

REPUBLIC OF VANUATU
WASTE MANAGEMENT ACT NO. 24 OF 2014

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REPUBLIC OF VANUATU

Assent: 19/06/2014

Commencement: 26/06/2014

WASTE MANAGEMENT ACT NO. 24 OF 2014

An Act to provide for the protection of the environment through encouragement of effective waste services and operations.

Be it enacted by the President and Parliament as follows-

PART 1 PRELIMINARY MATTERS

1 Interpretation

(1) In this Act, unless the contrary intention appears:

Act includes Regulations made under this Act;

authorised dumping site means any waste dump or waste disposal facility operated by a Municipal Council or a Provincial Government Council, or by any other agency in accordance with any waste related law;

authorised officer means a person appointed by the Director under section 6;

body corporate includes any licensed business;

bulk waste includes:

- (a) vehicle bodies, or any part of them; or
- (b) vehicle engines, or any part of them; or
- (c) retreaded or second hand tyres; or
- (d) vehicle or marine batteries, or any of their component parts; or
- (e) refrigerators, freezer units, stoves and cookers, washing machines, and similar household or commercial appliances; or
- (f) paint tins or empty cylinder drums; or
- (g) construction or demolition waste; or
- (h) any other item to be disposed of which cannot be effectively disposed of by regular waste collection services provided to residential or commercial premises;

Department means the Department of Environmental Protection and Conservation;

deposit, in relation to litter or waste, includes:

- (a) casting, placing, throwing or dropping; and
- (b) allowing litter or waste to be cast, thrown, dropped or to escape from any motor vehicle, trailer, ship, boat, vessel or craft;

designated waste management operator means any of the following:

- (a) a Municipal Council or a Provincial Government Council in accordance with subsection 19(1); or

(b) the Department in accordance with subsection 19(3);

Director means the Director of the Department of Environmental Protection and Conservation;

discharge and **dump**, includes depositing, allowing to escape, or failing to prevent the discharge of any waste;

environment includes all natural, physical and social resources and ecosystems or parts thereof, people and culture and the relationship that exists between these elements;

hazardous waste and **hazardous substance** means:

(a) any waste or substances which are, or which have the potential to be, toxic or poisonous, or which may cause injury or damage to human health or to the environment, including all persistent organic pollutants; and

(b) any specific substance, object or thing determined under any law to be a hazardous waste or a hazardous substance; and

(c) any other matter or thing deemed under international conventions applicable to Vanuatu to be hazardous waste or hazardous substances, or to have the characteristics of hazardous waste or substances;

head of a designated waste management operator means:

(a) in relation to a Municipal Council – the Municipal Town Clerk;
or

(b) in relation to a Provincial Government Council- the relevant Provincial Government Council Secretary General;

licence means a licence granted under this Act or any other law applying licensing requirements to waste operations and the provision of waste services;

Minister means the Minister responsible for the Environment;

Municipalities means all Municipalities as declared under the Municipalities Act [CAP 126];

ozone depleting substance means anything prohibited or regulated as a controlled substance under the Ozone Layer Protection Act No. 27 of

2010;

occupier, in relation to any premises, means a person who occupies or controls those premises or a part of the premises (whether or not that person owns the premises or that part of them);

persistent organic pollutant means any of the chemicals or substances regulated, from time to time, under the Stockholm Convention, including any substance or thing which is or contains aldrin, chlordane, DDT, dieldrin, endrin, heptachlor, mirex, toxaphene, hexachlorobenzene or polychlorinated biphenyls;

premises means residential, commercial, industrial or other premises of any kind;

prescribed form means a form prescribed by regulations made under this Act, or in the absence of any relevant Regulations, a form approved for any purpose under this Act by the Director;

public place includes:

(a) any road, street, private roadway, footpath, access way, drain, service lane, thoroughfare, wharf, pier, jetty and airport to which the public has access; and

(b) any park and reserve, and any place of public recreation to which the public has access, whether with or without payment of any fee; and

(c) any beach or foreshore, mangrove area, swamp or any other similar place to which the public has access; and

(d) any other place whether public or private in the open air to which the public has access, whether with or without payment of any fee,

but does not include an authorised dumping site, or any rubbish bin or receptacle in a public place;

repeat offender means an individual who has committed a same offence on a previous occasion;

solid waste includes:

(a) garbage, household refuse, rubbish, scraps, electronic waste, trade and industrial waste, in solid form; or

(b) any other matter or thing determined under section 13 to be waste for the purposes of this Act,

but does not include human waste except in the form of sludge or any other form intended for final disposal as a waste product;

Stockholm Convention means the Stockholm Convention on Persistent Organic Pollutants ratified by the Stockholm Convention on Persistent Organic Pollutants (Ratification) Act [CAP 301];

waste includes:

(a) solid waste; or

(b) bulk waste; or

(c) any other matter or thing determined from time to time to be waste in accordance with this Act,

but does not include liquid waste such as raw sewage and wastewater, or gaseous wastes;

waste disposal facility includes:

(a) landfill sites; or

(b) waste transfer stations; or

(c) recycling centres; or

(d) waste treatment plants;

waste dump means an open waste disposal site;

waste related conventions applying to Vanuatu includes the Stockholm Convention and the Waigani Convention, and any other International Convention relating to the management of waste that is ratified by Vanuatu;

waste service area means each of the areas designated for the provision of waste operations and services under section 18.

(2) If power is given under this Act to regulate any matter, act or thing, then that power is taken to include a power to prohibit any matter, act or thing for the purpose of implementing the provisions of this Act.

2 Application of precautionary principle

(1) Any person or agency that:

- (a) has a responsibility under this Act; or
- (b) whose functions and powers may relate to any matter or thing involving the environment,

must apply the precautionary principle when discharging their responsibilities or functions, or exercising their powers.

(2) For the purposes of this section, the precautionary principle is applied if, in the event of a threat or damage to the environment or human health exists in Vanuatu, a lack of full scientific certainty regarding the extent adverse effects of the threat or damage is not to be used to prevent or avoid a decision being made to minimise the potential adverse effects or risks of environmental damage or degradation.

3 Functions of the Director

(1) The Director is responsible for the development, coordination and, where appropriate, implementation of the Government's waste and litter minimisation policies and programs.

(2) In carrying out the functions outlined in subsection (1), the Director is to carry out the following:

- (a) administer the system under Part 2 of this Act; and
- (b) in the absence of relevant regulations, prepare guidelines and standards for the purpose of giving effect to this Act; and
- (c) undertake environmental assessment, monitoring, and inspection generally; and
- (d) undertake such other duties and responsibilities as may lawfully be required.

4 Powers of the Director

The Director has the powers conferred by this Act and such other powers as may be necessary or convenient for the performance of his or her functions under this Act.

5 Delegation of powers of the Director

(1) The Director may from time to time in writing either generally or specifically, delegate to any staff of the Department or to any authorised officer, all or any of the functions or powers exercisable by the Director under this Act, with the

exception of the power of delegation.

(2) By delegating a function or power, the Director does not remove his or her own personal responsibility for such function or power which, in addition to the delegated person, remains with the Director at all times.

(3) The Director may exercise a function or power notwithstanding that he or she has delegated its exercise under this section.

(4) The Director may at any time revoke or vary a delegation made under this section.

6 Authorised officer

(1) The Director may, in writing, appoint a person not employed by the Department as an authorised officer for the purpose of administering this Act.

(2) The powers and functions of an authorised officer is to be stated in his or her instrument of appointment.

(3) The Director must consult with the Public Service Commission or the relevant Municipal Council or Provincial Government Council before appointing an authorised officer under subsection (1).

PART 2 RESPONSIBILITIES FOR WASTE MANAGEMENT

7 Waste management responsibilities

(1) Subject to this Act and any other written law that specifically gives powers and responsibilities to any government agency to manage waste, the responsibility for managing waste in Vanuatu is to be exercised as provided for in this section and in Part 3.

(2) The Department is responsible for implementing International Conventions and Treaties that relate to the management of hazardous waste.

(3) A waste management operator designated under section 19 is responsible for providing waste collection services to residential and commercial premises in accordance with Part 4.

(4) A waste dump or a waste disposal site is to be managed by:

(a) each relevant Municipal Council or Provincial Government Council; or

(b) the Ministry of Health or the Department of Biosecurity in relation to their roles under subsections (6) and (7), respectively; or

(c) the Department, if there is a need for additional technical and

operational capacity for the proper disposal of waste.

(5) The collection and disposal of waste that cannot be managed by the normal waste collection services to residential and commercial premises, is to be undertaken in accordance with any requirements imposed from by the Director.

(6) The Ministry of Health is to collect and dispose of all medical waste and on the request of the Director, is to prepare and submit a report relating to any aspect of waste management under its responsibility.

(7) The Department of Biosecurity is to collect and dispose of waste that is designated under any written law to be biosecurity waste and on the request of the Director, is to prepare and submit a report relating to any aspect of waste management under its responsibility.

8 Cleaning of streets

The designated waste management operator is to be responsible for cleaning streets and public areas, and providing waste disposal receptacle in public places.

9 National waste management strategy

(1) The Director is responsible for formulating and implementing a National Waste Management Strategy, and the implementation of programs and projects in support of that Strategy.

(2) For the purposes of this section, the purpose of the National Waste Management Strategy is to minimize the generation of waste and waste going to landfill, while maximizing the recovery of resources and improving the management of residual waste using environmentally sound techniques suited to local conditions.

(3) The Director is to ensure that the National Waste Management Strategy, and the programs and projects implementing the Strategy, make adequate arrangements in relation to:

(a) identifying the operational needs for effective waste management, and the implementation of these needs in a coordinated and planned manner; and

(b) identifying land and resources needed for the effective collection and disposal of waste; and

(c) applying and enforcing operational standards in relation to waste operations and service; and

(d) maintaining appropriate levels of waste management services which are cost effective; and

- (e) minimising the generation of waste within Vanuatu; and
- (f) promoting the reuse and recycling of waste, and ensuring that recycling operations are undertaken in accordance with appropriate regulatory requirements; and
- (g) particular arrangements for the collection, transportation, storage and disposal of hazardous waste; and
- (h) the recording of statistics in relation to waste management, and the effective application of such information in the waste planning processes; and
- (i) ensuring that adequate arrangements are made for the rehabilitation of areas used for the dumping and disposal of waste after such operations have ceased.

(4) Each Municipal Council or Provincial Government Council is to collaborate with the relevant designated waste management operator and the Ministry or government agency that is responsible for managing waste in formulating policies, strategies and programs for the Municipal Council or Provincial Government Council.

10 Municipal and Provincial Government waste management plan

(1) Each Municipal Council or a Provincial Government Council must formulate, adopt and implement an annual Waste Management Plan that provides for the following:

- (a) objectives and policies for achieving effective and efficient waste management and minimisation within the municipality or Provincial Government region; and
- (b) methods for achieving effective and efficient waste management and waste minimisation within the municipality or Provincial Government region, including:
 - (i) reduction, reuse, recycling, recovery, treatment, disposal collection, transportation and disposal services to meet its current and future waste management and minimisation needs of the Municipal Council or Provincial Government Council; and
 - (ii) any waste management and minimisation facilities provided or to be provided by the Municipal Council or Provincial Government Council; and

(iii) any waste management and minimisation activities provided or to be provided by the Municipal Council or Provincial Government Council; and

(iv) how to implement the National Waste Management Strategy; and

(v) how the revenue generated from fees collected under Division 3 of Part 4 will be spent; and

(vi) how the National Waste Management Strategy will be monitored; and

(vii) when the National Waste Management Strategy will be reviewed.

(2) The Provincial Government Council and the Municipal Council is to ensure that owners, occupiers of premises within the waste service area and licensed waste operators operating within the waste service area are given an adequate opportunity to express their views and interests during the formulation of the Waste Management Plan.

(3) The Provincial Government Council and Municipal Council must consult with the Director during the formulation of the Waste Management Plan.

(4) Any Provincial Government Council and Municipal Council in the same waste service area must consult each other in the preparation of their Waste Management Plan.

11 Environmental, biosecurity and public health standards

(1) Subject to subsections (3), (4) and (5), environmental standards relating to waste management practices and facilities are to be approved by the Minister.

(2) The Director is responsible for the monitoring and enforcing the prescribed standards.

(3) The Ministry responsible for Health is responsible for enforcing the approved environmental standards relating to public health and medical waste.

(4) The Department of Biosecurity is responsible for enforcing the approved environmental standards relating to biosecurity-related waste.

(5) Standards imposed under this section may be applied to designated waste management operators and to any other persons identified in the applicable standard who are involved in waste operations or the provision of waste services.

PART 3 GENERAL POWERS IN RELATION TO WASTE

(6) A person, to whom an approved standard applies, who fails or refuses to comply with the standard, is guilty of an offence punishable on conviction to a fine not exceeding VT100,000.

(7) In addition to any fine imposed under subsection (6), the failure to observe or comply with an approved standard is grounds for:

- (a) suspending or revoking any registration or licence applying to the person in breach; or
- (b) refusing any subsequent registration or licence sought by the person in breach; or
- (c) the termination of a contract between a designated waste management operator and the person in breach.

12 Audit of waste generation and disposal

(1) The Director is to undertake an annual audit of the waste generated and disposed of in Vanuatu.

(2) The Director may require:

- (a) any designated waste management operator; and
- (b) any holder of a licence issued under this Act; and
- (c) any other person conducting any waste related operation or providing any waste services,

to undertake or participate in any audit of waste generated or disposed of during any period.

(3) Section 17 applies to all persons listed in paragraphs (2)(a), (b) and (c).

PART 3 GENERAL POWERS IN RELATION TO WASTE

13 Designation of waste

(1) Any object, substance or thing may be determined to be a waste or hazardous waste:

- (a) by regulations made by the Minister declaring any class or type of object, substance or thing to be waste or a hazardous waste; or
- (b) by the service of a written notice on a person who appears to own or control the object, substance or thing declaring any particular object, substance or thing to be waste or a hazardous waste.

(2) A notice under paragraph (1)(b) may be served by the Director, or the head of a waste management operator.

14 Controls over certain waste

(1) The Minister may by regulation impose requirements in relation to certain wastes that have adverse impacts on the environment or human health by:

- (a) prohibiting the importation, exportation, manufacture, use, storage or transportation of certain objects, substances or things which may become waste; or
- (b) regulating the importation, exportation, manufacture, use, storage or transportation of certain objects, substances or things which may become waste, and imposing conditions in relation to them; or
- (c) requiring the lodging of a deposit in relation to certain objects, substances or things which may become waste to ensure their appropriate disposal by recycling or otherwise; or
- (d) imposing obligations on persons importing, exporting, using or manufacturing certain objects, substances or things which may become waste in relation to their eventual disposal.

(2) Regulations made under this section may prescribe offences and impose the following penalties:

- (a) a fine not exceeding VT500,000 for individuals and not less than VT1,000,000 for corporations or persons who commit this offence on more than one occasion; or
- (b) imprisonment for not more than 3 months; or
- (c) both a fine and imprisonment.

(3) Any object, substance or thing prohibited under paragraph (1)(a) is deemed to be a prohibited import for the purposes of section 65 of the Customs Act No. 7 of 2013.

15 Licensing of private waste operators

(1) This section does not apply to a Municipal Council, a Provincial Government Council or the Department.

(2) A person who wishes to:

- (a) operate a landfill site; or

- (b) operate a waste dump; or
- (c) operate any waste facility; or
- (d) undertakes any waste management operation or service as prescribed by the Minister,

may apply to the Director for a licence to undertake such an activity.

(3) The Director may, after consultation with the head of the relevant designated waste management operator, issue a licence to any person who intends to conduct an activity listed in subsection (2) if:

- (a) the application is made in the form approved by the Director; and
- (b) the prescribed fee has been paid.

(4) A licence issued under this section is valid for a period not exceeding 3 years from the date on which it is issued, and may be renewed for periods not exceeding 3 years.

(5) A licence is not transferable.

(6) The Director may suspend a licence if the licence holder has:

- (a) failed to comply with a condition of the licence; or
- (b) failed to comply with an abatement notice issued under this Act or any other Act; or
- (c) failed to comply with any lawful instruction or direction issued by the Director under this Act or any other Act.

(7) The Director may revoke a licence if he or she is satisfied that the licence holder has:

- (a) been convicted of any offence against this Act; or
- (b) provided false or misleading information in relation to the application for the licence; or
- (c) repeatedly failed to comply with a condition of the licence.

(8) A person who operates a landfill site, a waste dump or any waste facility, or undertakes any waste management operation or service without a licence issued

by the Director, or in breach of any condition of a licence granted under this section, is guilty of an offence punishable on conviction:

- (a) if the person is an individual – by a fine not exceeding VT500,000 or by a term of imprisonment of not more than 6 months, or both; or
- (b) if the person is a body corporate – by a fine not exceeding VT1,000,000.

16 Condition of licence

- (1) A licence issued under section 15 is subject to the conditions imposed under this Act and any other conditions prescribed by regulations.
- (2) A holder of a licence must comply with all legal requirements applying to development controls, environment protection, environmental impact assessment and the health and safety of workers in the workplace.
- (3) A holder of a licence who breaches a condition of the licence may have the licence revoked under subsection 15(7) or convicted or fined under subsection 15(8).

17 Requirement to provide information

- (1) A holder of licence issued under this Act or any person conducting any waste related operation, business or activity must provide all information, statistics and copies of records relating to any waste operation that is required to be provided by the Director from time to time.
- (2) If an international waste related convention requires that a report be made, or that any information or data be collected and provided, the Director may make a written request to a licence holder to provide the information or data.
- (3) A person to whom a written request has been made under this section who refuses or fails to comply with the request, is guilty of an offence punishable on conviction to a fine not exceeding VT100,000.

PART 4 WASTE MANAGEMENT OPERATIONS

Division 1 Waste service areas and designated waste management operators

18 Designation of waste service areas

- (1) The waste service areas within Vanuatu are the Provincial Government Council regions declared under the Decentralisation Act [CAP 230] and the Municipal Councils as declared under the Municipalities Act [CAP 126].
- (2) This section does not affect the functions and powers of the Director:

(a) to provide certain waste management operations, services and programs on a nation-wide basis; or

(b) for the purposes of managing waste which is beyond the capacity of designated waste management operators to deal with.

19 Designated waste management operators

(1) The designated waste management operator for each waste service area is to be the relevant Municipal Council or Provincial Government Council.

(2) A Municipal Council or Provincial Government Council as a designated waste management operator may, after consultation with the Department, make by-laws in relation to any matter provided under this Part.

(3) The Department is a designated waste management operator for the purposes of carrying out the functions specified under subsection 20(2) and any other written law related to waste management.

Division 2 Functions and powers of designated waste management operators

20 Functions of designated waste management operators

(1) A designated waste management operator has the following functions:

(a) to carry out relevant waste service responsibilities under section 7; and

(b) to formulate, adopt and implement a National Waste Management Strategy under section 9; and

(c) to assist the Director to administer the licence regime of private waste operators under section 15; and

(d) to collect fees under Division 3 in the designated waste management operator's waste service area; and

(e) to cooperate with the Director, authorised officers and public health officers in the discharge of their responsibilities relating to the monitoring of waste management processes and facilities; and

(f) to enforce rules, standards and codes of practice relating to the waste management services and facilities provided by or under the control of the designated waste management operator; and

(g) to implement litter and waste control measures, including programs aimed at promoting reuse and recycling of waste, and minimising the

generation of waste; and

(h) to prepare reports in accordance with section 33, maintain statistical records relevant to the management of waste in their waste service area and assist the Director to conduct annual audits of waste generation and disposal under section 12; and

(i) to perform any other functions provided under any other written law.

(2) The Department, as a designated waste management operator, has the following functions:

(a) to introduce programs for the collection and disposal of hazardous and bulk waste;

(b) to monitor the development and management of landfill areas and approved dumping and waste storage sites incorporate comprehensive environmental management systems and measures;

(c) to provide for other appropriate waste treatment, storage and disposal facilities;

(d) to monitor waste management processes and facilities;

(e) to assist the Director to compile statistics and prepare reports relevant to the management of waste in Vanuatu;

(f) to raise public awareness on matters concerning the minimisation of the generation of waste, the reuse and recycling of waste and the effective management of waste;

(g) to formulate and implement policies, programs and initiatives aimed at reduction, reuse and recycling of waste.

21 Powers of designated waste management operators

(1) A designated waste management operator may exercise any power necessary or incidental to the discharge of its functions under this Act, including the power to:

(a) perform any responsibility or exercise any power vested in it under this Act or any other written law;

(b) determine that certain services are compulsory services which must be provided to and accepted by owners and occupiers of premises, and persons who generate waste;

(c) determine that any object, substance or thing is deemed to be waste in accordance with section 13;

(d) do anything necessary to ensure that waste in Vanuatu is managed in an environmentally sound manner with minimum adverse affects to human health;

(e) do anything necessary to assist other government agencies to ensure that Vanuatu is in compliance with its international obligations in relation to the management and movement of waste.

(2) This section does not apply to a contracted waste services operator appointed under section 34.

22 Waste management notice

(1) A designated waste management operator may serve a notice on any person requiring that any waste owned, possessed or under the control of that person:

(a) to be stored, transported or disposed of in any required manner; or

(b) not to be stored, transported or disposed of in any particular manner; or

(c) to be removed from a particular place and properly disposed of; or

(d) to be made available for reuse or recycling in any manner stated in the notice.

(2) A person who contravenes a term or condition of a notice issued under subsection (1), is guilty of an offence punishable on conviction to a fine:

(a) not exceeding VT100,000 in the case of an individual; or

(b) not exceeding VT200,000 in the case of a body corporate, or an individual who commits the offence for a second time.

Division 3 Fees

23 Fees

The Minister may prescribe any fee imposed under this Act.

24 Determination by head of a designated waste management operator

(1) For the purposes of this Division, the head of a designated waste management operator is to determine:

- (a) the status of any premises as residential or commercial; and
- (b) the imposition of additional or increased fees under section 27 to particular premises; and
- (c) whether a particular service is provided as part of the normal garbage or waste collection service, or is another service for which an additional fee is to be imposed.

(2) The Minister may make regulations to prescribe criteria to be applied by the head of a designated waste management operator under subsection (1).

25 Residential waste collection fee

A residential waste collection fee is to be applied to all residential premises located in a designated waste service area, and to all other premises to which the commercial waste collection fee does not apply.

26 Commercial waste collection fee

(1) A commercial waste collection fee is to be applied to all commercial premises located in a designated waste service area.

(2) Despite subsection (1), if the designated waste management operator determines that a commercial premises has made satisfactory arrangements for the proper management and disposal of the waste generated at the premises, the designated waste management operator may reduce or waive the commercial waste collection fee.

(3) The Minister may prescribe the requirements and conditions of a waiver granted under subsection (2).

27 Additional or increased fees

(1) The head of a designated waste management operator may impose an additional or increased fee to any premises or class of premises which:

- (a) generate a particular type of waste or greater quantities of waste; or
- (b) is located in areas that necessitate particular waste collection measures to be applied.

(2) Further fees may be set and imposed under this section for:

- (a) depositing waste at landfill sites and approved dumps;
- (b) the collection, storage or disposal of hazardous waste;

(c) any other waste service provided by a designated waste management operator, including for the collection and disposal of waste from ships and other vessels, and from places outside of the area of the designated waste management authority.

(3) An additional or increased fee imposed by a designated waste management operator must be approved by the Director before it comes to effect.

(4) The Director may vary or refuse to approve an additional or increased fee.

28 Fees for hazardous waste or other services

The head of a designated waste management operator may set the fee for the collection, storage or disposal of a particular hazardous waste, or for the provision of any other service if no sufficient or appropriate fee is prescribed.

29 Interest on unpaid dues

A designated waste management operator may charge interest at the rate of 10% per annum on any fee not paid within 30 days of the date upon which payment is due.

30 Remission of fees

The head of a designated waste management operator may authorise the remission of a fee or interest charge imposed under this Division if:

(a) an application is made in writing for remission by either the owner or occupier of residential premises; and

(b) the head of a designated waste management operator is satisfied that the residential premises:

(i) has not been or will not be occupied for a continuous period of not less than 3 months; or

(ii) is not accessible to garbage collection vehicles; or

(iii) meets any other conditions or requirements approved by the designated waste management operator as being grounds for the granting of remission.

31 Collection of fees and charges

(1) A fee or interest charge payable to a designated waste management operator in accordance with this Division, may be recovered by the designated waste management operator as a debt.

(2) A fee or interest charge imposed on a premises may be recovered under

subsection (1) from the owner or occupier of the premises.

(3) A fee or interest charge payable to a licence holder under section 15 may be recovered by the licence holder as a debt.

(4) A designated waste management operator may enter into an arrangement for the collection of fees and interest charges by persons or organisations approved by the designated waste management operator to be collection agents.

Division 4 Operation procedures and codes of practice

32 Operating procedures and codes of practice

(1) For purposes of its operations, a designated waste management operator may make and impose rules, operating procedures, guidelines and codes of practice relevant to any aspect of its waste management functions.

(2) A designated waste management operator must consult with the Director before imposing any rules, operating procedures, guidelines or codes of practice under subsection (1).

(3) Without limiting the generality of subsection (1), a designated waste management operator may impose rules regarding any or all of the following:

- (a) the size and nature of waste receptacles;
- (b) the placing of waste and waste receptacles so as to facilitate the collection of waste;
- (c) the provision of stands and requirements to ensure the effective containment of waste;
- (d) the separation of certain types of waste;
- (e) procedures to be observed when waste is disposed of at waste dumps and waste disposal facilities;
- (f) any other matter to facilitate the orderly keeping, collection and disposal of waste.

(4) A designated waste management operator is to display signs at its operational facilities and vehicles that give directions to be observed by all persons within the facilities, or in the vicinity of the vehicles, of a designated waste management operator.

(5) For purposes of ensuring compliance with any rule, operating procedure,

guideline, code of practice, any officer or contractor of a designated waste management operator, may give directions to any person within the areas and facilities of the designated waste management operator.

(6) A person who fails or refuses to comply with any rule, operating procedure, guideline, code of practice or sign made or displayed in accordance with this section, or with any direction given under subsection (5), is guilty of an offence punishable on conviction to a fine not exceeding VT1,000,000.

Division 5 Reporting

33 Reporting by designated waste management operator

A designated waste management operator must:

- (a) prepare and submit reports relating to any aspect of waste management under its responsibility at the request of the Department, the Ministry of Health and the Department of Biosecurity; and
- (b) ensure that the Ministry of Health is immediately notified of any matter related to waste management that comes to its notice which may adversely affect human health; and
- (c) ensure that the Director is immediately notified of any matter related to waste management that comes to its notice which may adversely affect the environment.

Division 6 Contracted waste services

34 Contracted waste services

(1) A designated waste management operator may enter into a contractual arrangement for the provision of services necessary to discharge its functions and to perform its waste management activities related to the collection, transportation disposal and management of waste.

(2) Subject to subsection (3), a contractor engaged by a designated waste management operator in accordance with this section may be authorised to:

- (a) give any necessary direction or impose any necessary operational requirement, consistent with this Act and any regulation, rule, operating procedure or code of practice made under this Act; and
- (b) take any other necessary action or do any other necessary thing in accordance with the contract made with the designated waste management operator.

(3) It is a condition of every contract to which this section relates that the contractor must comply with all legal requirements, applying to development controls, environment protection and the health and safety of workers in the workplace.

Division 7 Recycling

35 Reduction, Reuse and Recycling of waste

(1) A designated waste management operator is to promote the reduction, reuse and recycling of waste and for this purpose rules, operating procedures, guidelines and codes of practice, signs and directions may be made, displayed or given in accordance with section 32.

(2) A person engaged in commercial activities associated with the recycling of waste must:

(a) comply with all requirements imposed under this section; and

(b) ensure that no aspect of their activities gives rise to a breach of Vanuatu's international obligations associated with the movement and management of waste; and

(c) observe internationally accepted practices in relation to their waste related activities.

(3) The Minister may by Order make Regulations to require persons or companies engaged in commercial activities associated with the recycling of waste be registered or licensed, and that such requirements may be administered by the Department.

Division 8 Indemnities and protection of assets

36 Indemnities for staff of designated waste management operators

(1) A civil or criminal liability action is not to be taken against a staff of a designated waste management operator in respect of anything done or omitted to be done by the officer in good faith in the execution or purported execution of his or her functions, powers, duties and responsibilities under this Act or any other written law.

(2) Subsection (1) also applies to any contractor, and its employees, engaged by a designated waste management operator in accordance with section 34, and which is acting in accordance with its obligations to the designated waste management operator.

37 Protection of assets of designated waste management operators

The assets of a designated waste management operator are not to be subject to distress or be taken in execution of any legal proceedings against the operator, its staff or its contractors, if the asset is:

- (a) any building, plant, equipment or installation used at or situated at a landfill or waste treatment, dumping or storage site operated by the designated waste management operator; or
- (b) any vehicle or attachment to a vehicle used for the purposes of waste collection by or on behalf of a designated waste management operator; or
- (c) any item of office equipment used at the premises of a designated waste management operator.

38 Protection of persons performing duties under this Act

A person who lawfully exercises any power or performs any function under the authority of this Act is not to be liable for any loss or damage, or be subject to any prosecution, in relation to the reasonable exercise of that power or the performance of that function.

PART 5 OFFENCES RELATING TO WASTE

39 Offences against designated waste management operators

(1) A person who:

- (a) damages, interferes with, defaces or removes any property or sign at a dump site or waste disposal facility;
- (b) removes waste from any dump site or waste disposal facility without the authority of the relevant designated waste management operator or licensed operator; or
- (c) enters any dump site or waste disposal facility without the authority of the relevant designated waste management operator; or
- (d) disposes of any waste not authorised to be disposed of at the relevant dump site or waste disposal facility; or
- (e) lights any fire at any dump site without the authority of the relevant designated waste management operator or licensed operator,

is guilty of an offence punishable on conviction to a fine not exceeding VT100,000.

(2) A person who impedes, hinders or obstructs:

(a) an officer of the Department, a designated waste management operator or an authorised officer in the exercise of a function or power under this Act; or

(b) any contractor engaged by a designated waste management operator to undertake a waste management service,

is guilty of an offence punishable on conviction to a fine not exceeding VT100,000.

(3) A person who uses any rubbish bin provided by a designated waste management operator for the purposes of collecting and disposing of waste, in any manner other than for that purpose, is guilty of an offence punishable on conviction to a fine not exceeding VT10,000.

40 Enforcement provisions

(1) For the purposes of implementing and enforcing the provisions of this Act, and monitoring and containing the effects of waste on human health and the environment, an authorised officer may do all or any of the following:

(a) enter upon any land;

(b) enter private premises after notifying the owner of their intention to do so;

(c) take samples of waste, soil and water for testing and analysis;

(d) require the production of records and information relevant to the management, storage, movement and disposal of waste;

(e) order that certain waste or materials apparently containing or affected by waste be contained, removed or otherwise dealt with so as to minimise their adverse effects on human health or the environment;

(f) order that certain items, substances or things be regarded as waste, and be removed from land or premises and deposited at an approved dump or waste management or disposal facility.

(2) A person who refuses or fails to comply with an order given under paragraph (1)(e), is guilty of an offence punishable on conviction by a fine not exceeding VT500,000 or by a term of imprisonment of not more than 3 months, or both.

(3) For the purposes of this section, an **authorised officer** includes any of the following persons as appointed in writing by the Director:

- (a) an officer of the Department;
- (b) a member of the Vanuatu Police Force;
- (c) an officer of a designated waste management operator and any of its contractors;
- (d) any other person approved by the Director.

(4) An authorised officer must report to the Director on any matter related to waste management if that officer reasonably believes that the matter may adversely affect the environment.

41 Penalty notice

(1) An authorised officer may serve a penalty notice on a person if it appears to the officer that the person has committed an offence under any provision of this Act or the regulations.

(2) A penalty notice is a notice to the effect that, if the person served does not wish to have the matter determined by a Court, the person may pay within a time and to a person specified in the notice the amount of penalty specified in the penalty notice.

(3) Payments made under this section are to be made at the Ministry of Finance and Economic Management which is then to be transferred into the Environmental Trust Fund established under the Environmental Protection and Conservation Act [CAP 283].

(4) A penalty notice may be served personally or by post.

(5) If the amount of penalty prescribed for the purposes of this section for an alleged offence is paid under this section, no person is liable to any further proceedings for the alleged offence.

(6) Payment under this section is not to be regarded as an admission of liability for the purpose of, nor in any way affect or prejudice, any civil proceeding arising out of the same occurrence.

(7) The regulations may:

- (a) prescribe an offence for the purposes of this section by specifying the offence or by referring to the provision creating the offence; and
- (b) prescribe the amount of penalty payable for the offence if dealt with under this section; and

(c) prescribe different amounts of penalties for different offences or classes of offences.

(8) The amount of a penalty prescribed under this section for an offence must not exceed the maximum amount of penalty which could be imposed for the offence under this Act.

(9) This section does not limit the operation of any other provision of, or made under, this or any other Act relating to proceedings that may be taken in respect of offences.

PART 6 MISCELLANEOUS PROVISIONS

42 Request for review

(1) A person who is not satisfied with a decision of a head of a designated waste management operator or designated waste management operator under this Act may, by written notice, request a review of the decision by the Director.

(2) A request for review must be made within 21 days of the date of the decision in subsection (1).

(3) In determining a request under subsection (1), the Director may:

(a) affirm the decision of the designated waste management operator; or

(b) amend the decision of designated waste management operator in any appropriate manner; and

(c) where relevant, may authorise the payment of a refund.

(4) Within 21 days of lodging an application for review, the person aggrieved must be notified in writing of the Director's decision.

(5) A request for a review does not postpone the obligation to pay the fee or interest charge, and the Director may decline to consider a request if the person making it has not paid the fee or interest charge.

43 Appeal rights

(1) A person may appeal to the Supreme Court against any decision made by the Director under this Act or any decision prescribed by regulations as a decision in respect of which an appeal can be made.

(2) An appeal must be brought, by originating application, not more than 28

days after the date on which the appellant is notified of the decision appealed against, or within such further period as the Supreme Court may allow.

- (3) The Supreme Court may:
- (a) confirm, reverse or modify the decision appealed against, and make such orders and give such directions to the Director as may be necessary to give effect to the Court's decision; or
 - (b) refer the matter back to the Director with directions to reconsider the whole or any specified part of the matter.

44 Regulations

(1) The Minister may by Order make regulations not inconsistent with this Act for the better carrying out or giving effect to the provisions of this Act.

(2) Without limiting the generality of subsection (1), the Minister may make regulations for any of the following purposes:

- (a) provide for the effective management of waste; or
- (b) prescribing the type or category of waste management operations or services; or
- (c) prescribe litter and waste control measures, and standards; or
- (d) regulate and control all aspects of the collection, disposal and treatment of sanitary waste, including septic sludge, disposable nappies and other such waste, including provisions for:
 - (i) setting fees for the collection, disposal and treatment of sanitary waste; and
 - (ii) standards of construction and approved types of disposal and treatment systems; and
 - (iii) maintenance obligations in relation to septic tanks and other systems for the collection, storage and treatment of such waste; and
 - (iv) obligations to dispose of septic sludge's only at approved facilities, and only by using approved arrangements; and
 - (v) any other matter related to the effective management of sanitary waste, and the provision of sanitation operations and services; or
- (e) provide for any other power or procedure for the enforcement of this

- Act, and any law relating to the management and control of waste; or
- (f) prescribe procedures for the collection and dissemination of waste related information to raise awareness of waste related matters and permit informed decision making in relation to the minimisation of the generation of waste and the adverse affects of waste on human health and the environment; or
- (g) prescribe for the auditing of waste generation, disposal and management; or
- (h) provide for the provision of any waste related service by designated waste management operators, and for arrangements involving payment for such services as community service obligations; or
- (i) apply schemes for the payment of operating subsidies to designated waste management operators; or
- (j) provide for systems of licensing in accordance with this Act, and for the payment of licence fees; or
- (k) promote and regulate the reuse and recycling of waste; or
- (l) specify toxic, noxious and hazardous waste, and impose regulatory measures or prohibitions in relation to their management and disposal; or
- (m) define any other category or type of waste, and provide for the effective management and control; or
- (n) provide for the determination of any particular object, substance or thing to be waste, or a type of waste, for the purposes of this Act, and which apply certain presumptions and other aids for the determination of such matters by courts; or
- (o) ensure the observance of approved standards, rules, operating procedures and codes of practices in force in accordance with this Act; or
- (p) procedures and powers relating to appeals under section 43, including fees for making appeals; or
- (q) to establish criteria and prescribe fees for licensing of private waste operators; or
- (r) provide for a Product Stewardship scheme to minimise the adverse effects of waste on the environment and the scheme may provide for any or all of the following matters:

(i) prescribing the amounts for deposits, payments, fees and refunds;

(ii) reporting and information requirements, including information to be provided to purchasers, users and handlers of the product the subject of the scheme;

(iii) imposing responsibilities on producers retailers, distributors, collection agencies and processors; or

(s) procedure and powers relating to requests for review under section 42, including fees for making such requests.

(3) Regulations made under this section may prescribe offences and impose penalties being fines not exceeding VT1,000,000 or imprisonment for a period of not more than 6 months, or both.

(4) For the purposes of this section

Product Stewardship Scheme means an incentive scheme:

(a) in which producers who are involved in the life cycle of a product share responsibility for the management and impact of the product throughout its life cycle, including end-of-use management; and

(b) that seeks to redress the adverse impacts of a product on the environment;

producer means any person or legal entity that manufactures or imports items designated under a Product Stewardship Scheme for sale or distribution in Vanuatu.

45 Commencement

This Act commences on the date on which it is published in the Gazette.