revoke a licence,

may appeal to the Minister by way of a notice of appeal within twenty-eight days of the date of the decision or within such longer period as the Minister may, in any special circumstance, allow.

(2) The notice of appeal shall set out clearly the grounds of the appeal and shall be accompanied by copies of any correspondence, document or statement relevant to the appeal.

(3) A copy of the notice of appeal together with copies of any correspondence, document or statement shall be served on the Authority.

(4) The Minister shall, within seven days of the receipt of a notice of appeal under subsection (1), request the Authority to furnish him, within seven days, with a statement in writing setting out the reasons for its decision.

(5) The Minister may order that any book, paper, document or statement, relating to the appeal which is in the possession of the Authority or the person aggrieved be produced at the hearing of the appeal.

(6) The Minister shall cause all parties to the appeal to be informed—

- (a) of the date of the hearing of appeal;
- (b) that they may appear themselves or be represented by their Attorney-at-Law; and
- (c) that they may summon witnesses in their cause.

(7) On hearing an appeal under this section, the Minister may—

- (a) dismiss the appeal and confirm the decision of the Authority;
- (b) allow the appeal and set aside the decision;
- (c) vary the decision; or
- (d) direct that the matter be referred to the Authority.

General
powers of
entry,
inspection and
seizure.

63.—(1) Subject to subsection (2), an authorized officer referred to in paragraphs (b), (c), (d), (e) and (f) of the definition of “authorized officer” may, for the purpose of the execution of this Act, enter at all reasonable times the premises in which any solid waste disposal operation is carried on and inspect any book to which any solid waste document or record or thing relates.

(2) An authorized officer referred to in subsection (1)—

- (a) shall produce a duly authenticated document showing his authority; and
- (b) may, during the course of an inspection under subsection (1), seize and detain any equipment or other article, which the authorized officer reasonably believes is being used in contravention of any provision of this Act.

(3) Any equipment or article seized under this section shall be returned to the person from whose possession it was seized, as soon as practicable, and in any case shall not be retained for a period longer than two months or, if within that period Court proceedings have been brought in respect of the seizure, longer than the conclusion of those proceedings.

64.—(1) Where an authorized officer has reasonable cause to suspect that any vehicle, aircraft, vessel, article, enclosure, container or other storage facility, device or apparatus (hereinafter referred to as “specified equipment”) is being used or has been used in the commission of an offence against this Act, the authorized officer may, with a warrant issued by a Resident Magistrate, search the specified equipment and, if such search reveals evidence that the specified equipment is being used or has been used for the commission of any offence as aforesaid, the authorized officer may seize and detain the specified equipment.

Vehicles, etc.
may be seized
and detained.

(2) Where any specified equipment is seized pursuant to this section and—

- (a) a person is convicted of an offence against this Act; and
- (b) the Court is satisfied that—
 - (i) that person owns the specified equipment used in the commission of the offence; or
 - (ii) the owner of the specified equipment permitted it to be so used; or
 - (iii) the circumstances are otherwise such that it is just to do so,

the Court may, upon an application by the Authority, order the forfeiture of the specified equipment.

65.—(1) Where the Authority proposes to apply for forfeiture of any specified equipment under section 64 it shall give to any person who, to its knowledge, was the owner thereof at the time of

Procedure
regarding
application for
forfeiture.

the seizure, notice of the seizure and of the intention, after the expiration of thirty days from the date of the notice, to apply for forfeiture and of the grounds therefor.

(2) Notice shall not be required under subsection (1) if the seizure and detention was made in the presence of the owner or person having interest in the specified equipment.

(3) Any person having a claim to any specified equipment seized under this Act may appear at the hearing of the application for forfeiture and show cause why such an order should not be made.

(4) If, upon the application of a person prejudiced by an order made under section 64(2), the Court is satisfied that it is just in the circumstances of the case to revoke such order, the Court may revoke such order upon such terms and conditions, if any, as it deems appropriate, and without prejudice to the generality of the foregoing, may require such person to pay in respect of storage, maintenance, administrative expenses, security and insurance of the specified equipment, such amount as may be charged by the person in whose custody the specified equipment was kept.

(5) An application to the Court under subsection (4) for the revocation of a forfeiture order shall be made within thirty days of the date of the making of such an order or such longer period as the Court may allow, not exceeding six months.

Authority may
institute
proceedings.

66. The Authority may institute proceedings against any person for an offence against this Act and recover any penalty under this Act or any regulations made hereunder.

Minister may
amend
monetary
penalties.

67. The Minister may, by order, subject to affirmative resolution, amend the monetary penalties specified in this Act.

PART IX—*General*

Regulations.

68.—(1) The Authority, after consultation with the Minister, may make regulations for the purposes of giving effect to the provisions of this Act, and in particular, but without prejudice to

the generality of the foregoing, such regulations may contain provisions in relation to the following matters—

- (a) the carrying into effect of standards, recommended practices and health requirements, for solid waste management and solid waste disposal facilities;
- (b) minimum standards, including design standards, in respect of solid waste disposal facilities;
- (c) classification of solid waste and waste disposal licences and provisions relating to different classes of waste and waste disposal licences;
- (d) the incineration, minimization and recycling of solid waste;
- (e) the establishment of different grades for inspectors and specifying their respective powers and duties;
- (f) procedures for the measuring, frequency of collection and disposal, analysis and extraction of solid waste;
- (g) the form and content of a financial assurance, packaging audits and other waste audits, waste reduction work plans, packaging reduction work plans and industrial, commercial and institutional source separation programme;
- (h) procedures for the issue of and conditions as to licences;
- (i) the hours of operation of solid waste disposal facilities;
- (j) the establishment of zones and boundaries in respect of solid waste disposal facilities;
- (k) fees and other charges payable in respect of any licence or for any service provided by the Authority;
- (l) the keeping of records;
- (m) the making of reports by licensees;
- (n) the closure and post-closure operations of solid waste disposal facilities;
- (o) any other matter required under the Act to be prescribed.

(2) Notwithstanding section 29 of the Interpretation Act, regulations made under subsection (1) may provide for the

imposition of penalties on summary conviction in a Resident Magistrate's Court not exceeding a fine of five hundred thousand dollars or imprisonment for a term not exceeding six months or to both such fine and imprisonment.

Act applies to
the Crown.

69. This Act binds the Crown.

Repeal of
Litter Act.

70. The Litter Act is hereby repealed.

FIRST SCHEDULE

(Section 3)

National Solid Waste Management Authority

- 1.— (1) The Authority shall consist of not more than eleven members. Constitution of Authority.
- (2) The Permanent Secretary in the Ministry responsible for local government shall be an *ex officio* member of the Authority.
- (3) The other members of the Authority (hereinafter referred to as “the appointed members”) shall include—
- (a) a representative of a non-governmental organization concerned with the conservation and protection of the environment;
- (b) a representative of the Jamaica Institution of Engineers.
2. The appointed members shall be appointed by the Minister by instrument in writing. Appointment of members.
- 3.— (1) The Minister shall appoint a chairman and a deputy chairman from among the appointed members of the Authority. Chairman and deputy chairman.
- (2) In the case of the absence or inability to act of the chairman, the deputy chairman shall perform the functions of the chairman.
- (3) In the case of the absence or inability to act of both the chairman and deputy chairman, the Minister may appoint any other member of the Authority to perform the functions of the chairman, or, as the case may be, the deputy chairman during such absence or inability.
4. The names of all members of the Authority as first constituted and every change in the membership thereof shall be published in the *Gazette*. Gazetting of appointments.
- 5.—(1) Subject to the provisions of this Schedule, an appointed member of the Authority shall hold office for such period not exceeding three years as may be specified in the instrument of appointment. Tenure of office.
- (2) Every appointed member of the Authority shall be eligible for reappointment but no member shall be appointed for more than six consecutive years.
- (3) If any vacancy occurs in the appointed membership of the Authority such vacancy shall be filled by the appointment of another appointed member who shall, subject to the provisions of this Schedule, hold office for the remainder of the period for which the previous appointed member was appointed.
6. The Minister, on the application of any appointed member of the Authority, may grant to such member leave of absence for any period not exceeding six months and may appoint some other person to act as a member during the period of leave of absence so granted. Grant of leave of absence.

Resignation of
members.

7.—(1) An appointed member of the Authority, other than the chairman, may at any time resign his office by instrument in writing addressed to the Minister and transmitted through the chairman, and from the date of receipt by the Minister of such instrument, the member shall cease to be a member of the Authority.

(2) The chairman may, at any time, resign his office by instrument in writing addressed to the Minister and his resignation shall take effect from the date of the receipt of the instrument by the Minister.

Procedure and
meetings.

8.—(1) The Authority shall meet at such times as may be necessary or expedient for the transaction of business, and such meetings shall be held at such places and times and on such days as the Authority may determine.

(2) The chairman may at any time call a special meeting of the Authority and shall call a special meeting to be held within seven days of a written request for that purpose addressed to him by any three members of the Authority.

(3) The chairman or, in the case of the inability to act of the chairman, the deputy chairman shall preside at the meetings of the Authority and in the absence of both the chairman and the deputy chairman from any meeting, the members of the Authority present shall elect one of their number to preside at that meeting and when so presiding the chairman, the deputy chairman or the member elected as aforesaid, as the case may be, shall have, in addition to an original vote, a casting vote in any case in which the votes are equal.

(4) The quorum of the Authority shall be five.

(5) Subject to the provisions of this Schedule, the Authority may regulate its proceedings.

(6) The validity of any proceedings of the Authority shall not be affected by any vacancy among the members thereof or by any defect in the appointment of a member thereof.

Authentica-
tion of seal
and docu-
ments.

9.—(1) The seal of the Authority shall be authenticated by the signature of the chairman or any other member of the Authority authorized to act in that behalf or any officer of the Authority so authorized and shall be judicially and officially noticed.

(2) All documents, other than those required by law to be under seal, made by, and all decisions of, the Authority may be signified under the hand of the chairman or any member or officer of the Authority authorized to act in that behalf.

Remuneration
of members.

10. There shall be paid to the chairman, the deputy chairman, and other members of the Authority, such remuneration (whether by way of honorarium, salary or fees) and such allowances as the Minister may determine.

11.—(1) The Authority may, with the approval of the Minister, appoint committees for special purposes connected with the functions of the Authority and which, in the opinion of the Authority, would be better regulated and managed by means of committees.

Appointment
of commit-
tees.

(2) The number of members of a committee appointed under subparagraph (1), the terms of appointment of such members, the quorum of the committee and the area within which the committee is to exercise Authority shall be determined by the Authority.

(3) A committee appointed pursuant to this paragraph may include persons who are not members of the Authority, but at least one of the members of any such committee shall be a member of the Authority.

(4) The provisions of paragraph 12 shall apply to a member of a committee who is not a member of the Authority in like manner as they apply to a member of the Authority.

(5) The validity of the proceedings of a committee appointed pursuant to this paragraph shall not be affected by any vacancy among the members thereof or by any defect in the appointment of a member thereof.

12.—(1) No action, suit, prosecution or other proceedings shall be brought or instituted personally against any member of the Authority in respect of any act done *bona fide* in pursuance or execution or intended execution of this Act.

Protection of
members.

(2) Where any member of the Authority is exempt from liability by reason only of the provisions of this paragraph, the Authority shall be liable to the extent that it would be if the said member were an employee or an agent of the Authority.

13. A member of the Authority who is directly or indirectly interested in any matter which is being dealt with by the Authority—

Disclosure of
interest.

- (a) shall as soon as possible after the relevant facts have come to his knowledge, disclose the nature of his interest at a meeting of the Authority; and
- (b) shall not be present during the deliberation of the Authority on the matter or take part in the decision of the Authority with respect thereto.

14. The office of the chairman, deputy chairman, or member of the Authority shall not be a public office for the purposes of Chapter V of the Constitution of Jamaica.

Office of
member not
public office.

SECOND SCHEDULE

(Section 61)

Constitution and Procedure of Appeal Tribunal

- Appointment of members.** 1.—(1) The Appeal Tribunal shall consist of not less than three or more than five members appointed by the Minister, being persons appearing to the Minister to be knowledgeable and experienced in matters relating to the environment or the management of solid waste.
- (2) For the hearing of any appeal under this Act, the Appeal Tribunal may consist of one member sitting alone if the parties to the appeal agree.
- Temporary appointment.** 2. If the chairman or other member of the Appeal Tribunal is absent or unable to act the Minister may appoint another person to act temporarily as chairman or such other member.
- Tenure of office.** 3.—(1) The appointment of every member of the Appeal Tribunal shall be evidenced by instruction in writing and shall be for a period not exceeding two years.
- (2) Every member of the Appeal Tribunal shall be eligible for reappointment.
- (3) The Minister may at any time revoke the appointment of the chairman or any other member of the Appeal Tribunal.
- Resignation.** 4.—(1) Any member of the Appeal Tribunal other than the chairman may at any time resign his office by instrument in writing addressed to the Minister and transmitted through the chairman, and from the date of the receipt by the Minister of such instrument such member shall cease to be a member of the Appeal Tribunal.
- (2) The chairman may at any time resign his office by instrument in writing addressed to the Minister and such resignation shall take effect as from the date of the receipt of such instrument by the Minister.
- Publication of membership.** 5. The names of the members of the Appeal Tribunal as first constituted and every change in membership thereof shall be published in the *Gazette*.
- Authentication of documents.** 6. All documents made by, and all decisions of the Appeal Tribunal may be signed under the hand of the chairman or any member of the Appeal Tribunal authorized to act in that behalf.
- Procedure.** 7.—(1) The Appeal Tribunal shall meet at such times as may be necessary or expedient for the transaction of business and such meetings shall be held at such places and times and on such days as the Appeal Tribunal may determine.
- (2) The chairman or any other person appointed to act temporarily as chairman shall preside at meetings of the Appeal Tribunal.

(3) Subject to paragraph 1 (2) the decisions of the Appeal Tribunal shall be by a majority of votes of the members and in addition to an original vote, the chairman shall have a casting vote in any case in which the voting is equal.

(4) The Appeal Tribunal, with the approval of the Minister, may make rules to regulate its proceedings.

(5) Proper records of all proceedings of the Appeal Tribunal shall be kept.

8. There shall be paid to the chairman and other members of the Appeal Tribunal such remuneration (whether by way of honorarium, salary or fees) and such allowances as the Minister may determine. Remuneration of members.

9. No action, suit, prosecution or other proceedings shall be brought or instituted personally against any member of the Appeal Tribunal in respect of an act done *bona fide* in pursuance or execution or intended execution of the provisions of this Act. Protection of members.

10. Any member of the Appeal Tribunal who has any interest, directly or indirectly, in any matter brought before the Appeal Tribunal— Disclosure of interest.

- (a) shall disclose the nature of the interest to the Appeal Tribunal; and
- (b) shall not take part in any deliberations or decisions of the Appeal Tribunal with respect to that matter.

11. The office of the chairman or member of the Appeal Tribunal shall not be a public office for the purposes of Chapter V of the Constitution of Jamaica. Office of member not a public office.

