



BERMUDA

WASTE AND LITTER CONTROL ACT 1987

1987 : 24

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#### FIRST SCHEDULE

#### SECOND SCHEDULE

*[preamble and words of enactment omitted]*

### PART L PRELIMINARY

#### Short title

- 1 This Act may be cited as the Waste and Litter Control Act 1987.

#### Interpretation

- 2 In this Act—
  - “approved recording device” means a device for recording sound or visual images, or both, approved by the Minister by notice published in the Gazette;
  - “article” includes any material, machinery, equipment or vehicle and any item of goods;
  - “collection authority” means—
    - (a) in a municipal area, the municipality;
    - (b) elsewhere, the Minister;

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“commercial premises” means premises used wholly or partly for the purposes of a trade or business;

“commercial waste” means waste from commercial premises:

“dump” means an assembly of articles or substances that are—

- (a) waste; or
- (b) stored or kept for future use,

in either case situated otherwise than inside a building which is enclosed on all sides by walls;

“estate road” means a road which—

- (a) gives access either—
  - (i) to two or more dwelling houses, the occupants of which have a right of way over the road; or
  - (ii) to a hotel or guest-house having accommodation for more than twenty-five guests; but
- (b) is not—
  - (i) a highway; or
  - (ii) a road which is under the control of the Admiralty or of Her Majesty’s Secretary of State for Defence;

“highway” means any street, road, or path over which the general public have a right of way and which is maintainable at the public expense, and includes any public wharf and any public landing place;

“highway authority” means—

- (a) in a municipal area, the municipality;
- (b) elsewhere, the Minister:

“household waste” means—

- (a) either—
  - (i) waste from a private dwelling, being a dwelling that is not commercial premises; or
  - (ii) waste from premises operated by a charity registered under the Charities Act 1978 [*title 13 item 10*]; but
- (b) does not include—
  - (i) furniture or any household appliance; or
  - (ii) the product of gardening or horticulture; or

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- (iii) waste from premises that are a unit in a timesharing scheme, that is, any premises or complex of premises (whether contiguous to each other or not) and the grounds appurtenant thereto operated as a single business venture for the accommodation of purchasers and let for occupancy in exchange for a consideration given in advance by a purchaser who receives in return a right to occupy and use the facilities of the scheme for a specified period of not more than six months during any given year;

“Minister” means the Minister responsible for Works and Engineering;

“municipal area” means the area of Bermuda for which a municipality is responsible;

“premises” includes a vessel;

“public place”, means a place, including a place within the territorial waters, to which the public are entitled or permitted to have access without payment, and which either—

- (a) is in the open air; or
  - (b) being covered, is open to the air on at least one side;
- and an estate road is deemed to be such a place;

“regulation” means a regulation made under section 24;

“relevant authority” means—

- (a) in relation to land in a municipal area, the municipality;
- (b) in relation to land elsewhere, the Minister;

“sewage” includes the waste of animal life (other than stable manure), water discharged from water closets, urinals, sinks, basins, baths, and all other water used for domestic purposes or in any industrial process;

“vessel” includes a hovercraft;

“waste” means sewage or any article or substance (including any scrap metal or other surplus arising from the application of a process) and either—

- (a) requires to be disposed of as being unwanted, broken, worn out, contaminated or otherwise spoilt or useless; or
- (b) in relation to a particular person, has been discarded by him as being unwanted, broken, worn out, contaminated or otherwise spoilt or useless, whether or not any other person would so discard it;

“waste collection business” means the business of collecting commercial or household waste or both;

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“waste collection licence” means a licence under section 8 to carry on a waste collection business.

*[Section 2 “estate road” amended by 2002:6 s.4 & Sch 3 effective 18 June 2002; Section 2 “approved recording device” and “sewage” inserted, and “waste” amended by 2011 : 37 s. 2 effective 27 April 2012]*

### PART II

#### CONTROL OF LITTER AND WASTE

##### Restriction on depositing waste

3 (1) Subject to section 5, a person shall not deposit any waste on any land, or cause or knowingly permit any waste to be deposited on any land.

(2) A person who contravenes subsection (1) commits an offence.

(3) For the purpose of determining if an offence has been committed under this section, and for the purpose of prosecuting an offence under this section, circumstantial evidence may be obtained and considered, including—

- (a) written correspondence;
- (b) serial numbers appended to computers;
- (c) serial numbers appended to refrigeration units;
- (d) vehicle identification numbers appended to motor cycles; or
- (e) vehicle identification numbers appended to motor cars.

(4) For the purpose of this Act, evidence obtained from an approved recording device shall be admissible as direct evidence.

*[Section 3 subsections (3) and (4) inserted by 2011 : 37 s. 3 effective 27 April 2012]*

##### Control of public littering

4 (1) Subject to section 5, a person shall not throw away or discard any waste in a public place.

(2) A person who contravenes subsection (1) commits an offence.

##### Reckless littering

4A A person who, while in control of an auxiliary cycle, a motor cycle, a motor car or vessel, who recklessly causes or allows waste to be discarded from the auxiliary cycle, motor cycle, motor car or vessel, onto a public place, commits an offence against this Act.

*[Section 4A inserted by 2011 : 37 s. 4 effective 27 April 2012]*

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### Reckless littering from trucks

4B A person who, while in control of a truck, who recklessly causes or allows waste to be discarded from the truck (inclusive of waste discarded from the truck cab or cargo load) onto a public place, commits an offence against this Act.

*[Section 4B inserted by 2011 : 37 s. 4 effective 27 April 2012]*

### Defence to ss.3 and 4

5 It is a defence for a person charged with an offence against section 3 or 4 to prove that the act charged was authorized by law or was done with the consent of the person or authority having control of the land, or, as the case may be, the public place, in question.

### Presumption relating to vehicles

6 Where waste is deposited on land, or is thrown away or discarded in a public place, from a vehicle or vessel, it is presumed for the purposes of section 3 or 4 that the person driving, or otherwise in control of the vehicle or vessel did the depositing, or the throwing away or discarding, as the case may be, unless the contrary is proved.

### Restriction on carrying on waste collection business

7 A person shall not carry on a waste collection business unless he is the holder of a waste collection licence and carries on the business in accordance with the licence.

### Waste collection licences

8 (1) A person desiring to carry on a waste collection business shall make application in writing to the Minister for a waste collection licence, setting forth in his application such information as the Minister may require.

(2) An application for a waste collection licence shall be accompanied by a fee of \$50 or such greater amount as may be prescribed for the purpose under the Government Fees Act 1965 [*title 15 item 18*].

(3) A person who, in or in relation to an application for a waste collection licence—

- (a) makes a statement which he knows to be false in a material particular or which he does not believe to be true; or
- (b) recklessly makes a statement which is false in a material particular,

commits an offence.

(4) Upon application being made to him under subsection (1), the Minister has power, subject to subsection (6), to grant a waste collection licence in such form, and containing such terms and conditions, as he thinks fit sanctioning the carrying on of a waste collection business.

(5) An annual fee of \$250, or such greater amount as may be prescribed for the purpose under the Government Fees Act 1965 [*title 15 item 18*], is payable by every person to or for whom the Minister is prepared to grant or renew a waste collection licence.

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(6) The First Schedule has effect for regulating the grant, renewal and revocation of, and otherwise in relation to, waste collection licences.

(7) For the avoidance of doubt, licences issued by the Minister, by way of subsection (4), shall contain a waste handler's licence number, and shall be produced, on demand, for inspection by—

- (a) waste customers; and
- (b) personnel at waste management disposal facilities, such as the facilities commonly known as—
  - (i) the airport waste management facility;
  - (ii) the government quarry facility;
  - (iii) the Marsh Folly facility;
  - (iv) the material recovery (recycling plant) facility; and
  - (v) the Tynes Bay (waste-to-energy) facility; and
- (c) personnel at any other facility or place approved by the Minister, by way of notice in the Gazette, for the purpose of being in receipt of waste.

*[Section 8 subsection (7) inserted by 2011 : 37 s. 5 effective 27 April 2012]*

### Power to prohibit importation and use of materials

9 (1) If the Minister is satisfied that the use of any material or product for the purpose of packaging, wrapping or containing any article will promote littering, or will cause dangers or inconvenience in connection with the collection or disposal of waste which should be avoided in the public interest, he may make an order under this section prohibiting the use of that material or product in Bermuda, or its importation into Bermuda, for that purpose.

(2) A material or product that was actually in Bermuda before the date of the making of an order under this section restricting the use in Bermuda, or the importation into Bermuda, of that material or product is not affected by that order.

(3) An order under this section may create offences and prescribe for such offences penalties not exceeding the penalties fixed by section 26.

(4) An order under this section shall be expressed to come into force not earlier than three months (or such longer period as may be specified in the order) after the publication of the order in the Gazette.

(5) An order made under this section is subject to the affirmative resolution procedure.

PART III  
PUBLIC COLLECTION OF WASTE, ETC.

Collection of household and commercial waste

- 10 (1) It is the duty of each collection authority—
- (a) to arrange for the collection of all household waste in its area, except waste—
    - (i) which is situated at a place which in the opinion of the authority is so isolated or inaccessible that the cost of collecting it would be unreasonably high; and
    - (ii) as to which the authority is satisfied that adequate arrangements have been or can reasonably be expected to be made by a person who controls the waste; and
  - (b) if requested by the occupier of premises in its area to collect any commercial waste from the premises, to arrange for the collection of the waste.
- (2) A collection authority shall not make any charge for collecting household waste under subsection (1).
- (3) A person at whose request commercial waste is collected in pursuance of subsection (1)(b) is liable to pay such amount for the collection of the waste as the authority concerned may charge from time to time.
- (4) References to waste in this section include references to waste on premises occupied by the Government; but a collection authority is not entitled by virtue of this subsection to exercise, in relation to premises occupied by the Government or waste on any such premises, any power conferred on the authority by virtue of sections 21 to 23.

Powers ancillary to s.10

- 11 (1) A collection authority may, as respects its area, do any of the following—
- (a) cleanse the streets and highways;
  - (b) place or erect waste receptacles on streets or highways;
  - (c) provide convenient lots of land for the disposal of waste;
  - (d) provide plant or apparatus for treating waste or disposing of it.
- (2) Any waste—
- (a) which a collection authority lawfully collects; or
  - (b) which any person deposits on land provided pursuant to subsection (1)(c),
- becomes the property of the collection authority upon collection or deposit, as the case may be; and the collection authority may sell or otherwise dispose of any such waste as it thinks fit.



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### Cleansing agreements

12 The relevant authority may, with the consent of any person who has an interest in, or is the occupier of, any land, arrange for the cleansing of the land, and may enter into an agreement with such a person for the payment by that person of charges in respect of the cleansing.

### Receptacles for household waste

13 (1) Where a collection authority has a duty by virtue of section 10(1)(a) to arrange for the collection of household waste from any premises, then, subject to any regulations, the authority may, by a notice served on the occupier of the premises, require him to place the waste for collection, at a location specified in the notice, in receptacles which are of a kind and number so specified.

(2) A notice served by an authority pursuant to subsection (1) may provide for the receptacles in question to be provided—

- (a) if the recipient of the notice agrees, by the authority on payment by him of such payments as the authority may charge him from time to time; or
- (b) by the recipient of the notice, if he does not enter into an agreement pursuant to paragraph (a) within a period specified in the notice.

(3) Where a recipient of such a notice is required by the notice to provide any receptacles, he may, within the period of twenty-one days beginning with the last day of the period specified in the notice pursuant to subsection (2)(b), appeal to a court of summary jurisdiction against the notice on any of the following grounds—

- (a) that the location specified in the notice is unreasonable;
- (b) that the kind or number of the receptacles required by the notice is unreasonable;
- (c) that the receptacles in which household waste from the premises in question is placed for collection are adequate.

(4) Where an appeal against a notice is brought under subsection (3)—

- (a) the notice is of no effect pending the determination or abandonment of the appeal; and
- (b) the court shall either quash or modify the notice or dismiss the appeal; and
- (c) in any proceedings under section 15 for an offence in respect of the notice no question shall be raised whether the kind or number of the receptacles specified in the notice is unreasonable.

### Receptacles for commercial waste

14 (1) If it appears to a collection authority that there is likely to be situated on any premises in its area commercial waste of a kind which, if the waste is not stored in receptacles of a particular kind, is likely to cause a nuisance or to be detrimental to the amenity of the locality in which the premises are situated, the authority may, by a notice

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served on the occupier of the premises, require him to provide at the premises receptacles for the storage of the waste which, subject to any regulations, are of a kind and number reasonably specified in the notice.

(2) A person on whom a notice is served pursuant to subsection (1) may, within the period of twenty-one days beginning with the day on which the notice is served on him, appeal under this subsection against the notice to a court of summary jurisdiction on one or both of the following grounds—

- (a) that the kind or number of the receptacles specified in the notice is unreasonable;
- (b) that the waste is not likely to cause a nuisance or to be detrimental to the amenity of the locality in which the premises are situated.

(3) Where a collection authority has a duty by virtue of a request made pursuant to section 10(1)(b) to arrange for the collection of commercial waste from any premises, then, subject to any regulations, the authority may, by a notice served on the occupier of the premises, require him to place the waste for collection, at a location specified in the notice, in receptacles which are of a kind and number so specified.

(4) A person on whom a notice is served pursuant to subsection (3) may, within the period of twenty-one days beginning with the day on which the notice is served on him, appeal under this subsection against the notice to a court of summary jurisdiction on any of the following grounds—

- (a) that the location specified in the notice is unreasonable;
- (b) that the kind or number of the receptacles required by the notice is unreasonable;
- (c) that the receptacles in which commercial waste from the premises in question is placed for collection are adequate.

(5) Where an appeal is brought under subsection (2) or (4) of this section against a notice, section 13(4)(a) to (c) apply in relation to the notice as they apply in relation to such a notice as is mentioned in section 13.

### Enforcement of ss.13 and 14

15 Subject to section 13(3) and (4) and section 14 (2),(4) and (5), a person who fails to comply with the requirements of a notice served on him under section 13 or 14 commits an offence.

PART IV  
CONTROL OF DUMPS

Dump screening and clearance orders

16 (1) If it appears to the Minister that there is on any premises an unsightly dump which is visible to persons in a public place in the vicinity of the premises, he may serve on the owner or occupier of the premises—

- (a) an order (a “dump screening order”) requiring the execution of such work involving fencing, hedging, covering, planting or other measures as the Minister thinks necessary for the effectual screening of the dump from view; or
- (b) an order (a “dump clearance order”) requiring the removal, destruction or disposal in some other fashion of anything already forming part of the dump, to such extent and in such manner, and subject to such conditions, if any, as the Minister thinks necessary for remedying the unsightliness of the dump or for preventing a recurrence of the situation at the dump which caused him to serve the order.

(2) A dump screening order shall specify the work to be executed.

(3) A dump clearance order shall specify the things or materials that are to be removed, destroyed or otherwise disposed of pursuant to the order.

(4) A dump screening order or a dump clearance order—

- (a) shall state the time (not being less than fourteen days) within which the requirements of the order are to be complied with; and
- (b) shall include mention of the right of appeal conferred by section 19(1), and the time for bringing such an appeal.

(5) Subject to section 19, a person who contravenes a requirement of a dump screening order or a dump clearance order that has been served upon him commits an offence.

(6) In relation to a dump in a municipal area—

- (a) references in this section and sections 17, 18 and 19 to things done or to be done by or to the Minister shall be construed as references to things done or to be done by or to the municipality; and
- (b) the reference in section 18(1) to premises occupied by the Government shall be construed as a reference to premises occupied either by the Government or by the municipality.

Power to screen or clear in certain cases

17 Without prejudice to section 16(5), the Minister, where a requirement of a dump screening order or a dump clearance order is not complied with within the time specified by the order, may himself perform the requirement; and he may recover before a court of

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summary jurisdiction any expenses incurred by him in so doing, without limit of amount, from the person upon whom the order was served, in the manner provided by law for the recovery of a liquidated debt.

### Dump control notices

18 (1) Without prejudice to anything in section 16 or 17, the Minister, where it appears to him that there is on any premises (including premises occupied by the Government) an unsightly dump which is visible to persons in a public place in the vicinity of the premises, may cause to be erected at the dump a notice (a "dump control notice") providing for the control of the abandoning, depositing, tipping, keeping or storing of any additional things on or in the vicinity of the dump.

(2) A dump control notice shall specify the prohibitions or restrictions that the Minister considers to be needed for achieving the control mentioned in subsection (1).

(3) A dump control notice shall include mention of the right of appeal conferred by section 19(1), and the time for bringing such an appeal.

(4) Subject to section 19, a person who—

- (a) contravenes a prohibition or restriction contained in a dump control notice; or
- (b) defaces, damages, obscures or removes, or otherwise interferes with, such a notice

commits an offence.

### Appeals

19 (1) A person on whom a dump screening order or a dump clearance order has been served, or who is the owner or occupier of premises at which a dump control notice has been erected, may appeal under this section against the order or notice to a court of summary jurisdiction on such one or more of the grounds specified in subsection (2) as may be appropriate; and such a person is in this section referred to as an "appellant".

(2) The grounds referred to in subsection (1) are the following—

- (a) that there is some material error or defect in the order or notice;
- (b) where the order or notice allows a time for complying with a requirement, that the time allowed is not sufficient for the purpose;
- (c) that a requirement of the order or notice is unnecessary or unreasonable;
- (d) in the case of a dump screening order or a dump clearance order, that the order might lawfully have been served on someone else, and that it would have been equitable if it had been so served;
- (e) in the case of a dump clearance order, that a condition in the order is unnecessary or unreasonable.

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(3) An appeal under this section may be brought within the period of fourteen days beginning with the date on which, in the case of a dump screening order or a dump clearance order, the order was served on the appellant or, in the case of a dump control notice, the notice was erected, and shall be heard and determined by the court in a summary manner.

(4) The appellant shall serve a copy of his notice of appeal on the Minister.

(5) Where an appellant brings an appeal under this section on, or on grounds which include, the ground specified in subsection (2)(d), he shall serve a copy of his notice of appeal on the person referred to; and, in the case of an appeal on any other ground, the appellant may serve a copy of his notice of appeal on any other person having an estate or interest in the premises in question; and any person on whom a copy of a notice of appeal is served pursuant to this subsection is entitled to appear upon the hearing of the appeal and defend his interests.

(6) An appellant, the Minister and every person on whom an appellant is permitted or required by subsection (5) to serve a copy of his notice of appeal are proper parties to the appeal.

(7) On the determination of an appeal under this section, the court may make such order as it thinks fit with respect to the work to be executed, or other requirements to be complied with, by the appellant or any other party to the appeal, being a party who appeared upon the hearing of the appeal, or with respect to the contribution to be made by the appellant or any other such party to the cost of any such work or requirements, or with respect to the proportions in which any expenses which may be recoverable by the Minister are to be borne by the appellant or any other such party.

(8) In exercising its powers under subsection (7), the court shall have regard—

- (a) as between an owner and an occupier, to the terms and conditions, whether contractual or statutory, of the tenancy, and the nature of the work or requirements in question; and
- (b) in any case, to the degree of benefit to be derived by the person concerned.

(9) An appeal may be brought to the Supreme Court against the order of a court of summary jurisdiction under subsection (7) as though the appeal were an appeal from the judgment of a court of summary jurisdiction in a civil cause or matter, but the decision of the Supreme Court in the matter shall then be final.

(10) Where an appeal is brought under this section against a dump screening order or a dump clearance order or a dump control notice, the order or notice is of no effect until the appeal is determined or abandoned.

PART V

MISCELLANEOUS

Interference with refuse tips, waste receptacles

20 (1) No person shall sort over or disturb—

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- (a) anything deposited at a place provided by a collection authority for the deposit of waste, or deposited in a waste receptacle provided anywhere for public use; or
- (b) the contents of any waste receptacle which, in accordance with regulations, is placed on or near any highway or in any other place with a view to its being emptied,

unless—

- (aa) in the case of anything deposited as mentioned in paragraph (a), he is authorized by the authority to do so; or
- (bb) in the case of such a receptacle as is mentioned in paragraph (b), he is a person entitled to the custody of the receptacle, or he has the requisite authority from such a person, or he is himself a person whose function is to empty the receptacle.

(2) A person who contravenes subsection (1) commits an offence.

### Rights of entry and inspection

21 (1) Any person authorized in writing in that behalf by a relevant authority may at any reasonable time—

- (a) enter upon any land for the purpose of—
  - (i) performing any function conferred on the authority or that person by virtue of this Act; or
  - (ii) determining whether, and if so in what manner, such a function should be performed; or
  - (iii) determining whether any provision of this Act or of an instrument made by virtue of this Act is being complied with;
- (b) carry out such inspections, measurements and tests on the land or of any articles on it, and take away such samples of the land or articles, as he considers appropriate for such a purpose.

(2) If it is shown to the satisfaction of a magistrate on sworn information in writing on behalf of a person entitled to enter upon land in pursuance of subsection (1)—

- (a) that—
  - (i) admission to the land has been refused to that person; or
  - (ii) such a refusal is apprehended; or
  - (iii) the land is unoccupied; or
  - (iv) the occupier is temporarily absent; or
  - (v) the case is one of emergency; or

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(vi) an application for such admission would defeat the object of the entry;  
and

(b) that there is reasonable ground for his entry upon the land for the purpose for which entry is required,

then, subject to subsection (3), the magistrate may by warrant under his hand authorize that person to enter the land, if need be by force.

(3) A magistrate shall not issue a warrant under subsection (2) in respect of any land unless he is satisfied—

(a) that admission to the land in pursuance of subsection (1) was sought after not less than seven days notice of the intended entry had been served on the occupier; or

(b) that admission to the land in pursuance of subsection (1) was sought in an emergency, and was refused by or on behalf of the occupier; or

(c) that the land is unoccupied; or

(d) that an application for admission to the land would defeat the object of the entry.

(4) A warrant under subsection (2) continues in force until the purpose for which the entry is required has been satisfied.

Provisions supplementary to s.21

22 (1) A person authorized to enter upon any land in pursuance of section 21 shall, if so required, produce evidence of his authority before he enters upon the land.

(2) A person so authorized may take with him on to the land in question such other persons and such equipment as may be necessary

(3) Admission to any land used for residential purposes, and admission with heavy equipment to any other land, shall not, except in an emergency or in a case where the land is unoccupied, be demanded as of right in pursuance of section 21(1) unless a notice of the intended entry has been served on the occupier not less than seven days before the demand.

(4) A person who, in the exercise of powers conferred upon him by virtue of section 21 or this section, enters upon any land which is unoccupied or of which the occupier is temporarily absent shall leave the land as effectually secured against trespassers as he found it.

(5) It is the duty of a relevant authority to make full compensation to any person who has sustained damage by reason of—

(a) the exercise by a person authorized by the authority of any powers conferred upon the person so authorized by virtue of section 21 or this section; or

(b) the failure of a person so authorized to perform the duty imposed on him by subsection (4),

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except where the damage is attributable to the default of the person who sustained it.

(6) In section 21 and this section any reference to an emergency is a reference to a case where a person requiring entry to any land has reasonable cause to believe that circumstances exist which are likely to endanger life or health, and that immediate entry to the land is necessary to verify the existence of those circumstances, or to ascertain their cause, or to effect a remedy.

(7) A person who wilfully obstructs another person acting in the exercise of any powers conferred on the other person by virtue of section 21 or this section commits an offence.

### Power to obtain information

23 (1) Subject to any regulations made by virtue of section 24(1)(g), a relevant authority may serve on any person a notice requiring him to furnish to the authority, within a period, or at times, specified in the notice and in a form so specified, any information so specified which the authority reasonably considers that it needs for the purposes of any function conferred on the authority by or under this Act.

(2) A person who—

- (a) fails without reasonable excuse to comply with the requirements of a notice served on him pursuant to this section; or
- (b) in furnishing any information in compliance with such a notice, makes any statement which he knows to be false in a material particular or which he does not believe to be true, or recklessly makes any statement which is false in a material particular,

commits an offence.

### Regulations

24 (1) The Minister may make regulations—

- (a) with respect to the size, construction and maintenance of waste receptacles;
- (b) with respect to the placing of waste receptacles on premises in such a manner as to facilitate access to such receptacles and the emptying of them;
- (c) with respect to the placing of waste receptacles on highways with the consent of the relevant highway authorities, and the liability for any damage arising out of such placing of waste receptacles as aforesaid;
- (d) specifying the substances which may or may not be put into waste receptacles, and the precautions to be taken where particular substances are put into them;
- (e) prescribing the steps to be taken by occupiers of premises for the purpose of facilitating the collection of waste from receptacles which are provided in connection with the premises;



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- (f) regulating the giving of directions by collection authorities with respect to matters mentioned in any of the preceding paragraphs, and with respect to compliance with the directions by occupiers of premises and other persons;
  - (g) for restricting the information which may be required in pursuance of section 23(1), and for determining the form in which the information is to be so required;
  - (h) prescribing anything that is required or permitted by this Act to be prescribed by regulations, or that is necessary or convenient to be so prescribed for carrying out this Act or giving effect to it;
  - (i) creating offences and prescribing penalties (including, if thought fit, imprisonment) for such offences but not exceeding the penalties fixed by section 26.
- (2) Regulations are subject to the negative resolution procedure.

### Service of documents

25 (1) A document to be served under this Act by one person ("the server") on another person ("the subject") is to be treated as properly served on the subject if dealt with as mentioned in this section.

(2) The document may be delivered or sent by post to the subject, or addressed to him by name and left at his proper address.

(3) For the purposes of this Act, a document sent by post to, or left at, the address last known to the server as the address of a person shall be treated as sent by post to, or left at, that person's proper address.

(4) Where the document is to be served on the subject as being the person having an interest in land, and it is not practicable after reasonable enquiry to ascertain the subject's name or address, the document may be served by—

- (a) addressing it to the subject by the description of the person having that interest in the land (naming the interest); and
- (b) delivering the document to some responsible person on the land or affixing it, or a copy of it, in a conspicuous position on the land.

(5) References in subsections (1) to (4) to the serving of a document on a person include the giving of the document to that person.

### Punishment of offences

26 (1) Where a person commits an offence against this Act—

- (a) punishment on summary conviction: a fine not exceeding \$2,000; or
- (b) probation with 40 hours community service.

(2) Where a person commits a subsequent offence against this Act—

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- (a) punishment on summary conviction: a fine not exceeding \$5,000; or
  - (b) imprisonment not exceeding two years.
- (3) Where a person commits an offence against section 3 of this Act—  
punishment on summary conviction: a fine not exceeding \$10,000.
- (4) Where a person commits a subsequent offence against section 3 of this Act—  
punishment on summary conviction: a fine not exceeding \$25,000.
- (5) Where a person commits an offence against section 4A of this Act—
- (a) punishment on summary conviction: a fine not exceeding \$5,000; or
  - (b) imprisonment not exceeding three years.
- (6) Where a person commits a subsequent offence against section 4A of this Act—
- (a) punishment on summary conviction: a fine not exceeding \$25,000; or
  - (b) imprisonment not exceeding three years.
- (7) Where a person commits an offence against section 4B of this Act—
- (a) punishment on summary conviction: a fine not exceeding \$5,000; or
  - (b) imprisonment not exceeding three years.
- (8) Where a person commits a subsequent offence against section 4B of this Act—
- (a) punishment on summary conviction: a fine not exceeding \$25,000; or
  - (b) imprisonment not exceeding three years.
- (9) In this section “subsequent”, in relation to a person, means an offence—
- (a) against a provision of this Act under which that person has been convicted in previous proceedings; and
  - (b) involving conduct which, in the court’s opinion, is conduct of the same kind as that of which he was found guilty in those proceedings.

*[Section 26 repealed and replaced by 2011 : 37 s. 6 effective 27 April 2012]*

### Compensation in certain circumstances

- 27 (1) Where a person is convicted of an offence against section 3, 4, or 18 the court may—
- (a) without prejudice to any power of the court to award costs against the offender; and
  - (b) if the jurisdictional conditions are met; and
  - (c) subject to subsection (3),

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by order (a “compensation order”) require the offender to pay to the relevant authority such compensation as the court thinks reasonable.

(2) The jurisdictional conditions referred to are—

- (a) that it is established by the relevant authority before the court that that authority has suffered loss, from expense incurred by the authority or from injury done to its property, being loss caused by the act or omission constituting the offence; and
- (b) that the court thinks it expedient and just to make a compensation order in all the circumstances.

(3) In relation to the making of a compensation order, section 560(2) to (5) of the Criminal Code [*title 8 item 31*] have effect mutatis mutandis as those subsections have effect in relation to the making of a compensation order under section 558 of the Criminal Code.

Amendment of Amenities (Control of Dumps and Ruinous Structures) Act 1950

28     *[omitted]*

Commencement

29     *[omitted]*

*[Section 29 of this Act came into operation on assent and the remainder was brought into operation on 1 August 1987]*

Saving for existing waste collectors

30     *[omitted]*

FIRST SCHEDULE

(Section 8(6))

WASTE COLLECTION LICENCES

1 A waste collection licence (a "licence") shall not be granted to a person under 18 years of age.

2 Subject to paragraph 1, it is the Minister's duty to approve an application for the grant or renewal of a licence unless he considers that the application ought to be refused on one or more of the grounds specified in paragraph 3.

3 The Minister may refuse an application on any of the following grounds—

- (a) that there are already enough licences granted and in force;
- (b) that the applicant is unsuitable to hold the licence by reason of having been convicted of an offence, whether or not against this Act, or for any other reason;
- (c) that the applicant has without reasonable excuse failed to avail himself to a reasonable extent of a previous licence.

4 The Minister may at any time revoke a licence if he considers—

- (a) that the licence-holder is unsuitable to hold the licence by reason of having been convicted of an offence, whether or not against this Act, or for any other reason; or
- (b) that, since the grant or renewal of the licence, the licence-holder has without reasonable excuse failed to avail himself of the licence to a reasonable extent.

5 A licence-holder may at any time surrender his licence to the Minister, and it shall then cease to be valid.

6 (1) When the Minister receives an application for the grant or renewal of a licence, he shall within a reasonable time either—

- (a) grant a licence in the terms applied for: or
- (b) serve notice on the person making the application ("the applicant") under sub-paragraph (2).

(2) If the Minister proposes—

- (a) to refuse an application for the grant or renewal of a licence; or

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- (b) to grant a licence with terms different from those specified in the application; or
- (c) to revoke a licence,

he shall first serve on the applicant a notice—

- (aa) specifying the ground or grounds on which his decision would be based; and
- (bb) stating that within 7 days of receiving the notice the applicant may in writing require the Minister to give the applicant an opportunity to make representations to the Minister concerning it.

(3) Where a notice has been served under sub-paragraph (2), the Minister shall not determine the matter until either—

- (a) the applicant has made representations to the Minister concerning his decision; or
- (b) the period during which the applicant could have required the Minister to give him an opportunity to make representations has elapsed without his requiring the Minister to give him such an opportunity; or
- (c) the conditions specified in sub-paragraph (4) are satisfied.

(4) The conditions mentioned in sub-paragraph (3) are—

- (a) that the applicant has required the Minister to give him an opportunity to make representations to the Minister concerning the notice, as provided by subparagraph (2)(bb) of this paragraph; and
- (b) that the Minister has allowed the applicant a reasonable time for making his representations; and
- (c) that the applicant has failed to make representations within that time.

7 (1) A person aggrieved by a decision of the Minister under paragraph 3 or 4 may, within the period of twenty-one days beginning with the date on which he is notified of the decision, appeal under this sub-paragraph against the decision to a court of summary jurisdiction.

(2) On such an appeal the court may make such order as it thinks fit.

(3) An appeal may be brought to the Supreme Court against the order of a court of summary jurisdiction under sub-paragraph (2) as though the appeal were an appeal from the judgment of a court of summary jurisdiction in a civil cause or matter, but the decision of the Supreme Court in the matter shall then be final.

(4) Subject to sub-paragraphs (5) to (7), it is the Minister's duty to give effect to an order of the court of summary jurisdiction or the Supreme Court.

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(5) The Minister need not give effect to the order of a court of summary jurisdiction until the time for bringing an appeal under sub-paragraph (3) has expired and, if such an appeal is duly brought, until the determination or abandonment of the appeal.

(6) If a licence-holder applies for renewal of his licence before the date of its expiry, his licence remains valid—

(a) until the grant by the Minister of a new licence with the same terms; or

(b) if—

(i) the Minister refuses renewal or decides to grant a new licence with terms different from those of the existing licence; and

(ii) the licence-holder has a right of appeal under this paragraph, until the time for bringing an appeal has expired or, where an appeal is duly brought, until the determination or abandonment of the appeal.

(7) Where—

(a) the Minister decides to revoke a licence; and

(b) a right of appeal is available to the licence holder under this paragraph,

the revocation does not take effect until the time for bringing an appeal has expired or, where, in appeal is duly brought, until the determination or abandonment of the appeal.

*[First Schedule para 1 amended by 2001:20 s.7(1) & Sch 2 effective 1 November 2001]*

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SECOND SCHEDULE

(Section 28(a))

*[omitted]*

[Assent Date: 11 May 1987]

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*[Amended by:*

2001 : 20

2002 : 6

2011 : 37]