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THE EMBU COUNTY ENVIRONMENT MANAGEMENT AND PROTECTION ACT, 2015

No. 16 of 2015

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THE EMBU COUNTY ENVIRONMENT MANAGEMENT ACT, 2015

AN ACT of the County Assembly of Embu to provide *for the management of the environment including;* control of air pollution, noise pollution, waste management, and general nuisances in order to promote a clean and healthy environment and to provide for matters incidental thereto.

ENACTED by the County Assembly of Embu as follows—

PART I—PRELIMINARY

Short title and Commencement

1. This Act may be cited as the Embu County Environment Management and Protection Act, 2015 and shall come into operation on the date of publication in the *Gazette*.

Interpretation

2. In this Act, unless the context otherwise requires—

"agent" means a contractor, private firm, community group, or any other person, organization or institution appointed by the county government to render refuse collection, transportation, treatment or disposal services on its behalf;

"air pollution" means any change in the composition of air caused by air pollutants;

"air pollutant means any—

(a) fume, smoke, particulate matter, vapour, gas, odorous substance or any combination thereof; or

(b) any other substance or matter whether physical, chemical, biological, or radioactive, including source material, special nuclear material, and by-product materials, which is emitted into or otherwise enters the atmosphere from any object or activity and causes, or, if unabated, may cause air pollution, but does not include water vapour, steam condensate or any other emission exempted under this Act;

"authorized officer" means an authorized officer within the meaning of section 47 of this Act;

"beneficial use" means a use of environment or any element or segment of the environment that is conducive to public health, welfare or safety and which requires

protection from the effects of waste, discharges, emissions and deposits;

"biomedical or clinical waste" means all waste arising from medical, nursing, dental, veterinary, pharmaceutical or similar practice, which by nature of its toxic, infectious or dangerous content and includes human or animal tissue excretions, drugs and medical products, swabs, dressings and instruments or similar substances;

"Board" means the County Public Service Board of Embu;

"Constitution" means the Constitution of Kenya 2010;

"construction and demolition waste" means waste generated from construction, renovation, repair and demolition of structures including buildings and roads;

"County" means Embu County;

"Department" means Embu County Environmental Management Department established under section 5 of this Act;

"disposal site" means County government's designated solid waste disposal site;

"environment" means physical factors of the surrounding of human beings including, land, water, atmosphere, climate, sound, odour, taste, the biological factors of animals and plants and the social factor of aesthetics and includes both the natural and built environment;

" Executive Committee member" means the County Executive Committee member responsible for matters relating to the environment;

"e-waste" means electronic products that have become unwanted ; non-wanting or obsolete;

"industrial waste" means waste generated by businesses from an industrial or manufacturing process;

"junk waste" consists of assorted item including automobiles, bicycles, industrial plants and other

equipment that are obsolete whether abandoned or not in public or private places;

"market waste" means organic waste generated from public market facilities;

"noise" means any undesirable sound that is essentially objectionable or that may cause adverse effects on human health or the environment;

"noise pollution" means the emission of uncontrolled noise that is likely to cause danger to human health or damage to the environment;

"owner" as regards immovable property includes any person, other than the County Government, receiving rents or profits of any lands or premises from any tenant or occupier thereof;

"offensive trade" includes the trade of blood boiler, bone boiler, fish monger, soup boiler, tripe boiler, leather tannery and any other noxious or offensive trade or business whatsoever;

"protected area" means an area declared by the county to be a protected area with regard to grazing of animals

"public place" means any indoor, enclosed or partially enclosed area which is open to the public or any part of the public and includes a workplace and a public conveyance as well as the areas within five meters of any doorways or entrances of the public place, workplace or conveyance;

"public vessel" means a public service vehicle, train, aircraft or any other means of public transport domestically or internationally, whether publicly or privately owned or operated; and

"smoking" means inhaling or exhaling the smoke of any tobacco product and includes the holding of, or control over any ignited tobacco product or device containing an ignited tobacco product;

"special area" means an area declared by the county or in national legislation to be a special area under section 45 of this Act, with regard to regulation of noise levels;

"tobacco product" means a product composed, in whole or in part, of tobacco, including tobacco leaves and any extract of tobacco leaves intended for use by smoking, inhalation, chewing, sniffing or sucking and includes

cigarette papers, tubes, and filters.

"vehicle" means any device driven by mechanical, power on land or water, and includes any craft or aircraft, but does not include a wheeled chair used solely for the conveyance of a child or invalid;

"vibration" means an oscillatory motion of solid bodies of deterministic or random nature described by displacement, velocity or acceleration with respect to a given reference point;

"waste" includes any matter prescribed to be waste and any matter whether liquid, solid, gaseous or radioactive, which is discharged, emitted or deposited in the environment in such volume, composition or manner likely to cause alteration of the environment; and

"Zone" means a zone into which the county is divided for the purposes of this Act.

Object and purpose of the Act

3. The object and purpose of this Act shall be to—

(a) to create the necessary institutional framework required to have an efficient waste management system within the county;

(b) to create the necessary institutional framework to provide for the prevention, control and abatement of—

(i) air pollution to ensure clean and healthy ambient air;

(ii) noise pollution; and

(iii) Waste and disease causing pests, and ensure a clean healthy environment.

(c) promote an environmentally friendly county that will reduce health risks associated with a polluted environment; and

(d) Encourage residents to take responsibility for the environment.

Application

4. The provisions of this Act shall apply in addition to other requirements imposed by or under the national laws regulating environment management and public health or any other relevant law.

PART II—ADMINISTRATION

Establishment of the Department

5. (1) There is established in the County, a Department of environmental management which shall be a Department in the County Public Service.

(2) The Department shall have all the necessary powers for the execution of its functions under this Act.

(3) The Executive Committee member shall ensure that the Department has adequate human, financial and any other appropriate resource to enable it to carry out the functions assigned to it under this Act.

Functions of the Department

6. The functions of the Department shall be to—

(a) monitor compliance of the environmental standards established under this Act;

(b) develop in collaboration with other county and national government institutions strategies to ensure a clean and healthy environment in the county;

(c) carry out research directly or in collaboration with other institutions and serve as the repository of data and statistics related to environmental management;

(d) develop in collaboration with other County and National Government Departments Strategies and Plans for implementing this Act;

(e) carry out public education and awareness on the benefits of a clean environment directly and in collaboration with other public or private bodies and institutions;

(f) consider all matters brought to its attention by the national government and to report its findings thereof;

(g) provide litter baskets or bins for the disposal of litter in streets and public places;

(h) designate in collaboration with the County Planning Department areas within the county to be dumping sites;

(i) provide for landscaping, beautification and afforestation to promote clean and healthy environment;

(j) provide for landscaping, beautification and afforestation to promote clean and healthy environment;

(k) promote green school and environmentally friendly energies; and

(l) Perform any other function that may be assigned by any national or county legislation.

Record Keeping

7. The Executive Committee Member shall—

(a) prescribe the activities which records shall be kept under this Act, the contents of such records, and the manner in which they shall be kept;

(b) keep any other records available at the site of an establishment or undertaking and shall be made available at such reasonable time to any Environmental Officer for the purposes of:-

(i) environmental audit;

(ii) environmental monitoring and evaluation;

(iii) pollution control;

(iv) inspection; and

(v) Any other purpose that may be prescribed from time to time.

Issue of Licenses

8. (1) The Executive Committee Member shall issue licenses to applicants subject to such lawful conditions as the Executive Committee Member may determine.

(2) Every license shall specify the premises upon which the business specified in the license may be carried on.

(3) The Executive Committee Member for finance shall through the annual Finance Act prescribe the fees payable for the issue of licenses under this Act.

(4) The Executive Committee Member may after considering the objections, if any, made under this section, grant the license applied for, subject to such terms and conditions as may be specified in the license;

(5) The issuance of a license to an applicant under this Act shall not be withheld without reasonable cause;

(6) A license issued under this Act is not transferable.

PART III—CLEAN AND HEALTHY ENVIRONMENT

Clean and Healthy Environment

9. (1) Every person within the jurisdiction of the County is entitled to a clean and healthy environment and has the duty to safeguard and enhance the environment.

(2) The entitlement under subsection (1) includes the right of access and enjoyment of the various public elements and segments of the environment for recreational, educational, health, spiritual and cultural purposes.

Court Redress

10. (1) If a person alleges that the entitlement conferred under section 9 has been, is being or is likely to be contravened, then without prejudice to any other action with respect to the same matter which is lawfully available, that person may apply to a High Court for redress and the High court may make such orders, or give such direction as it may deem appropriate to—

(a) prevent, stop or discontinue any act or omission harmful to the environment;

(b) compel any public officer to take measures to prevent or discontinue any act or omission harmful to the environment;

(c) Require that any on-going activity to an environment audit in accordance with the provisions of this Act.

(d) compel persons responsible for the environmental degradation to restore the degraded environment as far as practicable to its immediate condition prior to the damage; and

(e) Provide compensation for any victim of pollution and the cost of beneficial uses lost as a result of pollution and other losses that are connected with or incidental therewith.

(2) A person intending to file a suit under subsection (1) shall have the capacity to bring an action notwithstanding that such a person cannot show that the defendant's act or omission has caused or is likely to cause him any personal loss or injury provided that such action is not frivolous or vexatious or is not an abuse of the court process.

PART IV—WASTE MANAGEMENT

Duty to Manage Waste

11. Waste management shall be a shared responsibility amongst all actors including the county government, generators, owners and occupiers of premises and contracted service providers.

Material Recovery

12. The Executive Committee Member shall establish material recovery guidelines and undertake activities to facilitate and promote recovery of waste materials through reduction, re-use, recycling and composting of waste by the various actors in solid waste management.

Categorization and Handling of Waste

13. (1) The Executive Committee Member shall, through waste regulations, divide wastes generated in the county into various categories depending on their physical or chemical characteristics and provide for the necessary manner of the handling of such waste so as to guarantee the health and safety of all, including but not limited to the waste handlers, as well as the wellbeing of the environment.

(2) The categories of wastes referred to in subsection (1) shall include—

(a) market waste;

(b) biomedical or clinical waste;

(c) e-waste;

(d) construction and demolitions waste;

(e) industrial waste;

(f) agricultural waste;

(g) hazardous waste;

(h) junk waste;

(i) plastic waste; and

(j) Any other category of waste as the county executive committee may determine.

Prohibition Against Dangerous Handling and Disposal of Waste

14. (1) No person shall discharge or dispose of any waste, whether generated within or outside the county, in such manner as to cause pollution to the environment or ill health to any person.

(2) No person shall discharge or dispose of any wastes except under and in accordance with the provisions of this Act.

Charges for Waste Management

15. The Executive Committee Member may by a notice in the gazette impose a charge on generators of wastes within the county for purposes of meeting the cost of waste management.

Licence to Transport Waste

16. (1) No person shall transport any waste other than—

(a) in accordance with a valid license to transport waste issued by the Executive committee Member; and

(b) To a waste disposal site established in accordance with this Act.

(2) Any person who contravenes any provisions of this section commits an offence and shall be liable upon conviction to a fine not exceeding fifty thousand shillings or a term of imprisonment of not more than six months or to both.

Private and Public Involvement in Waste Management

17. (1) The County Government shall allow for, and facilitate the participation of all persons including individuals, corporate entities, and community and neighbourhood associations and organizations in all aspects of waste management in order to attain and maintain high and sustainable standards in waste management within the county.

(2) The Executive Committee Member shall establish mechanisms for the involvement of the various actors in waste management in the county and these mechanisms may include—

(a) franchise system;

(b) management contracts paid for by the county government; or

(c) Any other arrangement for provision of specified waste management services.

(3) No person or firm shall deal with garbage collection within the County without a valid license issued by the Department.

(4) Any person, firm or group licensed to carry out garbage collection and transportation, or disposal of any waste and which flouts any clause or clauses or part thereof of waste management agreement or policy guidelines in

private sector involvement in waste management commits an offence.

Zoning

18. (1) The Executive Committee Member may by notice in the *gazette* divide the county into such zones for purposes of convenient management of waste collection and transportation and may from time to time alter such zones.

(2) Any person or firm authorized to collect and transport waste shall be guilty of an offence if he or she operates outside the zone in which he or she is authorized to operate.

Application for Waste Handling License

19. (1) A person intending to collect, sort, separate, salvage, reuse, recycle or transport any solid waste in the county shall make an application in a prescribed form to the Executive Committee Member where the activity is to take place and shall pay a prescribed fee.

(2) Where the Executive Committee Member rejects an application made under this section, the Executive committee Member shall within twenty one days of his decision notify the applicant of the decision specifying the reasons.

(3) Any vehicle used for transportation of waste or any other means of conveyance shall be labelled in such a manner as may be prescribed

Cancellation of Waste Handling License

20. (1) The Executive Committee Member may where a licensee fails to comply with the whole or any part of the licensing conditions and upon giving notice cancel or vary a license issued under section 19.

(2) Any person aggrieved by a cancellation of licence under this section may upon complying with the licensing conditions re apply for a license.

Duty to Ensure Safe Refuse Disposal

21. (1) Every person has a duty to ensure safe and sanitary disposal of his or her refuse.

(2) Every occupier of any premises shall ensure safe and sanitary disposal of his and her refuse and show proof thereof.

(3) It shall be sufficient proof of safe disposal of refuse if an occupier has an authenticated payment receipt from a licensed garbage collector.

(4) Any person who fails to dispose of refuse in a safe and sanitary manner commits an offence and is liable upon conviction to a fine not exceeding fifty thousand shillings or imprisonment for a term not exceeding twelve months or both.

Prohibition Against Littering

22. Any person who throws or causes litter to be thrown in a public place or deposits or otherwise disposes off litter in any place other than in the litter bins provided commits an offence and shall upon conviction be liable to a fine not exceeding thirty thousand shillings or to a term not exceeding three months imprisonment or to both.

Obstruction of Access for Refuse Removal

23. (1)No person shall erect, cause to be erected or permit the erection of any structure or otherwise obstruct an already provided access for the purpose of refuse removal from any premises.

(2) Any person who contravenes the provisions of subsection (1) above commits an offence and shall be liable upon conviction to a fine not exceeding fifty thousand shillings or to six months imprisonment.

Provision of Refuse Receptacles

24. The Executive Committee Member or any other authorized person may issue notice requiring the owner or occupier of any premises within the County to provide such number of refuse receptacles and of specific types as it shall be deemed reasonable for the reception of domestic or trade refuse.

Approval of Refuse Receptacles

25. (1) No person shall place or allow usage of a refuse receptacle in a public place which is not of such a design, size shape and quality recommended by the Executive Committee Member.

(2) Any persons who contravenes the provisions of sub-section (1) above commits an offence and shall be liable upon conviction to a fine not exceeding fifty thousand shillings or in default six months imprisonment or both such fine and imprisonment.

Junk Waste Disposal.

26. (1) No owner or occupier may keep or allow to be kept junk waste in public premises.

(2) Where any junk waste is found abandoned in any public place, the authorized officer shall take immediate steps to remove such junk waste and dispose of it in such manner as he or she may deem fit.

(3) Any disposal by the authorized officer under subsection (2) shall be at the expense of the owner of such premises or of the junk waste, where such owner is known.

Refuse Receptacle Site

27. Every owner or occupier of any premises shall cause all refuse bins upon his premises to be placed and kept in an approved place upon his premises or elsewhere as directed by the Executive Committee Member or any other authorized person so as to be accessible to the County Government refuse removal staff.

PART V—AIR POLLUTION

Control of Air Pollution

28. The Department is in addition to the responsibilities imposed under section 5 shall also undertake the—

(a) promotion of alternative cooking technologies that are non-polluting;

(b) development of well-ventilated buildings;

(c) regulation of smoking in public places; and

(d) Promotion of tree planting and expansion of forest cover.

Permitted operations

29. The following operations shall be permissible under this Act provided that they are not used for the disposal of refuse—

(a) back-burning to control or suppress wildfires;

(b) fire-fighting rehearsals or drills conducted by fire service agencies;

(c) burning for purposes of public health protection; and

(d) Emissions of air pollutants from all stationary and mobile sources as set out under the Regulations.

Prohibition Against Air Pollution

30. No person shall without a license—

(a) act in a way that directly or indirectly causes, or is likely to cause immediate or subsequent air pollution; or

(b) emit any liquid, solid or gaseous substance or deposit any such substance, contrary to the license issued under this Act or other relevant

law.

Liaising with lead agencies

31. The Department shall liaise with relevant lead agencies, from time to time regarding;

(a) methods of abating and regulating air pollution;

(b) determining protected areas and special areas;

(c) clean up of any air pollution where necessary; and

(d) Declaring any area exempted from the provisions of this Act.

Issuance, Renewal and Cancellation of Licenses

32. (1) The Executive Committee Member may refuse to grant or renew a license or cancel a license with respect to any activity relating to-

(a) the use of premises as a theatre, music hall, concert room or other place of amusement, or as a restaurant or eating house;

(b) for the carrying on of any work or trade;

On grounds that—

(i) the method adopted or proposed to be adopted by the applicant for preventing noxious or offensive vapours, gases or smells arising from such work or trade are not efficient; or

(ii) The granting or renewal of such license would be calculated to cause nuisance or annoyance to persons residing in the neighbourhood.

(2) The Director may cancel any license granted by him on any such grounds as he may by law specify and, in addition, on any of the following grounds, whether specified in such law or not with respect to any license for the carrying on of any work or trade declared to be an offensive trade—

(i) that the methods adopted by the applicant for preventing noxious or offensive vapours, gases or smells arising from the work or trade have become ineffective;

(ii) that the premises used by the holder of the license have become unsuitable for the

purpose; and

(iii) That it is contrary to the public interest for such license to remain in force.

Smoking in Public Places.

33. (1) No person shall smoke a tobacco product or hold a lighted tobacco product in an enclosed indoor area of a public place or public vessel.

(2) Notwithstanding the provisions of sub-section (1), the Executive committee Member may by notice prohibit or restrict smoking in a specified outdoor public place where persons are likely to congregate within close proximity to one another or where smoking may pose a fire or other hazard;

(3) Any person who contravenes any of the provisions of this section commits an offence.

Display of Signs in Non-Smoking Areas.

34. (1) The owner or manager of a public place or any public vessel in which smoking is prohibited under this Act shall post clearly legible signs stating that smoking is prohibited.

(2) The signs under subsection (1) shall be displayed in the national languages and may in addition be displayed in the language most widely spoken by the people of the area.

Protection of Non-Smokers

35. The Department shall, in collaboration with other relevant departments and agencies, promote public awareness on measures to safeguard the health of non--smokers from second-hand smoke.

PART VI—NUISANCES

Public Nuisance

36. No person shall cause a nuisance or shall suffer to existing land or premises owned or occupied by him or of which he is in charge of any environmental nuisance or other condition liable to promote environmental degradation or dangerous to health.

Prevention of Nuisances

37. The County shall take all lawful, necessary and reasonably practicable measures for preventing or causing to be prevented or remedied all conditions liable to be injurious or dangerous to the environment health and take proceedings at law against any person responsible for the continuance of any environmental nuisance.

Failure to Comply with Notice Requirements

38. (1) If the person on whom the notice to remove nuisance has been served, fails to comply with any of the requirements thereof within the time specified, the Executive committee Member shall cause a complaint relating to such nuisance to be made before a Magistrate, who shall thereupon issue summons requiring the person upon whom the notice was served to appear before the court.

(2) The author of the nuisance shall be the person by whose act, default or sufferance nuisance is caused, exists or is continued, whether he is the owner occupier or both owner and occupier or any other person.

Provided that—

(a) where the nuisance arises from any or defects of a structural character, or where the dwelling or premises are unoccupied, the notice shall be served on the owner;

(b) Where the author of the nuisance cannot be found and it is clear that the nuisance does not arise or continue by the act or default of the occupier or owner of the dwelling or premises, Executive committee Member shall remove the same and may do what is necessary to prevent the recurrence thereof.

Bond to Appear in Court

39. If it appears in the opinion of the Executive committee Member, it is appropriate; any person who contravenes any of the provisions of this Act may be bonded to appear in court or may be otherwise dealt with in accordance with the provisions of this Act. Such bonds shall be issued by the Executive committee Member or any other person authorized by the Executive committee Member.

Continuity of the Offence

40. (1) If the court is satisfied that the environmental nuisance continues to exist even after conviction, the court shall make an order on the author thereof or occupier of the dwelling or premises, requiring him to comply with all or any of the requirements of the notice or otherwise to remove the nuisance within the time specified in the order and to do any works necessary for that purpose.

(2) The court may by such order impose a fine not exceeding five thousand shillings for every day during which the default or contravention continues.

General nuisances

41. Any person who in any street without a permit;

(i) ignites any firework;

(ii) lights or maintains or suffers to be lit or maintained any fire or brazier in the central area as defined in any laws of the County for the time being in force.

(iii) for the purpose of hawking, selling, distributing or advertising any article or event, shouts or uses any bell, gong, or other noisy instrument or loudspeaker;

(iv) defecates or urinates on the street or any open space;

(vi) draws graffiti on any public building; or

(vii) to the inconvenience or danger of any person carries or conveys any bag of lime, charcoal, or other offensive material, timber or any pointed or edged tools or implements not properly guarded; Commits an offence.

PART VII—OUTDOOR ADVERTISING

Illegal Outdoor Advertisement

42. Any person who, in or in view of, any street or public place, erects, fixes, places, maintains, displays or uses or permits to be erected, fixed, placed, maintained, displays or used; any advertisements devise without first obtaining a permit, or otherwise than in accordance with the terms and conditions of a permit commits an offence.

Application for Permit

43. (1) A person intending to put up an advertisement by way of billboards, banners signposts, posters or any other manner in a public place within the county shall make an application in a prescribed form to the department in the sub-county where the advertisement is to be put up and shall pay a prescribed fee.

(2) Every application for a permit shall be made in writing to the Director and shall be accompanied by a plan or sketch showing, to the satisfaction of the Director, the position of the proposal advertising device or notice, its dimensions and the method of execution and stating the material of which it is to be composed or it is constructed, its colour and such other information as the Executive Member may require.

Unauthorized Outdoor Advertising

44. Any person who without a permit—

(a) draws, wheels or drives any vehicles or carries any board or placard used solely or chiefly for the purpose of exhibiting advertisements;

(b) for the purpose of advertising, distributes any hand bill or other paper;

(c) defaces a public place by pasting posters, writing or other marks Commits an offence.

PART VIII—NOISE POLLUTION

Noise Pollution Prohibited

45. (1) Any person who makes or causes noise which contravenes minimum standards for emissions of noise and vibration pollution into the environment as prescribed in the national environment laws or as prescribed by the Executive Committee Member is guilty of an offence.

(2) An authorised officer may confiscate loud speakers or any equipment which is causing noise pollution.

Use of Public Address System

46. Any person who uses a public address system for whatever reason including road shows and auctions shall be required to get authority of the Executive Committee Member or relevant officer.

PART IX—ENFORCEMENT

Authorized Officers

47. (1) The Executive Committee Member shall appoint for each sub-county, any person or class of persons in the employment of the Board to be authorized officers for purposes of this Act.

(2) Notwithstanding the provisions of this section, the following officers shall be deemed to be authorized officers for the purposes of this Act—

(a) public health officers appointed under the Public Health Act ;

(b) officers appointed as enforcement officers under County Legislation, the National Police Service Act, and Environmental Management and Coordination Act; and

(c) Any other person upon whom any written law vests functions of the maintenance of law and order.

Duties of Authorised Officers

48. An authorised officer shall—

(a) monitor compliance with the environmental standards established under this Act; and

(b) perform such other functions as may be required under this Act;

Powers of Authorised Officers

49. (1) For the purposes of ensuring compliance with this Act, an authorised officer may, at any reasonable time;

(a) enter any place in which the officer believes on reasonable grounds that any person or persons is in any way contravening the provisions of this Act and make examinations and enquiries;

(b) require the production or examination of any licences, permits or other relevant documents relating to such premises;

(c) carry out periodic inspection of all establishments within their respective jurisdictional limits which manufacture, produce as by- products, import, store, sell or distribute or use any substances that are likely to have significant impact on the environment; and

(d) With the written approval of the executive member order the immediate closure of any manufacturing plant or other establishment or undertaking which is causing or is likely to cause significant pollution to the environment.

(2) Pursuant to Article 24(2) of the Constitution, the right to privacy set out in Article 31 of the Constitution is limited to the extent specified in this section for the purpose of monitoring and ensuring compliance with this Act.

(3) No suit, or other legal proceedings shall lie against an authorised officer for anything done in the performance of his duties, in good faith and without negligence under this Act.

Restriction to Enter Dwelling Place

50. An authorised officer may not enter a dwelling place except with the consent of the occupant or under the authority of a warrant issued by a court of competent jurisdiction.

Obstruction of Authorized Officers

51. No person shall obstruct or hinder, or knowingly make a false or misleading statement to an authorised officer who is carrying out duties under this Act.

Service of notices

52. (1) Any notice required or authorized to be sent or served for the purposes of this Act may be sent or served;

(a) by delivering it to the person to or on whom it is to be sent or served; or

(b) by leaving it at the usual or last known place of abode or business of that person, or, in the case of a company, at its registered office; or

(c) by ordinary or registered post; or

(d) by fixing or pasting it on a conspicuous place within the premises; or

(e) By any method which may be prescribed.

(2) However, if an authorised officer having attempted to send or serve a notice by one of the methods provided under subsection (1) and is satisfied that such notice has not been received by the person to whom it was addressed, he may advertise, in the Gazette and in one or more newspapers circulating in the county, the general purport of such document, and upon such advertising the document shall be deemed to have been received by that person.

PART X—MISCELLANEOUS PROVISIONS

Offence by Body Corporate, Partnerships, etc.

53. (1) Where an offence is committed under this Act by a body corporate, the body corporate and every director or officer of the corporate who had knowledge of the commission of the offence and who did not exercise due diligence, efficiency and economy to ensure compliance with this Act shall be guilty of the offence.

(2) Where an offence is committed under this Act by a partnership, every partner or officer of the partnership who had knowledge of the commission of the offence and who did not exercise due diligence, efficiency and economy to ensure compliance with this Act commits an offence.

(3) A person shall be personally liable for an offence against this Act, whether committed by him or his or her own account or as an agent or servant of another person.

(4) An employer or principal shall be liable for an offence against this Act, unless the employer or principal proves that the offence was committed against his or her express or standing directions.

General Offence and Penalty

54. Any person who contravenes any section of this Act where no penalty is expressly stated commits an offence and shall be liable upon conviction, to a fine not exceeding fifty thousand shillings or to imprisonment for a term not exceeding twelve months or to both.

Regulations

55. (1) Subject to provisions of national or related pieces of legislation, the Executive Committee Member may, make Regulations for the better carrying out of this Act.

(2) Without prejudice to the generality of subsection (1), the regulations may—

(a) prescribe the forms of applications, notices, licenses, permits and other documents for use under this Act;

(b) prescribe the fees payable under this Act;

(c) set standards for the purpose of enhancing environmental quality of its residents ;

(d) regulate the playing of musical instruments or the singing or performing for profit, in or on any public place;

(e) regulate all businesses, factories and workshops which, by reason of noise, vibration or other cause, may be or become a source of danger, discomfort or annoyance to the neighbourhood;

(f) prohibit anything required by this Act to be prohibited;

(g) prescribe the conditions subject to which such businesses, factories and workshops shall be carried on;

(h) prohibit or control the display of advertisements and advertising devices; and

(i) regulate the use and passage of advertising vans, sandwich boards, lanterns, flags, screens or other moveable advertising devices;

County Environmental Committee

56. The Executive Committee Member may establish a county environmental committee for the purpose of advising in formulation of environmental standards and other relevant environmental issues.

Transitional Provisions

57. Any person who, at the commencement of this Act, owns or operates a waste disposal site or plant, shall apply to the Executive Committee Member for a license under this part, within four months after the commencement of this Act.