

THE WASTE MANAGEMENT AND RESOURCE RECOVERY ACT 2023

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I assent

PRITHVIRAJ SING ROOPUN, G.C.S.K.

20th April 2023

President of the Republic of Mauritius

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An Act

To provide for the regulatory framework to ensure the environmentally safe and sound management of solid and hazardous wastes and a sustainable waste management system through the adoption of a circular economy approach focusing on waste reduction, reuse, material recovery and recycling and to provide for matters related thereto

ENACTED by the Parliament of Mauritius, as follows –

PART I – PRELIMINARY

1. Short title

This Act may be cited as the Waste Management and Resource Recovery Act 2023.

2. Interpretation

In this Act –

“authorised officer” –

- (a) means an officer of the Department designated under section 5(2)(a); and
- (b) includes an officer of a local authority referred to in section 5(3) and a police officer under section 5(4);

“circular economy” means an economy in which natural resources are conserved and the environmental load is reduced as far as possible by –

- (a) preventing or reducing the generation of waste from products;
- (b) promoting proper cyclical use of products; and
- (c) ensuring proper disposal of circulative resources which are not put into cyclical use;

“circulative resources” means resources which can be extracted from waste materials for the purpose of recirculating them in the economy through the process of reduction, reuse, recycling or recovery;

“commercial waste” –

- (a) means waste arising from –
 - (i) local or government offices;
 - (ii) premises used wholly or mainly for the purpose of trade, business, sport, recreation, entertainment, hospitality or the practice of religion; but
- (b) does not include household waste and industrial waste;

“Coordination Committee” means the National Waste Management Coordination Committee referred to in section 9;

“Department” means the Department of Waste Management and Resource Recovery referred to in section 4;

“Director” means the Director of the Department;

“disposal” means –

- (a) the deposit of waste into or onto land specifically designed for that purpose; or
- (b) incineration of waste;

“extended producer responsibility” –

- (a) means a system whereby the responsibility of a producer for a product is extended to the post-consumer stage of the life cycle of the product; and
- (b) includes responsibility for –
 - (i) waste prevention or minimisation programmes;
 - (ii) contribution to any fund established to promote the reduction, reuse, recycling and recovery of waste;
 - (iii) awareness programmes to inform the public of the impact of waste emanating from the product on health and the environment; and
- (c) any other measures to reduce the potential impact of the product on health and the environment;

“harm” –

- (a) means harm to the health of living organisms or any other interference with the ecological systems of which living organisms form part; and
- (b) in relation to individuals, includes any damage caused to any of his senses or his property;

“hazardous waste” means waste declared to be hazardous waste under section 28, whether natural or artificial, in solid or liquid form, or in the form of gas or vapour, which has the potential, even in low concentrations, to have a significant adverse effect on public health or the environment on account of its inherent chemical and physical characteristics, such as its toxic, flammable, corrosive, reactive, oxidizing, infectious, poisonous or ecotoxic characteristics, or such other characteristics as may be prescribed;

“Hazardous Waste Management Strategy and Action Plan” means the strategy and action plan prepared by the Department under section 32;

“household waste” means waste arising from –

- (a) buildings forming part of a university or school or any other educational establishment and meant for the purpose of living accommodation;
- (b) a dwelling; and
- (c) street sweeping and cleaning of watercourses and public places;

“industrial waste” means waste arising from any premises –

- (a) used for the purpose of, or in connection with, the provision to the public of transport services by land, air or water;
- (b) used for the purpose of, or in connection with, the supply to the public of electricity;
- (c) used for the purposes of, or in connection with, the provision to the public of postal or telecommunication services;
- (d) forming part of a hospital, clinic or nursing home;
- (e) involved in agricultural activities; and
- (f) which require a licence to manufacture or process industrial products;

“institution” includes a public or private body, entity or agency;

“litter” includes odds and ends, bits of paper, wrappings, remains of fruit and any other rubbish discarded and left lying in public places;

“local authority” has the same meaning as in the Local Government Act;

“material recovery” –

- (a) means the recovery of materials from waste and recycling; but
- (b) does not include –
 - (i) energy recovery processes, namely incineration, gasification, pyrolysis and anaerobic digestion;
 - (ii) reprocessing of waste into materials which are to be used as fuel or any other means to generate energy;

“Minister” means the Minister to whom responsibility for the subject of solid waste and hazardous waste is assigned;

“Ministry” means the Ministry responsible for the subject of solid waste and hazardous waste;

“minimisation”, in relation to waste, means the avoidance of waste which is generated and, where waste is generated, the reduction of the amount and toxicity of waste which is disposed of;

“National Solid Waste Management Strategy and Action Plan” means the strategy and action plan prepared by the Department under section 16;

“*Police de l’Environnement*” has the same meaning as in the Environment Protection

Act;

“pollutant” has the same meaning as in the Environment Protection Act;

“recycling” –

- (a) means any recovery operation by which waste materials are reprocessed into materials or products, whether for the original or any other purpose, including the processing of organic material; but
- (b) does not include energy recovery;

“reuse” –

- (a) means reutilisation in the original form without any reprocessing; and
- (b) includes checking, cleaning, repair or refurbishment;

“segregation at source” means the solid waste management practice of separating, at the point of origin, different materials found in solid waste in order to promote the recovery of resources for recycling;

“solid waste” –

- (a) means household waste, industrial waste or commercial waste; and
- (b) includes the following substances, and any combination thereof, which are discarded or intended to be discarded by any person or are accumulated or stored by any person –
 - (i) undesirable or superfluous by-products;
 - (ii) residue or remainder of any process or activity; and
 - (iii) any solid matter with water content not exceeding 70 per cent by weight;but
- (c) does not include hazardous waste;

“supervising officer” means the supervising officer of the Ministry;

“technical advisory committee” means a committee appointed as such by the Minister under section 8(d);

“treatment” means subjecting waste to reprocessing, reclaiming or recycling;

“transboundary movement of hazardous waste” means –

- (a) the import or export of hazardous waste into or from Mauritius; or
- (b) the transit of hazardous waste through Mauritius;

“waste” means solid waste and hazardous waste;

“waste carrier” means a person registered and licensed to transport waste;

“waste generator” means a person who produces waste;

“waste management” means the collection, deposit, interim storage, transfer, transport, treatment and disposal of waste;

“waste management facility” –

(a) means a site where waste is disposed of or treated; and

(b) includes a mobile or immobile waste treatment plant, waste sorting facility, waste storage facility, waste transfer facility or landfill site;

“waste management operator” means the operator of a waste management facility.

3. Application of Act

This Act shall bind the State.

PART II – ADMINISTRATION

Sub-Part A – Department of Waste Management and Resource Recovery

4. Department of Waste Management and Resource Recovery

(1) (a) There shall be, for the purposes of this Act, within the Ministry, a department to be known as the Department of Waste Management and Resource Recovery.

(b) The Department shall be administered and managed by the supervising officer.

(2) The Department shall –

(a) be responsible for policymaking with respect to waste management and the adoption of the concept of circularity in waste management;

(b) assist local authorities in the implementation of waste management programmes;

(c) develop the national strategies and action plans for solid and hazardous waste referred to in sections 16 and 32;

(d) regulate –

(i) the operation and management of disposal sites and waste

- management facilities; and
- (ii) private operators in the field of waste management;
- (e) coordinate and implement measures related to the sustainable and integrated management of waste, classification of waste, resource efficiency, waste prevention and reduction and the adoption of circular practices;
- (f) enhance coordination and collaboration by developing plans and programmes to guide persons and institutions from different sectors in the performance and discharge of their duties and closely monitor the implementation of the plans and programmes;
- (g) develop sensitisation and awareness campaigns in relation to waste management;
- (h) devise measures for economic sustainability in waste management;
- (i) register recyclers, exporters of waste and scavenging contractors;
- (j) license private waste management facilities in such manner as may be prescribed;
- (k) register and license waste carriers;
- (l) monitor the collection, treatment and disposal of waste by local authorities and waste management operators in the private sector, in accordance with such standards as may be prescribed;
- (m) institute a control system for the movement of hazardous waste;
- (n) formulate the conditions for the storage, packaging, labelling and transportation of hazardous wastes, including the separation of such hazardous wastes as may be prescribed from other types of waste as regard their collection, transport, storage, treatment and disposal;
- (o) subject to such conditions and requirements as may be prescribed are satisfied, authorise and monitor the transboundary movement of hazardous wastes;
- (p) not accept waste for the purpose of being landfilled at a public waste management facility where the waste –
 - (i) can be reused or recycled; or
 - (ii) does not pass the technical acceptance criteria of the public waste management facility.

(3) The Department shall be the exclusive regulator with respect to waste management and shall be responsible for the coordination of activities undertaken by specific waste streams.

(4) The Department shall, within one month from the beginning of every financial year, submit to the Minister a report on the projects and activities undertaken by the Department in the preceding financial year.

5. Director

(1) There shall be a Director of the Department who shall –

- (a) be a public officer;
- (b) be appointed by the Public Service Commission;
- (c) be responsible for the control, operation and management of the technical work of the Department;
- (d) carry out the duties and functions conferred upon him under this Act and such other assignments, not inconsistent with this Act, as the Minister may determine;
- (e) be accountable to the supervising officer for the proper discharge of his duties and functions under this Act;
- (f) be responsible for the implementation and execution of such policies as the Minister may determine.

(2) (a) The Director may designate any officer of the Department as authorised officer.

(b) An authorised officer shall have the duties and powers conferred upon him by this Act.

(c) The supervising officer shall issue an identification card to an authorised officer.

(3) The Director may, in writing, authorise an officer of a local authority to exercise the powers conferred upon an authorised officer under this Act.

(4) The Police shall provide to the Director such assistance as he may require to enforce this Act.

6. Staff of Department

(1) There shall be appointed, at the Department, such officers as may be necessary to assist the Director in the proper discharge of his duties and functions under this Act.

(2) The officers referred to in subsection (1) shall be public officers and shall be under the control of the Director as regard technical matters.

7. Records

The Department shall maintain records of –

- (a) the registration of waste carriers;
- (b) the registration of recyclers, exporters of waste and scavenging contractors;
- (c) waste management facilities;
- (d) the licensing of private waste management facilities;
- (e) the revocation or suspension of licences issued under this Act;
- (f) any conviction for any offence under this Act; and
- (g) such other matter as the Director may determine.

Sub-Part B – Powers of Minister

8. Powers of Minister

The Minister may, for the purposes of this Act –

- (a) propose and develop integrated waste management policies and set priorities for –
 - (i) the prevention and minimisation of the harmful or adverse effects of waste on humans, animals and plants, their livelihood and their natural environment;
 - (ii) the establishment of a circular economy;
 - (iii) the safe management and disposal of waste.
- (b) issue directives to any Government department or local authority for the implementation of the National Waste Management Strategy and Action Plan;
- (c) instruct the Department to publish and disseminate information concerning the management of waste;
- (d) appoint such technical advisory committee or other committee as he considers appropriate to advise him or submit recommendations to him on –
 - (i) the development of policies referred to in paragraph (a);

- (ii) the coordination and monitoring of waste management; and
 - (iii) matters pertaining to the scientific and technical aspects of waste management;
- (e) give to the Director such directions of a general character not inconsistent with this Act, as he considers necessary in the public interest, and the Director shall comply with the directions.

PART III – NATIONAL WASTE MANAGEMENT COORDINATION COMMITTEE

9. Coordination Committee

(1) There shall be, for the purposes of this Act, a National Waste Management Coordination Committee which shall promote waste reduction, resource conservation and material recovery with a view to achieving a circular economy.

(2) The Coordination Committee shall consist of –

- (a) the Minister, who shall be the Chairperson, or in his absence, such other person designated by the Minister;
- (b) the supervising officer or his representative;
- (c) the supervising officer of every Ministry specified in the First Schedule, or his representative;
- (d) the Chief Executive of every local authority, or his representative.

(3) The Minister may co-opt an officer of any institution to attend and participate in a meeting of the Coordination Committee.

10. Functions and powers of Coordination Committee

(1) The Coordination Committee shall have such functions and powers as are necessary to further its object most effectively and shall, in particular –

- (a) ensure coordination and cooperation between Government departments, local authorities and other institutions engaged in waste management, circular economy projects and programmes;
- (b) monitor and review –
 - (i) the progress made by Government departments, local authorities and other institutions engaged in waste management regarding the sustainable management of waste;

- (ii) the achievement of the objectives of the National Solid Waste Management Strategy and Action Plan referred to in section 16 and the Hazardous Waste Management Strategy and Action Plan referred to in section 32;
- (iii) the progress made towards achieving a circular economy;
- (c) make such recommendations and issue such directives as it considers appropriate on matters pertaining to waste management.

(2) The Coordination Committee may, for the purpose of discharging its functions under this Act –

- (a) set up such subcommittee as it considers appropriate;
- (b) delegate any of its functions and powers to the chairperson of a subcommittee.

(3) A subcommittee shall meet as often as it is necessary at the request of its chairperson, but at least once every 2 months.

11. Meetings of Coordination Committee

(1) The Coordination Committee shall meet on a quarterly basis, and on such other occasions as the Minister may determine.

(2) The supervising officer shall designate a public officer of the Department to act as Secretary to the Coordination Committee.

- (3) The Secretary to the Coordination Committee shall –
- (a) at the request of the Chairperson, convene, prepare and attend every meeting of the Committee;
 - (b) keep minutes of proceedings of every meeting of the Committee; and
 - (c) perform such other duties as may be conferred upon him by the Committee.

PART IV – TECHNICAL ADVISORY COMMITTEE

12. Technical advisory committee

- (1) A technical advisory committee appointed by the Minister under section 8(d) shall consist of –
- (a) a chairperson and such other members as the Minister may determine, who shall have relevant qualifications and experience on the matter on which advice

is required;

(b) at least 2 officers of the Department.

(2) A technical advisory committee referred to in subsection (1) –

(a) shall provide advice on any matter specified by the Minister;

(b) submit its recommendations on any matter referred to it by the Minister;

(c) shall be discharged on submission of its advice or recommendations, as the case may be, unless the Minister requests further advice, recommendations or clarifications within one month from submission of the advice or recommendations;

(d) may request such assistance as may be required from the Director for the purpose of carrying out its functions.

13. Meetings of technical advisory committee

(1) A meeting of a technical advisory committee shall be held at such time and place as its Chairperson may determine.

(2) A technical advisory committee shall –

(a) regulate its meetings and proceedings in such manner as it may determine; and

(b) meet as often as it is necessary at the request of its Chairperson.

(3) The supervising officer shall designate a public officer of the Department to act as Secretary to a technical advisory committee.

(4) A Secretary to a technical advisory committee shall –

(a) at the request of the Chairperson, convene, prepare and attend every meeting of the Committee;

(b) keep minutes of proceedings of every meeting of the Committee; and

(c) perform such other duties as may be conferred upon him by the Committee.

PART V – WASTE MANAGEMENT MEASURES

Sub-Part A – Integrated Waste Management and Circularity Principles

14. Objectives and principles of integrated waste management and circularity

In accordance with the principles of circularity and sustainability, waste management

shall aim at –

- (a) preventing and minimising the harmful or adverse effects of waste on humans and their well-being, animals and plants, their livelihood and their natural environment;
- (b) resource recovery;
- (c) ensuring that materials, products and any waste derived from recycling do not have a higher hazard potential than –
 - (i) comparable primary raw materials; or
 - (ii) products derived from primary raw materials.

15. End of waste status

The Minister may, by way of regulations, prescribe the criteria for determining the point at which specified materials and products shall cease to be waste and shall be considered as a product or secondary raw material.

Sub-Part B – National Solid Waste Management Strategy and Action Plan

16. National Solid Waste Management Strategy and Action Plan

(1) (a) The Department shall, in collaboration with institutions, prepare a National Solid Waste Management Strategy and Action Plan.

(b) The National Solid Waste Management Strategy shall be reviewed every 10 years and the Action Plan shall be reviewed every 5 years, or at such other time as the Minister may determine.

- (2) The National Solid Waste Management Strategy and Action Plan shall be –
- (a) formulated in line with international conventions, and any other international instrument, related to sustainable solid waste management;
 - (b) formulated in line with the circular economy approach, which maximises on material recovery and recycling; and
 - (c) based on the solid waste management hierarchy, namely, waste prevention, reuse, recycling, recovery and disposal.
- (3) The National Solid Waste Management Strategy and Action Plan shall, in relation

to waste disposal, contain measures giving effect to the polluter pays principle.

- (4) The National Solid Waste Management Strategy and Action Plan shall include –
- (a) sustainable solid waste management priorities;
 - (b) national development priorities which aim at achieving a circular economy and promoting circulative resources;
 - (c) policies on resource efficiency and integrated solid waste management;
 - (d) action plans and investment programmes;
 - (e) information on compliance with international commitments;
 - (f) research and development;
 - (g) solid waste management data and information;
 - (h) recommendations on education, training and public awareness;
 - (i) methods for monitoring, evaluation and reporting;
 - (j) a litter prevention plan;
 - (k) measures relating to implementation, funding and resource management;
 - (l) an inventory of waste and the characterisation of solid waste;
 - (m) an evaluation of past, current or proposed activities which impact upon the volume or type of waste generated in Mauritius;
 - (n) a review of waste management in the country, namely, waste diversion, prevention and reduction;
 - (o) mechanisms, programmes, policies and strategies to be implemented –
 - (i) to ensure that waste management is carried out in such a manner as not to adversely impact on human health or the environment;
 - (ii) for waste prevention and recovery;
 - (iii) for reuse, recycling and waste disposal;
 - (p) recommendations on upgrading of existing and setting-up of new infrastructures.

17. Duties of local authorities relating to National Solid Waste Management Strategy and Action Plan

(1) Every local authority shall, for the purpose of the preparation of the National Solid Waste Management Strategy and Action Plan, submit in writing to the Director, at such intervals as the Director may require, information on the –

- (a) type and quantity of waste expected to be generated in its administrative area

- during the period specified in the action plan;
- (b) staff, equipment and other resources currently used, and which may be required in the future, for scavenging services and operating public waste management facilities;
 - (c) type and quantity of waste which the local authority expects it will receive for disposal in, or dispose out of, its administrative area during the period specified by the Director;
 - (d) type and quantity of waste which the local authority expects to manage by its own means or through outsourcing during that period;
 - (e) methodology used by it in a given period to manage waste;
 - (f) estimated costs of the different methods of waste management and whether the costs will be met by tariffs, fees or other means;
 - (g) measures it undertook and will undertake for cost recovery within a given period of time; and
 - (h) awareness and sensitisation campaigns it will carry out to promote a circular economy.

Sub-Part C – Duties and Obligations of Waste Generators and Institutions

18. Duties of waste generators

- (1) A waste generator –
 - (a) shall not litter, throw away, burn or bury waste generated by him;
 - (b) shall segregate, separately store and make available the segregated wastes for collection in such manner as may be prescribed.
- (2) (a) A waste generator who operates in the commercial or industrial sector and institutions shall engage in reuse and recycling.
 - (b) The Minister may, for the purposes of paragraph (a), make such regulations and provide for such fees as he considers appropriate.

19. Duties of institutions

- (1) A Ministry, Government department, local authority or any other institution shall not implement any project related to solid or hazardous waste unless it is approved in writing by

the supervising officer.

(2) (a) The Director may, for the purposes of this Act, issue such directives as may be necessary to any institution which generates waste exceeding 10 cubic metres every week to –

- (i) provide the description, including the type and quantity, of waste generated, recycled and disposed of by it;
- (ii) implement and operate a segregation at source programme for specified types of waste;
- (iii) keep record of the destinations of waste generated by it, including the corresponding type and quantity of waste recycled or disposed of at each destination;
- (iv) implement relevant measures specified in the National Solid Waste Management Strategy and Action Plan and Hazardous Waste Management Strategy and Action Plan;
- (v) establish a quality criterion for specific products or raw materials to be used or substituted and the requirements for their manufacturing processes or importation;
- (vi) specify the type of proof or evidence required for verification of the quality criteria relating to the emission of pollutants, products and raw materials;
- (vii) implement measures which limit pollutants and submit notifications relating to the emission of pollutants;
- (viii) maintain records of waste in such form and manner as he may determine;
- (ix) implement the cyclical use of circulative resources in its business activities;
- (x) monitor and review, at such intervals as he may determine, the implementation of the measures referred to in subparagraph (iv);
- (xi) report to him, as and when required, on the status and progress of the implementation of the duties referred to in subparagraphs (i) to (vi);
- (xii) submit to him such information as he may require on any of the matters specified in subparagraphs (i) to (x).

(3) An institution referred to in subsection (2) shall comply with this Act and such directives as the Director may issue.

(4) (a) The Director may request any institution to prepare a waste recycling plan and

the institution shall comply with the request.

(b) The waste recycling plan referred to in paragraph (a) shall include information on –

- (i) the type and quantity of waste which may be recycled and excluded from the waste collection and disposal chain of the relevant area;
- (ii) the implications and consequences of the implementation of the recycling plan on the waste management services;
- (iii) its technical, organisational and financial initiatives to encourage recycling;
- (iv) the estimated costs or savings attributable to the methods of waste management provided for in the plan.

(5) An institution shall, in any subsequent waste recycling plan prepared by it, include an evaluation of the previous plan, including information on whether the objectives of the previous plan were achieved and any reasons for deviating from the previous plan.

20. Submission of data and information on waste

(1) The Director may, for the purpose of enabling Mauritius to fulfill its obligations under any waste-related international convention to which Mauritius is a party, in writing, request any institution to submit, at such time and in accordance with such predetermined schedule or he may specify, data and information on waste generated, collected, treated or disposed of, including the measures taken to prevent or minimise waste.

(2) An institution referred to in subsection (1) shall, electronically or in such other manner as the Director may specify, submit the required data and information within 21 days from the date of receipt of a request or such other time limit as the Director may specify.

Sub-Part D – Public Consultation

21. Public consultation

The Department may, for the purpose of developing strategies and policies with respect to integrated waste management, undertake public consultation.

PART VI – DUTIES AND POWERS OF LOCAL AUTHORITIES

22. Interpretation

In this Part –

“receptacles” means containers meant and used for segregation at source and the collection of recyclable materials.

23. Collection of waste

(1) (a) A local authority shall arrange for the collection and disposal of all household waste and commercial waste in its administrative area, other than waste which –

(i) is situated at a place which, in the opinion of the local authority, is isolated or inaccessible;

(ii) is produced in such small quantity that the cost of collecting it is too high; or

(iii) can be collected and appropriately disposed of by the waste generator.

(b) Paragraph (a) shall not apply to commercial waste and industrial waste generated from such premises as may be prescribed.

(2) A local authority may, for the purpose of subsection (1) and with the approval of the Minister, prescribe a fee for the collection and disposal of household waste, commercial waste and industrial waste.

(3) A person who arranges with a local authority for the collection of solid waste other than household waste shall pay to the local authority such fee as may be prescribed by the local authority, with the approval of the Minister, for the collection and disposal of the waste.

(4) Any waste collected under arrangements made by a local authority under this section shall belong to the State and be managed and dealt with in such manner as the Director may direct.

24. Receptacles for household waste

(1) A local authority may, for the purpose of section 23 and segregation at source, by notice served on the occupier of any household premises, require him to place waste meant for collection by the local authority in such number of receptacles which shall be of such type as may be specified in the notice.

(2) The type and number of receptacles referred to in subsection (1) shall be determined, taking into account the locality and type of waste concerned.

(3) A local authority may, at the request of any person, supply him, on payment of such

fee as may be prescribed by it, with the approval of the Minister, with receptacles and roll-on-roll-off trucks for the collection of household waste.

25. Management of waste by local authority

(1) A local authority shall deliver all waste collected by it to a waste management facility.

(2) A local authority shall, in accordance with the National Waste Management Strategy and Action Plan —

- (a) ensure that adequate arrangements are made within its administrative area for the management of all waste collected by it within the area;
- (b) inspect land on which waste is deposited to detect whether the state of the land may cause pollution to the environment or harm to humans or animal or plant life and take such steps it considers appropriate to avoid pollution to the environment and harm to humans or animal or plant life.

26. Removal of waste

(1) Where any waste is deposited on any land or area of a local authority in contravention of this Act, the local authority may, or the Director may with the approval of the supervising officer, serve a notice on the occupier of the land and require him to —

- (a) remove the waste from the land within a period specified in the notice, which shall not be less than 21 days from the date of receipt of the notice;
- (b) take, within the period specified in the notice, such steps as are specified in the notice to eliminate or reduce the consequences of the deposit of the waste; or
- (c) remove the waste referred to in paragraph (a) and take the steps referred to in paragraph (b) within the period specified in the notice.

(2) A person who fails to comply with a notice served on him under subsection (1) shall commit an offence.

(3) A local authority or any authorised officer may remove or cause to be removed any type of waste which is deposited on any land or take such other steps as may be appropriate to eliminate or reduce the consequences of the deposit where the local authority or authorised officer considers that such action is necessary to mitigate or prevent any pollution to the environment or danger to humans or animal or plant life and where —

- (a) the land does not have any occupier;

- (b) the owner or occupier of the land is untraceable; or
 - (c) the owner or occupier of the land, who is known, did not deposit or cause or permit the deposit of the waste.
- (4) Where a local authority or an authorised officer exercises the power conferred on it or him under subsection (3), it or he shall be entitled to recover the cost thereof and of disposing of the waste removed –
- (a) from the person who deposited, or caused or permitted the deposit of, the waste on the land; or
 - (b) where the person referred to in paragraph (a) is not known, from the owner or occupier of the land.
- (5) Any waste removed by a local authority in pursuance of this section shall belong to the State and shall be dealt with in such manner as the Director may determine.
- (6) A local authority shall, within one month from the end of every quarter, submit to the supervising officer a report on the waste collected in accordance with this Part and the report shall include details of –
- (a) the persons from whom the waste was collected;
 - (b) the nature and type of waste;
 - (c) the percentage of the recyclable waste; and
 - (d) the amount of money cashed for collection of the waste.

PART VII – HAZARDOUS WASTE MANAGEMENT

27. Interpretation of Part VII

In this Part –

“disposal” –

- (a) means such operation as may be prescribed; and
- (b) includes any operation which does not lead to reuse and recovery;

“recovery” means such operation as may be prescribed.

28. Declaration of hazardous waste

The Minister may, by regulations, declare such wastes as may be prescribed as

hazardous wastes.

29. Control and management of hazardous waste

(1) (a) Any person who generates, handles or manages hazardous wastes shall ensure that they are managed in a manner which protects human health and the environment against the adverse effects which may result from such wastes.

(b) Any person referred to in paragraph (a) shall pay to the Department, in relation to any services which he may require from the Department for the management of any hazardous waste, such fee as may be prescribed.

(2) The Minister may, for the purposes of subsection (1) –

(a) make regulations –

(i) for the control and management of the collection, transportation, storage, handling, pre-treatment, recovery and disposal of hazardous wastes and their traceability from generation to their final destination;

(ii) to ensure that in the course of the collection, transportation and temporary storage of hazardous wastes, they are classified, segregated, packaged and labelled in accordance with international standards in force;

(iii) to regulate the export, transit and import of hazardous wastes in compliance with the provisions of the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal;

(iv) for the taking of fees and the levying of charges for the management of hazardous waste;

(v) for the implementation or enforcement of obligations under a multilateral environmental agreement pertaining to hazardous waste; and

(vi) for the purpose of ensuring the environmentally sound management of hazardous wastes;

(b) issue guidelines and technical minimum requirements for the collection, transportation, storage, pre-treatment, recovery and disposal of hazardous wastes to be carried out in such manner as to provide for the protection of human health and the environment.

30. Recovery of expenses

(1) In the event that a hazardous waste represents an immediate risk to human health and the environment, the Director shall recover from the owner of the hazardous waste or

the person in possession of the hazardous waste, the expenses incurred as a result of –

- (a) any action or measure taken to prevent, eliminate or reduce the adverse effects of the hazardous waste on the environment;
- (b) any action or measure taken to manage and dispose of the hazardous wastes;
- (c) any removal and clean-up operation,

and any other relevant costs and expenses.

(2) The costs and expenses referred to in subsection (1) shall be deemed to be civil debts owed by the owner of the hazardous waste or person in possession of the hazardous waste to the Government of Mauritius.

31. Hazardous waste generated by households

(1) The Department shall make special arrangements for the collection of hazardous wastes generated by households to ensure that they do not contaminate other waste streams and are managed in an environmentally sound manner.

(2) The Department shall, pursuant to subsection (1), draw up guidelines to assist and guide local authorities as regards the separate collection of hazardous wastes generated by households.

32. Hazardous Waste Management Strategy and Action Plan

(1) (a) The Department shall, in collaboration with institutions, prepare a Hazardous Waste Management Strategy and Action Plan.

(b) An institution shall, for the purposes of paragraph (a), submit to the Director such information as he may require.

(c) The Hazardous Waste Management Strategy shall be reviewed every 10 years and the Action Plan shall be reviewed every 5 years.

(2) The Hazardous Waste Management Strategy and Action Plan shall include –

- (a) an inventory of the different types, quantity and sources of hazardous wastes generated, collected, pre-treated, recovered and disposed of yearly;
- (b) particulars of public and private hazardous waste management facilities;
- (c) an inventory of the type and quantity of hazardous wastes exported and in transit in Mauritius yearly;

- (d) policies, strategies, an action plan for the minimisation, collection, recovery and disposal of different types of hazardous wastes;
- (e) measures to be taken to improve the management of different types of hazardous wastes;
- (f) any other relevant information.

PART VIII – LICENSING, REGISTRATION AND ENFORCEMENT

33. Licensing and registration

(1) Any person who intends to construct or operate a private waste management facility or to operate as a waste carrier shall, in such manner as may be prescribed, apply for a licence to the Minister and pay such fee as may be prescribed upon the application being granted.

(2) Any person who intends to recycle or export waste or to operate as a waste carrier or scavenging contractor shall, in such manner as may be prescribed, apply for registration to the Minister.

(3) (a) A person licensed or registered under this section may, at least one month before the expiry of his licence or registration, apply to the Minister, in such form and manner as the Minister may determine, for the renewal of his licence or registration.

(b) Where an application for the renewal of a licence is granted, the licensee shall pay such fee as may be prescribed.

(4) An application for a licence or registration, or for the renewal of a licence or registration, under this section shall be processed in such manner as may be prescribed.

(5) A licence or registration, or the renewal of a licence or registration, under this section shall be valid for such period as may be prescribed and shall be subject to such terms and conditions as the Minister may determine.

34. Request for information

(1) The Director or any authorised officer may, for the purpose of carrying out his functions under this Act, request any person to submit to him such information as he considers relevant.

(2) Any person who fails to comply with a request under this section or gives false or misleading information shall commit an offence.

35. Search and seizure

(1) An authorised officer may, for the purpose of an investigation into the storage, treatment or disposal of waste, enter any premises for the purpose of conducting a search and seize any item where –

- (a) the owner or person in charge of the premises consents in writing to such entry, search or seizure; or
- (b) he is in possession of a warrant issued by a Magistrate.

(2) An authorised officer shall at all times carry and, on demand, produce his identification card.

36. Right of entry

(1) Where an authorised officer has reasonable ground to believe that there is an immediate risk of serious pollution to the environment or harm to public health, he may enter any land or premises, other than a dwelling house, and be accompanied by such person and take with him such equipment, as he considers appropriate, for the purpose of exercising his powers and carrying out his duties and functions under this Act.

(2) An authorised officer shall, on demand by the owner or occupier of the land or premises, produce his identification card.

(3) An authorised officer may exercise the powers conferred upon him under this section, in relation to a dwelling house, where he is in possession of a warrant issued by a Magistrate.

37. Obstruction of authorised officer

Any person who –

- (a) prevents an authorised officer from having access to his premises, or obstructs or impedes an authorised officer, in the exercise of any of his functions or powers under this Act;
- (b) fails to provide any assistance or information to an authorised officer;
- (c) gives to an authorised officer any information which is false or misleading,

shall commit an offence.

38. Programme approval

(1) The Director may, where he is of the opinion that a person is contravening, or is

likely to contravene this Act, serve, or cause to be served, on the person a programme notice –

- (a) stating the opinion of the Director on the issue;
- (b) specifying the contravention or matter making it likely that a contravention will arise, as the case may be;
- (c) requesting the person to submit for his approval, before a specified date, a written programme of measures which the person intends to take to remedy the contravention or to eliminate the likelihood of a contravention.

(2) The Director may, where he is satisfied that an activity or an existing structure is causing pollution or harm to the environment, issue a programme notice to any person responsible for the activity or existing structure.

(3) The Director may –

- (a) consult the person referred to in subsection (1) to determine the appropriate method of remedying the contravention or eliminating the likelihood of a contravention;
- (b) consult a technical advisory committee appointed by the Minister;
- (c) request the person referred to in subsection (1) to submit such additional information or proposal as he considers appropriate.

(4) The Director shall, when approving a programme of measures, issue or cause to be issued a programme approval specifying -

- (a) the contents of the notice issued under subsection (1);
- (b) the measures which the person referred to in subsection (1) shall take to remedy the contravention or eliminate the likelihood of a contravention;
and
- (c) the period within which the measures shall be implemented.

(5) The Director may –

- (a) supervise, and issue directives with respect to, the implementation of the measures contained in a programme approval;
- (b) with the consent of the person referred to in subsection (1), modify a programme approval;
- (c) at any time, revoke a programme approval.

(6) No person shall be prosecuted for a contravention in respect of which a programme approval is in force.

(7) Where –

(a) a person fails to comply with –

(i) a request in a programme notice served under subsection (1);

(ii) a programme approval issued under subsection (3);

(iii) any directives issued under subsection (4); or

(b) a programme approval is revoked under subsection (4),

the Director may issue or cause to be issued an enforcement notice or a prohibition notice.

39. Enforcement notice

(1) The Director may cause to be served on a person an enforcement notice where he is of the opinion that –

(a) a person is contravening, or is likely to contravene, this Act; and

(b) a programme approval will not provide an effectual remedy or a prohibition notice is not appropriate.

(2) An enforcement notice shall -

(a) state the opinion of the Director on the issue;

(b) specify the contravention or matter making it likely that a contravention will arise, as the case may be;

(c) specify the measures to be taken by the recipient of the notice to remedy the contravention or to eliminate the matter making it likely that a contravention will arise, as the case may be; and

(d) specify a period within which the measures shall be implemented.

(3) No person shall be prosecuted for a contravention in respect of which an enforcement notice was issued as long as the notice is in force.

(4) Any person who fails to comply with an enforcement notice shall commit an offence.

40. Prohibition notice

(1) Where the Director is of the opinion that an enterprise or activity, or the manner

in which the enterprise operates or activity is carried out, is causing a serious pollution, or represents an imminent risk of serious pollution or harm, due to waste, he may serve, or cause to be served, a prohibition notice on the person who owns, manages, controls or is in charge of the enterprise or activity.

- (2) A prohibition notice may be served whether or not –
 - (a) the enterprise or activity, or the manner in which the enterprise operates or activity is carried out, constitutes a contravention of this Act;
 - (b) there is in force in relation to an enterprise or activity, a licence, or approval issued under this Act or any other enactment;
 - (c) there is before any Court of law or before a Judge sitting in Chambers any case involving the subject matter in relation to which a notice is issued, unless the Court or Judge issues an order preventing the Director from issuing the prohibition notice.
- (3) A prohibition notice shall –
 - (a) state the opinion of the Director;
 - (b) specify the serious pollution caused or the risk of serious pollution involved, and the reason why the enterprise, activity, or the manner in which the enterprise operates or activity is carried out, is suspected to cause the risk;
 - (c) specify the measures to be taken to eliminate the serious pollution, or the risk of pollution or harm, and the period within which they shall be implemented;
 - (d) specify –
 - (i) the enterprise or activity, or any aspect of the enterprise or activity, which is prohibited; or
 - (ii) any conditions subject to which the enterprise or activity may be resumed.
- (4) A prohibition notice or any consultations held with the recipient of the notice shall not be a bar to a prosecution for any offence.
- (5) Any person who fails to comply with a prohibition notice shall commit an offence.

41. Stop order

(1) Where a person commences or carries out any development or activity without the relevant licence under this Act, the supervising officer may cause to be served on him, or any person responsible for giving instructions for the carrying out of the development or activity, a stop order prohibiting the development or activity.

(2) Any person who fails to comply with a stop order issued under subsection (1) shall commit an offence.

42. Offences

Any person who –

- (a) fails to comply with any requirement, notice, order, directives issued or condition imposed under this Act;
- (b) on being requested to submit a report or provide information under this Act –
 - (i) fails to do so within the specified time; or
 - (ii) submits a report which is false or misleading in any material particular; or
 - (iii) provides false or misleading information;
- (c) fails to acknowledge or evades service of any notice, order or directives issued under this Act or any regulations made under this Act;
- (d) otherwise contravenes this Act,

shall commit an offence and shall, unless otherwise specifically provided –

- (i) on a first conviction, be liable to a fine not exceeding 100,000 rupees and to imprisonment for a term not exceeding 2 years;
- (ii) on a second or subsequent conviction, be liable to a fine not exceeding 200,000 rupees and to imprisonment for a term not exceeding 8 years.

43. Prosecution and jurisdiction

(1) An authorised officer may swear an information and conduct prosecution in respect of an offence under this Act before a Magistrate.

(2) Notwithstanding –

- (a) section 114 of the Courts Act; and
- (b) section 72 of the District and Intermediate Courts (Criminal Jurisdiction) Act,

a Magistrate shall have jurisdiction to try any offence under this Act and may impose any penalty and exercise all the ancillary powers provided under the relevant enactment.

(3) The following enactments shall not apply to a sentence imposed under this Act –

- (a) sections 152 and 153 of the Criminal Procedure Act;
- (b) the Probation of Offenders Act.

44. Fixed penalties

(1) Notwithstanding any other enactment, where a person commits an offence specified in the Second Schedule or such offence as may be prescribed relating to hazardous waste, the authorised officer who detects the offence may, as soon as is reasonably practicable, and not later than 14 days from the commission of the offence, serve on the person a notice calling upon him to pay in respect of –

- (a) the offence specified in the Second Schedule, the fixed penalty specified in the Second Schedule;
- (b) such offence as may be prescribed relating to hazardous waste, such fixed penalty as may be prescribed.

(2) A notice under subsection (1) shall –

- (a) be in such form as may be prescribed and be drawn up in quadruplicate; and
- (b) specify –
 - (i) the name and address of the person who committed the offence;
 - (ii) the time and place of the offence;
 - (iii) the nature of the offence;
 - (iv) the fixed penalty provided for the offence;
 - (v) the time within which the fixed penalty is to be paid;
 - (vi) the Court where the fixed penalty is payable;
 - (vii) the name and identification number of the authorised officer who detected the offence.

- (3) The authorised officer who detects the offence shall -
- (a) cause the original of the notice to be served on the offender;
 - (b) forward one copy to the Director and another copy to the appropriate Court; and
 - (c) retain one copy.

(4) Every person who is served with a notice under subsection (1) shall, within 20 days from the service and upon production of the notice, pay the fixed penalty in the prescribed manner at the appropriate Court.

(5) Where a person who is served with a notice under subsection (1) fails to pay the fixed penalty within the time limit mentioned in the notice and criminal proceedings are instituted against him for the offence in respect of which he was served with the notice, he shall be liable, on conviction, to a fine which shall not be less than thrice the fixed penalty.

PART IX – MISCELLANEOUS

45. Interference with waste

- (1) No person shall, without the written authorisation of the Director, remove or retrieve -
- (a) any waste deposited at a waste management facility owned by the State;
or
 - (b) any waste deposited in a receptacle.
- (2) Any person who contravenes subsection (1) shall commit an offence.

46. Extended producer responsibility

The Minister shall, for the purpose of establishing a circular economy in relation to solid waste and hazardous waste, implement or cause to be implemented a system of extended producer responsibility for such products as the Minister may prescribe.

47. Duty of care

(1) Any person who generates, transports, stores, treats, or disposes of waste shall take all necessary precautions and measures to keep the waste under his control and to prevent any spill.

- (2) Every person referred to in subsection (1) shall, when consigning waste to

another person, ensure that the person to whom the waste is consigned, is licensed under this Act.

- (3) Any person who contravenes this section shall commit an offence.

48. Prevention of pollution or harm

(1) Where an authorised officer has reasonable ground to believe that the condition of any particular land is such that pollution to the environment or harm to public health is likely to be caused, the local authority in whose area the land is situated shall take such steps as may be reasonable, whether on the land affected or on any adjacent land, to avoid such pollution or harm.

(2) Where an authorised officer has reasonable ground to believe that the condition of any land is such that pollution of public water is likely to be caused due to the concentration or accumulation in, and emission or discharge from, the land of noxious liquids caused by deposits of waste on the land, the authorised officer shall, with the approval of the Director, direct the generator to take immediate remedial action, at his own cost, and to consult the government department responsible for water on the necessary steps to be taken to minimise or prevent pollution or harm to public health.

- (3) In this section, "land" includes premises.

49. Confidentiality

No person shall, during or after the tenure of his office, directly or indirectly, use or disclose any matter or confidential information which came to his knowledge in the performance of his duties under this Act, except –

- (a) for the purposes of this Act; or
- (b) where he is required to do so by a Court or under any enactment.

50. Regulations

(1) The Minister may, for the purposes of this Act, make such regulations as he thinks fit.

(2) Without prejudice to the generality of subsection (1), any regulations made under subsection (1) may provide –

- (a) for the classification of waste;
- (b) for the implementation, method and operation, of segregation at source for specified types of waste;

- (c) for the licensing of waste carriers;
- (d) for the licensing of private waste management facilities;
- (e) for the registration of recyclers, exporters of waste and scavenging contractors;
- (f) for the implementation of obligations under international conventions pertaining to solid and hazardous wastes to which Mauritius is a party;
- (g) for the environmentally safe and sound management of hazardous waste;
- (h) for the duty of care to be exercised by persons dealing with waste;
- (i) the collection, storage, recycling and disposal of waste;
- (j) for the implementation of extended producer responsibility and take-back systems for such goods as may be prescribed;
- (k) for the segregation at source and collection of solid waste by local authorities;
- (l) for the prevention of litter;
- (m) for the end of waste status;
- (n) for the payment of fees and charges;
- (o) for the management of waste;
- (p) for the amendment of the Schedules;
- (q) for any matter necessary for, consequential to, the implementation of this Act;
- (r) that any person who contravenes them shall commit an offence and shall, on conviction, be liable to a fine not exceeding 250,000 rupees and to imprisonment for a term not exceeding 10 years.

(3) Notwithstanding subsections (1) and (2), a local authority may, with the approval of the Minister, make regulations for the purpose of prescribing any fee, as provided under sections 24 and 25.

51. Protection from liability

(1) No civil or criminal liability shall be incurred by the Minister, the supervising officer, the Director, the *Police de L'Environnement* or any authorised officer in respect of any act done or omitted in good faith in the discharge of his or its functions or in the exercise of his or its powers under this Act.

(2) Subsection (1) shall be in addition to and not in derogation from the Public

Officers' Protection Act.

52. Consequential amendments

(1) The Local Government Act is amended –

- (a) in section 50(2)(k), by inserting, after the words “the Environment Protection Act”, the words “the Waste Management and Resource Recovery Act 2023”;
- (b) by repealing section 59 and replacing it by the following section –

59. Waste management

A local authority shall, in accordance with section 17 of the Waste Management and Resource Recovery Act 2023, submit to the Director such information as he may require for the preparation of the National Solid Waste Management Strategy and Action Plan; and

- (c) in section 60 –
 - (i) by repealing subsections (2) and (3);
 - (ii) in subsection (4), by deleting the words “Permanent Secretary” and replacing them by the words “supervising officer of the Ministry responsible for the subject of solid waste and hazardous waste”;
 - (iii) by repealing subsection (5);
- (d) in section 61 –
 - (i) by repealing subsections (7), (7A) and (8);
 - (ii) in subsection (9), by deleting the words “, waste”;
 - (iii) in subsection (11), by deleting the words “household or commercial waste,”;
- (e) in section 162, by repealing subsections (1)(b) and (2)(a) and (b);
- (f) in section 163, by repealing subsections (1)(c) and (2).

(2) The Environment Protection Act is amended –

- (a) in section 37, by inserting, after subsection (2), the following new subsection –

(2A) The Minister shall consult the Department of Waste Management and Resource Recovery before issuing national

environmental standards in relation to any solid waste and hazardous waste.

- (a) by repealing sections 42 and 43.

(3) The Dangerous Chemicals Control Act is amended, in the Third Schedule, by repealing paragraph 2(1)(e) and replacing it by the following paragraph –

- (e) in relation to the disposal of hazardous wastes, be the Ministry responsible for the subject of solid waste and hazardous waste.

53. Revocation

The following enactments are revoked –

- (a) the Environment Protection (Standards for Hazardous Wastes) Regulations 2001;
- (b) the Local Government (Registration of Scavenging Contractors) Regulations 2004;
- (c) the Environment Protection (Collection, Storage, Treatment, Use and Disposal of Waste Oil) Regulations 2006;
- (d) the Local Government (Registration of Recycler and Exporter) Regulations 2013;
- (e) the Local Government (Dumping and Waste Carriers) Regulations 2021.

54. Saving and transitional provision

(1) Any licence issued or registration or application granted under an enactment repealed under section 52, which is valid and in force on the commencement of the corresponding repealing provision under this Act, shall remain valid until its expiry.

(2) Where this Act does not make provision for the necessary transition from an enactment repealed under section 52, the Minister may make regulations for such transition.

55. Commencement

(1) Subject to subsection (2), this Act shall come into operation on a date to be fixed by Proclamation.

(2) Different dates may be fixed for the coming into operation of different sections of this Act.

Passed by the National Assembly on the eighteenth day of April two thousand and

twenty three.

Bibi Safeena Lotun (Mrs)

Clerk of the National Assembly

FIRST SCHEDULE

[Section 9(2)(c)]

**NATIONAL WASTE MANAGEMENT
COORDINATION COMMITTEE**

1. Ministry responsible for the subject of agriculture
 2. Ministry responsible for the subject of commerce
 3. Ministry responsible for the subject of education
 4. Ministry responsible for the subject of energy
 5. Ministry responsible for the subject of finance
 6. Ministry responsible for the subject of health
 7. Ministry responsible for the subjects of housing and lands
 8. Ministry responsible for the subject of industry
 9. Ministry responsible for the subject of local government
-

SECOND SCHEDULE

[Section 44(1)]

	Offence	Fine (Rs)
1.	Failure to comply with notice under section 26	10,000
2.	Failing to comply with request of Director or authorised officer or giving false or misleading information under section 34	10,000
3.	Obstructing authorised officer under section 37	10,000
4.	Removing or retrieving waste without written authorisation of Director under section 45	20,000
5.	Failing to take necessary precautions and measures, and failing to ensure whether a person is licensed, under section 47	10,000