

**SOLID WASTE AND PUBLIC CLEANSING MANAGEMENT
ENACTMENT 2022
(No. 3 of 2022)**

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SCHEDULE

STATE OF SABAH

I assent,

TUN DATUK SERI PANGLIMA (DR) HAJI JUHAR
BIN DATUK HAJI MAHIRUDDIN,
Yang di-Pertua Negeri.

21ST APRIL, 2022.

No. 3 of 2022

An Enactment to provide for and regulate the management of controlled solid waste and public cleansing for the purpose of maintaining proper sanitation and for related matters.

ENACTED by the legislature of the State of Sabah as follows:

PART I PRELIMINARY

Short title and commencement

1. (1) This Enactment may be cited as the Solid Waste and Public Cleansing Management Enactment 2022.

(2) This Enactment comes into operation on a date to be appointed by the Minister by notification in the Gazette.

Interpretation

2. In this Enactment, unless the context otherwise requires -

"appointed date" means the date on which this Enactment or parts of this Enactment comes into operation;

"Authority" means a Solid Waste and Public Cleansing Management Authority established under section 4;

"authorized officer" means any officer authorized by the Authority;

"commercial solid waste" means any solid waste generated from any commercial activity;

"construction solid waste" means any solid waste generated from any construction or demolition activity, including improvement, preparatory, repair or alteration works;

"controlled solid waste" means any solid waste falling within any of the following categories:

- (a) commercial solid waste;
- (b) construction solid waste;
- (c) household solid waste;
- (d) industrial solid waste;
- (e) institutional solid waste;
- (f) imported solid waste;
- (g) public solid waste; or
- (h) solid waste which may be prescribed from time to time;

"Council" means the State Solid Waste and Public Cleansing Management Council established under section 7;

"disposal" means the disposal of any solid waste by any means including destruction, incineration, deposit or decomposing;

"Government" means the Government of the State of Sabah;

"household solid waste" means any solid waste generated by a household, and of a kind that is ordinarily generated or produced by any premises when occupied as a dwelling house, and includes garden waste;

"imported solid waste" means any solid waste generated in other countries and imported to Sabah for processing or disposal;

"industrial solid waste" means any solid waste generated from any industrial activity;

"institutional solid waste" means any solid waste generated by -

- (a) any premises approved under any written law or by the Government for use wholly or mainly for religious worship or for charitable purposes;

(b) any premises occupied by any Federal or State Government department, any local authority or any statutory body;

(c) any educational premises;

(d) any healthcare facilities including hospitals, clinics and health centres; or

(e) *any premises used as public zoos, public museums, public libraries and orphanages;*

"licensee" means a person who holds a valid licence under this Enactment;

"local authority" -

(a) means an Authority established under the Local Government Ordinance [No. 11 of 1961] and, where no such Authority has been so established in respect of any area, the District Officer of the district in which such area is situated; and

(b) in relation to the City of Kota Kinabalu, means the Mayor of the City of Kota Kinabalu appointed under section 4 of the City of Kota Kinabalu Enactment 1996 [No. 15 of 1996];

"market" has the meaning assigned to it in section 2 of the Local Government Ordinance 1961 [No. 11 of 1961];

"Minister" means the Minister charged with the responsibility for solid waste and public cleansing management;

"occupier" -

(a) means a person in occupation or control of any premises; and

(b) in relation to premises where different parts of the premises are occupied by different persons, means the respective person in occupation or control of each part of the premises;

"owner"-

(a) in relation to any premises, means -

(i) the registered proprietor of the premises; or

(ii) the lessee, including sub-lessee, of the premises whether registered or otherwise;

(b) in relation to any subdivided building means -

(i) the registered proprietor of a parcel held under a land subsidiary title;

(ii) the lessee, including a sub-lessee, of the subdivided building whether registered or otherwise; or

(iii) the management corporation or any other similar body approved under any written law and any subsidiary proprietor;

(c) means the agent or trustee of any of the persons described in paragraph (a) and subparagraph (b)(i) or, if that person cannot be traced or has died, his legal personal representative;

(d) if the premises are part of a development for which subsidiary titles are required to be applied for under any written law in operation but subsidiary titles have yet to be issued, means -

(i) the person with whom the developer has entered into any agreement for the purchase of the lot or parcel comprising the premises; or

(ii) the person to whom the property has been assigned and the assignment of which has been notified to the developer;

(e) in relation to any premises where building works are carried out, includes the developer;

(f) in relation to the common property of any building erected on land comprised in a subsidiary title subdivision plan approved by the relevant authority, includes -

(i) the management corporation or any person having control of the building;

(ii) any agent or employee appointed by the management corporation or any person having control of the building;

(iii) any person, body or administrator appointed pursuant to the Land (Subsidiary Title) Enactment 1972 [No.9 of 1972] to exercise the power of, or for that, management corporation; or

(g) in relation to any vehicle, means the registered owner of the vehicle:

"premises" include houses, buildings, lands, easements of any tenure, whether open or enclosed, whether built on or not, whether public or private, and whether maintained or not under statutory authority;

"public cleansing management services" means the following services:

- (a) the cleansing of public roads, public places, public toilets and public drains;
- (b) the cleansing of -
 - (i) hawker centres excluding privately owned and maintained food courts; and
 - (ii) markets excluding privately owned and maintained markets;
- (c) the clearing of illegally dumped controlled solid waste on public roads and in public places;
- (d) beach cleansing;
- (e) kerb side grass cutting on public roads;
- (f) grass cutting in public places; and
- (g) removal of carcasses,

but exclude landscaping and the maintenance of public roads and public places;

"public places" means any open space, parking place, garden, recreation and pleasure ground or square, whether enclosed or not, set apart or appropriated for the use of the public or to which the public shall at any time have access;

"public roads" means any public road which is currently repaired or maintained by the local authority or which has been transferred to or has become vested in the local authority under any written law and includes any street, square, court, alley, lane, bridge, foot way, track, bridle path, passage, tunnel, lay-by, interchange, round-about, traffic island, road divider, traffic lane, acceleration lane, deceleration lane, side-table, median strip, overpass, underpass, approach, entrance or exit ramp whether a thoroughfare or not, over which the public have a right of way, but shall not include any Federal road, State road, highway, bridge, tunnel or anything connected to that road which is maintained and kept by any Federal or State authority or any private person or private bodies;

"public solid waste" means any solid waste generated by public places, which are under the supervision or control of the local authority;

"recycling" means to collect and separate solid waste for the purpose of producing products;

"recycling centre" means a place where the public can either drop or sell recyclable solid waste;

"recyclable solid waste" means controlled solid waste which is suitable for recycling as may be prescribed;

"solid waste generator" means any person who generates any controlled solid waste;

"solid waste management facilities" means any land, fixed or mobile plant and systems incorporating structures, equipment used or intended to be used for the handling, storage, separation, transport, transfer, processing, recycling, treatment and disposal of controlled solid waste and includes transfer stations, disposal sites, sanitary landfill, incinerators and other thermal treatment plants, recycling plants and composting plants;

"solid waste management services" means the separation, storage, collection, transportation, transfer, processing, recycling, treatment and disposal of controlled solid waste;

"solid waste" includes -

- (a) any scrap material or other unwanted surplus substance or rejected products arising from the application of any process;
- (b) any substance required to be disposed of as being broken, worn out, contaminated or otherwise spoiled; or
- (c) any other material that according to this Enactment or any other written law is required by the Authority to be disposed of,

but does not include scheduled wastes as prescribed under the Environmental Quality Act 1974 [Act 127], sewage as defined in the Sewerage Services Enactment 2017 [No.5 of 2017] or radioactive waste as defined in the Atomic Energy Licensing Act 1984 [Act 304];

"special solid waste" means any kind of controlled solid waste as may be prescribed which -

- (a) is or may be dangerous to public health; or
- (b) is difficult to treat, keep or dispose of, that special provisions are required to deal with it.

Agreement regarding solid waste management services and public cleansing management services

3. The Authority shall, upon the coming into operation of this Enactment, have power to enter into any agreement with any person authorizing such person to undertake, manage, operate and carry out any solid waste management services or public cleansing management services under this Enactment.

PART II

SOLID WASTE AND PUBLIC CLEANSING MANAGEMENT AUTHORITY

Establishment of Solid Waste and Public Cleansing Management Authority

4. (1) An authority by the name of "Solid Waste and Public Cleansing Management Authority" is established for each local authority.

(2) The local authority shall be the Solid Waste and Public Cleansing Management Authority in respect of its own area of jurisdiction.

(3) There shall be officers of solid waste and public cleansing management as may be necessary for the purposes of this Enactment.

Functions and powers of Authority

5. (1) Without prejudice to any other functions conferred on the Authority by this Enactment, the Authority shall have the following functions:

(a) to exercise the regulatory functions specified in this Enactment and any regulations made under this Enactment;

(b) to grant licences and approvals under this Enactment; and

(c) to do all such things as may be necessary for the purpose of carrying out, or in connection with, the performance of its functions under this Enactment.

(2) The Authority shall have all such powers as may be necessary for, or in connection with, or incidental to, the performance of its functions under this Enactment.

Power of the Minister to give directions

6. The Minister may, from time to time, give directions of a general character not inconsistent with the provisions of this Enactment relating to the exercise of the powers and performance of the functions of the Authority and the Authority shall give effect to such directions.

PART III

STATE SOLID WASTE AND PUBLIC CLEANSING MANAGEMENT COUNCIL

Establishment of State Solid Waste and Public Cleansing Management Council

7. There shall be established a State Solid Waste and Public Cleansing Management Council.

Functions of Council

8. The Council shall have the following functions:

- (a) to give directions to the Authority on any matters relating to solid waste and public cleansing management, and the due administration and enforcement of laws relating to solid waste and public cleansing management services;
- (b) to formulate policies, plans and strategies of solid waste and public cleansing management services; and
- (c) to monitor and propose any improvement on new technology in solid waste and public cleansing management.

Membership of Council

9. (1) The Council shall consist of the following members:

- (a) a Chairman, who shall be the Permanent Secretary of Ministry of Local Government and Housing;
- (b) the Permanent Secretary of Ministry of Finance or his representative;
- (c) the Permanent Secretary of Ministry of Tourism, Culture and Environment or his representative;
- (d) the Permanent Secretary of Ministry of Industrial Development or his representative;
- (e) the Permanent Secretary of Ministry of Public Works Sabah or his representative;

- (f) the Secretary of Natural Resources or his representative;
- (g) Director of Lands and Surveys Department or his representative;
- (h) Director of the Federal Department of Environment or his representative;
- (i) Director of Department of Irrigation and Drainage or his representative; and
- (j) not more than five other members who possess experience and expertise and has shown capability and professionalism in matters relating to solid waste and public cleansing management, to be appointed by the Minister.

(2) The provisions of the Schedule shall apply to the Council.

(3) The Council may, from time to time, by order published in the Gazette, amend the Schedule.

Secretary

10. There shall be a secretary to the Council who shall be appointed by the Minister.

PART IV

SOLID WASTE AND PUBLIC CLEANSING MANAGEMENT FUND

Establishment of Solid Waste and Public Cleansing Management Fund

11. (1) For the purpose of this Enactment, a fund to be known as the "Solid Waste and Public Cleansing Management Fund" is established.

(2) The Fund shall be administered, controlled and maintained by the Council.

(3) The Fund shall consist of -

- (a) such sums as may be appropriated by the State Legislative Assembly from the State Consolidated Fund and otherwise for the purposes of this Enactment;
- (b) grants from the Federal Government;
- (c) all monies received by way of donations or contribution; and
- (d) all monies derived from levy imposed under this Enactment.

(4) The Fund shall be operated in accordance with the Financial Procedure Act 1957 [Act 61] and any subsidiary legislation made under the Act.

Expenditure to be charged on the Fund

12. The Fund shall be expended for the following purposed:

- (a) paying for the cost incurred as a result of the agreement made under section 3;
- (b) paying for the charges, fees or levy in relation to the direction given by Authority to carry out solid waste management services and public cleansing management services;
- (c) acquiring land and any assets, erecting buildings, purchasing or hiring of equipment, machinery or any other material and carrying out any other works and undertakings for the purpose of the management of solid waste and public cleansing; and
- (d) any other payment for the purpose of this Enactment.

Accounts and reports

13. The Council shall cause proper accounts of the Solid Waste and Public Cleansing Management Fund and proper reports of its activities in respect of the Fund to be kept and shall, as soon as practicable after the end of the financial year, cause to be prepared for that financial year -

- (a) a statement of accounts which shall include a balance sheet and an account of the contributions and expenditure; and
- (b) a statement of its activities.

PART V

**APPROVAL FOR THE CONSTRUCTION, ALTERATION OR CLOSURE OF PRESCRIBED
SOLID WASTE MANAGEMENT FACILITIES**

Construction or alteration of prescribed solid waste management facilities

14. (1) No person shall construct any prescribed solid waste management facilities unless the relevant plans or specifications have been approved in writing by the Authority.

(2) No person shall undertake any alteration of any prescribed solid waste management facilities which may -

- (a) affect the performance of the solid waste management facilities;
- (b) cause adverse environmental impact;

(c) impede the quality and level of solid waste management services;

(d) adversely affect public health; or

(e) affect the overall planning of solid waste management services,

unless the relevant plans or specifications which require the approval of the Authority have first been approved in writing by the Authority.

(3) An application for the approval of the plans or specifications under subsections (1) and (2) shall be submitted to the Authority.

(4) In addition to any other requirements under any other written law, the Authority may require any person seeking the approval under subsection (1) or (2) to submit to the Authority such information and document in a form and manner and within the time as may be prescribed.

(5) If a person fails to comply with subsection (4), the person's application for approval shall be deemed to be withdrawn without affecting the person's right to submit a fresh application.

(6) A person who -

(a) constructs or alters any prescribed solid waste management facilities without the plans and specifications which are required to be approved have first been approved in writing by the Authority; or

(b) constructs or alters any prescribed solid waste management facilities not in accordance with approved plans and specifications,

commits an offence and shall, on conviction, be liable to a fine not exceeding one hundred thousand ringgit or to imprisonment for a term not exceeding five years or to both.

(7) If an offence is proved under subsection (6), the court shall make an order requiring the person to alter the prescribed solid waste management facilities so as to comply with the approved plans and specifications within a period specified in the order and if he fails to comply with the order, he commits an offence and shall, on conviction, be liable to a fine not exceeding one hundred thousand ringgit or to imprisonment for a term not exceeding five years or to both and in the case of a continuing offence, be liable to a fine not exceeding five thousand ringgit for every day or a part of a day during which the offence continues after conviction.

Grant or refusal of approval

15. (1) The Authority may, after consulting the Council and considering the application for approval under subsection 14(1) or (2), grant the approval or refuse to grant the approval.

(2) In granting the approval to the person referred to in subsection 14(1) or (2), the Authority shall impose such terms and conditions as it thinks fit.

(3) The decision of the Authority to grant or not to grant an approval shall be communicated to the person referred to in subsection 14(1) or (2) as soon as practicable.

Review of approval

16. (1) The Authority may review the approval granted under section 15 if it is satisfied that the approved solid waste management facility does not conform to any requirements pertaining to environmental impact, quality and level of solid waste management services or public health.

(2) The Authority may serve upon the owner or occupier of the approved solid waste management facility a written notice of its intention to require the owner or occupier to apply for a fresh approval.

(3) The Authority shall give the owner or occupier an opportunity to make written representation against the intention within a period specified in the written notice.

(4) After the expiry of the period specified in the notice, the Authority shall, after considering the written representation made by the owner or occupier, decide whether or not to require the owner or occupier to apply for a fresh approval.

(5) The Authority shall give the owner or occupier a written notice of its decision under subsection (4) as soon as practicable.

Application to close any prescribed solid waste management facilities

17. (1) Any owner or occupier who intends to close any prescribed solid waste management facilities, may apply to the Authority by submitting a written application and a proposed closure plan to the Authority.

(2) The Authority may, after the receipt of an application under subsection (1), request the owner or occupier to give further information or document within the period specified in the request or any extension of time granted by the Authority.

(3) If the owner or occupier fails to comply with subsection (2), the application shall be deemed to be withdrawn without affecting the owner or occupier's right to submit a fresh application.

(4) The Authority shall, after considering the application under subsection (1) -

(a) allow the application with or without conditions; or

(b) reject the application and direct the owner or occupier to submit a fresh application and closure plan.

(5) Any owner or occupier who closes any prescribed solid waste management facilities without the approval of the Authority commits an offence and shall, on conviction, be liable to a fine not less than one hundred thousand ringgit and not exceeding five hundred thousand ringgit or to imprisonment for a term not exceeding five years or to both.

PART VI LICENSING

Requirement for a licence

18. (1) Subject to section 19, no person shall -

(a) undertake or provide any solid waste management services;

(b) manage or operate any solid waste management facilities; or

(c) undertake or provide any public cleansing management services,

unless he holds a licence granted under this Enactment.

(2) A person who contravenes subsection (1) commits an offence and shall, on conviction, be liable to a fine not less than fifty thousand ringgit and not exceeding one hundred thousand ringgit or to imprisonment for a term not exceeding five years or to both and in the case of continuing offence, be liable to a fine not exceeding five thousand ringgit for every day or a part of a day during which the offence continues after conviction.

Application for licence

19. (1) An application for a licence shall be made to the Authority in the prescribed form.

(2) Every application under subsection (1) shall be accompanied by such documents or information as may be specified by the Authority.

(3) An application under this section may be withdrawn at any time before it is granted or refused.

Additional information or document

20. (1) The Authority may, in writing at any time after the receipt of an application under section 19, request the applicant to give to the Authority within the period specified in the request, additional information or document on the application.

(2) If any additional information or document required under subsection (1) is not provided by the applicant within the period specified in the request or any extension of time granted by the Authority, the application shall be deemed to be withdrawn and shall not be further proceeded with, but without affecting the right of the applicant to make a fresh application.

Grant or refusal of licence

21. (1) The Authority shall, after considering the application for a licence under section 19, and the additional information or document provided under section 20, grant a licence or refuse to grant a licence.

(2) If the Authority decides to grant a licence under subsection (1), it shall -

- (a) require the licensee to pay the prescribed fee within the prescribed period; and
- (b) impose conditions as it thinks fit.

(3) The conditions which may be imposed under subsection (2) include -

- (a) the nature, extent and frequency of services to be provided by the licensee;
- (b) the duration of the licence;
- (c) the area and scheme for which the licensee shall provide such services;
- (d) the types of controlled solid waste;
- (e) the solid waste management facilities to which collected solid waste may be delivered to;
- (f) the requirement to deposit such amount as may be prescribed as security for safe closure of solid waste management facilities;
- (g) the fee payable by the licensee; and
- (h) the particular rights and duties of the licensee in respect of the services to be provided by the licensee.

(4) The decision of the Authority to grant or not to grant a licence shall be communicated to the applicant by written notice as soon as practicable.

(5) The written notice by the Authority under subsection (4) shall specify -

(a) in the case where the licence is granted, the fact of such grant and the requirements and conditions imposed under subsection (2); and

(b) in the case of a refusal to grant a licence, the fact of such refusal and the reason for the refusal.

Compliance with licence conditions

22. (1) A licensee shall comply with the conditions imposed by the Authority on the licence.

(2) A licensee who fails to comply with any condition of a licence commits an offence and shall, on conviction, be liable to a fine not less than twenty-five thousand ringgit and not exceeding fifty thousand ringgit or to imprisonment for a term not exceeding two years or to both and in the case of a continuing offence, be liable to a fine not exceeding two thousand and five hundred ringgit for every day or a part of a day during which the offence continues after conviction.

Power to impose additional or to vary conditions

23. The Authority may, at any time -

(a) impose any additional conditions on the licence; or

(b) vary any of the conditions imposed on the licence.

Transfer of licence

24. (1) The grant of a licence under section 21 shall be personal to the licensee and the licence shall not be assigned, sub-licensed or transferred to any other person except with the prior written approval of the Authority.

(2) A licensee who assigns, sub-licenses or transfers his licence to any other person without the prior written approval of the Authority commits an offence and shall, on conviction, be liable to a fine not less than twenty-five thousand ringgit and not exceeding fifty thousand ringgit or to imprisonment for a term not exceeding two years or to both.

Suspension and revocation of licence

25. (1) The Authority may suspend or revoke a licence under any of the following circumstances:

- (a) the licensee has failed to comply with any of the provisions of this Enactment or any regulations made under this Enactment;
- (b) the licensee has failed to comply with any of the conditions of the licence;
- (c) the licensee had improperly or illegally obtained the licence;
- (d) the licensee has been convicted of an offence under this Enactment or any regulations made under this Enactment;
- (e) a receiver, receiver and manager, provisional liquidator or like official has been appointed over the whole or substantial part of the licensee's assets and such appointment is not revoked or annulled within a period of sixty days from the date of appointment: or
- (f) there has been any act or default on the part of the licensee or there has been a change of circumstances such that the licensee would no longer be entitled to be granted a licence under this Enactment.

(2) Before the Authority makes a decision under subsection (1), the Authority shall give the licensee -

- (a) a written notice of its intention to suspend or revoke the licence; and
- (b) an opportunity to make written representation within a period specified in the written notice which shall not be less than thirty days.

(3) After the expiry of the period specified in the notice, the Authority shall, after considering the written representation made by the licensee under subsection (2), if any, decide whether to suspend the licence for a period not exceeding one month or to revoke the licence.

(4) The Authority shall give the licensee a written notice of its decision under subsection (3) as soon as practicable.

(5) If a licence is suspended under subsection (3), the Authority may require the licensee to remedy the breach or the contravention and if it considers necessary to do so, cause the services provided by the licensee to be carried out by any other person authorized by the Authority on such terms and conditions as the Authority may specify.

(6) If the Authority is satisfied that the licensee fails to remedy the breach or contravention as required under subsection (5), or the breach or contravention continues after the licence is suspended under subsection (3), it shall revoke the licence.

(7) licensee whose licence is suspended or revoked shall not be entitled to any compensation for any loss caused to him by the suspension or revocation of a licence granted under this Enactment.

Renewal of licence

26. (1) A licensee may apply for a renewal of his licence not later than one year before the date of expiry of the licence.

(2) Notwithstanding subsection (1), the Authority may, subject to the payment of a penalty not exceeding three thousand ringgit, impose on the licensee, allow an application for renewal of the licence made after the time specified in subsection (1), but no application for renewal shall be allowed where the application is made after the date of expiry of the licence.

(3) The Authority shall upon payment of the prescribed fee, renew a licence except in the following circumstances:

- (a) the licensee has failed to comply with any provisions of this Enactment or any regulations made under this Enactment;
- (b) the licensee has failed to comply with any of the conditions of the licence;
- (c) the licensee had improperly or illegally obtained the licence;
- (d) the licensee has been convicted of an offence under this Enactment or any regulations made under this Enactment;
- (e) a receiver, receiver and manager, provisional liquidator or like official has been appointed over the whole or substantial part of the licensee's assets and such appointment is not revoked or annulled within a period of sixty days from the date of the appointment; or
- (f) there has been any act or default on the part of the licensee or there has been a change of circumstances such that the licensee would no longer be entitled to be granted a licence under this Enactment.

(4) The Authority may request the licensee to provide any information or document as may be required for the renewal application within a period specified in the request.

(5) Notwithstanding subsection (3), if the information or document requested under subsection (4) is not provided by the licensee within the period specified in the request or any extension of time granted, the Authority may not renew the licence.

(6) If the Authority refuses to renew the licence, it shall inform the licensee by written notice as soon as practicable of the refusal to renew the licence.

(7) The licensee shall be given an opportunity to make written representation against the Authority's refusal to renew the licence within a period specified in the written notice referred in subsection (6) which shall not be less than fourteen days.

(8) After the expiry of the period specified in the written notice under subsection (7), the Authority shall, after considering any written representation made by the licensee, decide whether or not to renew the licence.

(9) If the Authority decides not to renew the licence, it shall notify the licensee as soon as practicable of the said decision and the reason for his decision.

Effect of revocation or non-renewal of licence

27. If the revocation of a licence under section 25 has taken effect or where the licence has not been renewed under section 26, the licensee shall immediately cease to provide any services or operate any facilities in respect of which the licence was granted.

PART VII CHARGES

Power to impose charges, etc.

28. (1) The Minister may from time to time prescribe, either separately or as a consolidated rate, controlled solid waste charges, fees or levy which shall be paid by -

- (a) the owner;
- (b) the occupier; or
- (c) any other person,

to whom solid waste management services are provided under this Enactment.

(2) The Minister may, by order published in the Gazette, authorize the person with whom an agreement has been entered into under section 3 to demand, collect and retain the controlled solid waste charges, fees or levy prescribed under subsection (1) in respect of solid waste management services provided by the person under the agreement.

(3) The person with whom an agreement has been entered into under section 3, may recover from the owner, occupier or any other person, from whom charges, fees or levy for solid waste management services is due and remains unpaid after the due date, additional charges for late payment at a rate to be prescribed by the Minister.

(4) An order made under subsection (2) shall specify -

- (a) the type and extent of services with respect to which controlled solid waste charges, fees or levy may be demanded, collected and retained;
- (b) the person authorized to demand, collect and retain the controlled solid waste charges, fees or levy; and
- (c) the duration of the authorization to demand, collect and retain the controlled solid waste charges, fees or levy.

(5) Any person authorized under subsection (2) shall -

- (a) Maintain such accounts, books and records in respect of the payment and collection of controlled solid waste charges, fees or levy and late payment charges as the Authority may require;
- (b) Furnish to the Authority such information, returns and accounts in respect of the payment and collection of the controlled solid waste charges, fees or levy and late payment charges as the Authority may require; and
- (c) Permit the Authority or any officer authorized in writing by the Authority -
 - (i) to have access to, examine, inspect or make copies of any document; and
 - (ii) to have access to, examine or inspect any machinery or equipment,

maintained or used for the payment or collection of controlled solid waste charges, fees, levy or late payment charges.

(6) The authorization of any person under subsection (2) shall not render the Authority liable to any person in respect of any injury, damage or loss occasioned by the failure of the person authorized under that subsection to carry out his obligations under the agreement in respect of which controlled solid waste charges, fees or levy are demanded, controlled or retained.

(7) All money due and payable under this section shall be debt due to the person authorized under subsection (2) and shall be recoverable accordingly from the owner, occupier or any other person referred to in subsection (1).

(8) Any person who fails to comply with subsection (5) commits an offence and shall, on conviction, be liable to a fine not exceeding ten thousand ringgit or to imprisonment for a term not exceeding six months or to both.

Recovery of controlled solid waste charges, fees or levy

29. (1) Where controlled solid waste charges, fees or levy become recoverable by the person with whom an agreement has been entered into under section 3, the person may serve on the owner, occupier or any other person a written notice requesting payment of the

sum due within such period, which shall not be less than fourteen days from the date of service of the notice, as may be specified in the notice.

(2) If at the end of the period specified in the notice under subsection (1) the sum or part of the sum due remains unpaid, the person with whom an agreement has been entered into under section 3 may serve on the owner, occupier or any other person a further written notice demanding payment of the sum due within fourteen days from the date of service of the notice; and if upon the expiry of the said period, the sum due still remains unpaid, that person may institute proceedings in any court of competent jurisdiction for the recovery of the said sum.

Recovery of money due to Authority

30. All moneys due to the Authority under this Enactment shall be a debt due to the Authority and shall be recoverable accordingly.

Failure or refusal to pay charges, fees or levy

31. Any person who, without any reasonable excuse, fails or refuses to pay controlled solid waste charges, fees or levy commits an offence and shall, on conviction, be liable to a fine not exceeding ten thousand ringgit and shall also be liable to a further fine not exceeding fifty ringgit for every day during which the offence is continued after the conviction.

PART VIII

CONTROL OF SOLID WASTE GENERATORS AND PERSONS IN POSSESSION OF CONTROLLED SOLID WASTE

Prohibition against unauthorized depositing, treatment, etc., of controlled solid waste

32. (1) No person shall deposit, separate, store, keep, collect, transfer, transport, treat or dispose of or cause to be or permit to be deposited, separated, stored, kept, collected, transferred, transported, treated or disposed of any controlled solid waste otherwise in accordance with this Enactment.

(2) All controlled solid waste shall be deposited, treated, kept, stored or disposed of only at solid waste management facilities licensed under this Enactment.

(3) Notwithstanding subsection (2), the Minister may, by notification published in the *Gazette*, specify any category of controlled solid waste which may be deposited, treated, kept, stored or disposed of otherwise in accordance with this Enactment or any regulations made under this Enactment or in areas other than solid waste management facilities.

(4) In exercising his powers under subsection (3), the Minister shall have regard to -

(a) any controlled solid waste which are small enough or of such a temporary nature that it may be excluded from the application of subsection (2);

(b) any means of treatment or disposal of any controlled solid waste which is innocuous enough that it may be excluded from the application of subsection (2);
and

(c) cases for which adequate controls are provided for under any other written law.

(5) No owner or occupier of the licensed solid waste management facilities shall receive, process or treat any controlled solid waste otherwise in accordance with this Enactment.

(6) Any person in possession of any controlled solid waste shall without any unreasonable delay inform the Authority of any accidental or unintended disposal of controlled solid waste at any place or area, other than the place or area at which that person is permitted under this Enactment to dispose of any controlled solid waste.

(7) Any owner or occupier of any premises shall take all reasonable measures to prevent unauthorized disposal of controlled solid waste on his premises and shall without any unreasonable delay inform the Authority of such unauthorized disposal.

(8) Any person who contravenes subsection (1) or (5) commits an offence and shall, on conviction, be liable to a fine not less than ten thousand ringgit and not exceeding one hundred thousand ringgit or to imprisonment for a term not less than six months and not exceeding five years or to both.

Prohibition against unauthorized escape of any controlled solid waste

33. (1) Any person who has in his possession any controlled solid waste shall take all reasonable measures to prevent the escape of any controlled solid waste from his possession.

(2) No person shall cause, aid, abet or permit to cause the escape of any controlled solid waste from the possession of other person.

(3) Any person who contravenes subsection (1) or (2) commits an offence and shall, on conviction, be liable to a fine not less than ten thousand ringgit and not exceeding one hundred thousand ringgit or to imprisonment for a term not less than six months and not exceeding five years or to both.

Waste placed in receptacles or deposit sites for controlled solid waste

34. (1) Any things which is placed in any receptacle or receptacle chamber for controlled solid waste, with a view to its being emptied or removed, or which is deposited at any place caused to be provided by the Authority for the collection and disposal of controlled solid waste shall be deemed to be solid waste, unless the contrary is proved.

(2) No person, unless he is licensed under this Enactment to collect the solid waste, shall sort over, disturb or otherwise interfere with any receptacle or receptacle chamber for controlled solid waste, which is placed with a view to its being emptied, or which is deposited at any place caused to be provided by the Authority for the collection and disposal of controlled solid waste -

(a) regardless of who provides that receptacle or causes it to be provided; and

(b) whether or not that receptacle is used for public or private purposes.

(3) Any person who contravenes subsection (2) commits an offence and shall, on conviction, be liable to a fine not exceeding one thousand ringgit.

(4) The Authority may, upon application by the charity groups or any other organization, exempt collection of recyclable solid waste carried out by the charity groups or other organization from the provision of subsection (2).

Power to direct for controlled solid waste to be separated, handled and stored

35. (1) The Authority may give written direction as it considers fit to any person for the purpose of ensuring the compliance with this Enactment, on the separation, handling and storage of any controlled solid waste in the possession of such person.

(2) Any person who fails to comply with the direction under subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding one thousand ringgit.

Power to direct controlled solid waste to be removed

36. (1) If any person has in his possession any accumulation of controlled solid waste or any consignment of controlled solid waste on any land or premises which is in contravention of this Enactment, which cause a nuisance or is prejudicial to health or offensive to the neighbourhood, the Authority may, by notice in writing served on that person, direct him to deliver the controlled solid waste within time specified in the direction to any solid waste management facilities or any areas as the Authority may determine for treatment or disposal.

(2) A direction under subsection (1) may require the person who is directed to deliver the controlled solid waste to pay the cost of treating or disposing of the controlled solid waste.

(3) If the controlled solid waste is not delivered as directed under subsection (1) -

(a) the Authority shall cause the controlled solid waste to be collected by any person authorized by the Authority; and

(b) the cost incurred in collecting the controlled solid waste by the person authorized under paragraph (a) shall be a debt due to the Authority and shall be recoverable accordingly.

(4) The Authority may, upon application made by any person and with any condition that it thinks fit, permit the storage of any kind of recyclable solid waste or any consignment of controlled solid waste on any premises.

(5) Any person who fails to comply with the direction under this section commits an offence and shall, on conviction, be liable to a fine not less than ten thousand ringgit and not exceeding one hundred thousand ringgit or to imprisonment for a term not exceeding six months or to both.

(6) For the purposes of this section, "nuisance" has the meaning assigned to it in section 2 of the Local Government Ordinance 1961 [No. 11 of 1961].

Power to direct removal of unlawful depositing or disposing of controlled solid waste

37. (1) If any controlled solid waste is deposited or disposed of in contravention of this Enactment, the Authority may, by notice in writing served on -

(a) the owner or occupier of the premises;

(b) the person who deposited or disposed of the controlled solid waste; or

(c) the solid waste generator,

direct him to remove the controlled solid waste from the premises within a period of not more than three days from the date of the service of the notice.

(2) If the controlled solid waste is not removed as directed under subsection (1), the Authority may cause the controlled solid waste to be removed by any other person authorized by the Authority.

(3) If the Authority exercises the power conferred on him under subsection (2), the cost incurred in removing the controlled solid waste shall be a debt due to the Authority and shall be recoverable accordingly from -

- (a) the owner or occupier of the land or premises unless he proves that he neither made nor caused or permitted the deposit of the controlled solid waste and that he took all reasonable measures to avoid the deposit on the premises;
- (b) the person who deposited or disposed of or caused or permitted the deposit or the disposal of the controlled solid waste; or
- (c) the solid waste generator.

(4) The Authority may give directions to the owner or occupier of any premises to allow access to the premises for the removal of unlawfully deposited controlled solid waste by any person directed by the Authority.

(5) Any person who fails to comply with a direction under subsection (4) commits an offence and shall, on conviction, be liable to a fine not less than ten thousand ringgit and not exceeding one hundred thousand ringgit or to imprisonment for a term not exceeding six months or to both.

Offences for causing damage to vehicles, receptacles or other solid waste management facilities

38. (1) Any person who by a deliberate or rash or negligent act or omission cause damage to vehicles, receptacles or solid waste management facilities commits an offence and shall, on conviction, be liable to a fine not less than ten thousand ringgit and not exceeding one hundred thousand ringgit or to imprisonment for a term not exceeding six months or to both.

(2) Any person who causes any damage under subsection (1) shall, in addition to the penalty under that subsection, make good or be liable to pay full compensation for the damage he has done within a specified time as the court thinks fit.

(3) Without prejudice to subsection (1), any court before which a person is charged with an offence under this Enactment -

- (a) may assess the compensation payable under this section; and
- (b) may make an order for the payment of the compensation,

and any such order may be enforced as if it were a judgment in civil action.

(4) Nothing shall operate to relieve the person with whom an agreement has been made under section 3 or a licensee from liability arising under subsection (1) and the person or licensee shall also be liable to any damage shown to have resulted from any deliberate or rash or negligent act or omission on the part of persons employed by him, or his servants or agents.

PART IX ENFORCEMENT

Authorized officers

39. (1) The Authority may, in writing, authorize any of its officers to exercise the powers of enforcement under this Enactment and the Authority shall issue an authority card to each authorized officer.

(2) Any such officer shall be deemed to be a public servant within the meaning of the Penal Code [Act 574].

(3) In exercising any of the powers of enforcement under this Enactment or any regulations made under this Enactment, an authorized officer shall, on demand, produce to the person against whom the power is being exercised his authority card issued to him under subsection (1).

Power of enforcement

40. (1) An authorized officer may, for the purpose of enforcing this Enactment -

- (a) call for and examine any book, document, instrument or record and make copies of or take extracts from such book, document, instrument or record which is in the custody or control of any person pertaining to any matter under this Enactment;
- (b) visit, enter, inspect and examine with or without prior notice any solid waste management facilities, land or other premises at any time but shall not unnecessarily obstruct or impede any work therein;
- (c) investigate in respect of any solid waste management facilities, land or other premises
 - (i) to ensure proper maintenance and sanitation of any solid waste management facilities, land or other premises;
 - (ii) any matter or thing concerned with or related to the safety or health of any person living in the vicinity of the solid waste management facilities or which causes or is likely to cause damage to property;

(iii) the effect of any operation or practice upon the amenity of any area or place;
or

(iv) whether there are concentrations or accumulations of noxious gases or liquid;
or

(d) take samples of any material or substance found at solid waste management facilities, on land or other premises, and of the air or water in, on or in the vicinity of solid waste management facilities, land or other premises.

(2) If, on inspection by the Authority of any solid waste management facilities, it appears to the Authority that the condition of the solid waste management facilities is such that danger is posed to the safety or health of any person living in the vicinity of the solid waste management facilities, the Authority -

(a) may take reasonable steps, whether on the solid waste management facilities affected or on adjacent land, including closing the solid waste management facilities, as appears to the Authority to be reasonable to avoid such danger; and

(b) shall be entitled to recover costs and expenses incurred in doing so from the licensee of the solid waste management facilities.

Power of investigation

41. (1) An authorized officer shall have the power to investigate the commission of any offence under this Enactment.

(2) Every person required by an authorized officer to give information or produce any document or other article relating to the commission of any offence which is in his power to give shall be legally bound to give the information or produce the document or other article.

Search and seizure with warrant

42. (1) If it appears to a Magistrate, upon written information on oath and after such inquiry as he considers necessary, that there is a reasonable cause to believe that any premises have been used or are about to be used for, or there is in or on any premises, evidence necessary to establish, the commission of an offence under this Enactment, the Magistrate may issue a warrant authorizing an authorized officer to whom it is directed, at any reasonable time by day or night and with or without assistance -

(a) to enter any premises and search for, seize and detain any property, equipment, machinery, book, record, document, container, receptacle or other article;

- (b) to inspect, make copies of, or take extracts from, any book, record, document or other article so seized and detained;
 - (c) to take possession of, and remove from the premises, any property, equipment, machinery, book, record, document, container, receptacle or other article so seized and detain it for such period as may be necessary;
 - (d) to search any person who is in, or on such premises, and for the purpose of the search, detain the person and remove him to such place as may be necessary to facilitate the search, and seize and detain any property or document found on the person; or
 - (e) to break open, examine and search any container, receptacle or other article.
- (2) An authorized officer acting under subsection (1) may, if it is necessary to do so -
- (a) break open any outer or inner door of any premises and enter the premises;
 - (b) forcibly enter any premises and every part thereof;
 - (c) remove by force any obstruction to the entry, search, seizure, detention or removal that he is empowered to effect; or
 - (d) detain any person found on any premises searched under subsection (1) until the search is completed.
- (3) If, by reason of its nature, size or amount, it is not practicable to remove any property, equipment, machinery, book, record, document, container, receptacle or other article seized under this section, the authorized officer making the seizure shall, by any means, seal such property, equipment, machinery, book, record, document, container, receptacle or other article.
- (4) Any person who, without lawful authority, breaks, tampers with or damages the seal referred to in subsection (3) or removes the property, equipment, machinery, book, record, document, container, receptacle or other article under seal or attempts to do so commits an offence and shall, on conviction, be liable to a fine not exceeding ten thousand ringgit or to imprisonment for a term not exceeding six months or to both and in the case of a continuing offence be liable to a fine not exceeding one thousand ringgit for every day or a part of a day during which the offence continues after conviction.

Search and seizure without warrant

43. If an authorized officer is satisfied upon information received that he has reasonable cause to believe that by reason of delay in obtaining a search warrant under section 42 the

Investigation would be adversely affected or evidence of the commission of an offence is likely to be tampered with, removed, damaged or destroyed, the authorized officer may enter the premises and exercise in, upon and in respect of the premises all the powers referred to in section 42 in as full and ample a manner as if he were authorized to do so by a warrant issued under that section.

Access to computerized data

44. (1) An authorized officer conducting a search under this Enactment shall be given access to computerized data whether stored in a computer or otherwise.

(2) For the purposes of this section, the authorized officer shall be provided with the necessary password, encryption code, decryption code, software or hardware and any other means required to enable the comprehension of computerized data.

Power to stop, search and seize vehicle

45. (1) If an authorized officer has reasonable cause to suspect that any vehicle is carrying any things in respect of which an offence under this Enactment or any regulations made under this Enactment is being or has been committed, he may stop and examine the vehicle and may, if on examination he has reasonable cause to believe that such vehicle is or has been used for the commission of such offence, seize the vehicle and any things found in the vehicle that is reasonably believed to furnish evidence of the commission of the offence.

(2) The person in control or in charge of the vehicle shall, if required to do so by the authorized officer -

(a) stop the vehicle and allow the authorized officer to examine it; and

(b) open all parts of the vehicle for examination and take all measures necessary to enable or facilitate the carrying out of such examination as the authorized officer considers necessary.

(3) Any person who contravenes subsection (2) commits an offence and shall, on conviction, be liable to a fine not exceeding ten thousand ringgit or to imprisonment for a term not exceeding six months or to both.

List of things seized

46. (1) Except as provided under subsection (2), where any property, equipment, machinery, book, record, document, container, receptacle or other article, or any vehicle or any things

found in the vehicle, is seized under this Enactment, the seizing officer shall prepare a list of the things seized and immediately deliver a copy of the list signed by him to -

(a) if premises have been searched under section 42 or 43, the occupier of the premises which have been searched, or to his agent or servant, at those premises; and

(b) if a vehicle or any things found in the vehicle is seized under section 45, the person in control or in charge of the vehicle.

(2) Where the premises are unoccupied, the seizing officer shall whenever possible post a list of the things seized conspicuously on the premises.

Temporary return of seized property, etc.

47. If any property, equipment, machinery, book, record, document, container, receptacle or other article, or any vehicle or any things found in the vehicle, is seized under this Enactment, the Authority may, in its discretion, temporarily return such thing to the owner or the person from whose possession, custody or control it was seized -

(a) subject to such terms and conditions as the Authority may impose; and

(b) subject, in any case, to sufficient security being furnished to the satisfaction of the Authority that such thing shall be surrendered to the Authority on demand or be produced before a court of competent jurisdiction.

Power to require attendance of person acquainted with case

48. (1) An authorized officer making an investigation under this Enactment may, by order in writing, require the attendance before himself of any person who appears to the authorized officer to be acquainted with the facts and circumstances of the case, and such person shall attend as so required.

(2) If the person refuses or fails to attend as so required, the authorized officer may report such refusal or failure to a court who shall issue a summons to secure the attendance of such person as may be required by the order made under subsection (1).

Examination of person acquainted with case

49. (1) An authorized officer making an investigation under this Enactment may examine orally any person supposed to be acquainted with the facts and circumstances of the case.

(2) Such person shall be bound to answer all questions relating to the case put to him by the authorized officer, but he may refuse to answer any question the answer to which would have a tendency to expose him to criminal charge or penalty or forfeiture.

(3) A person making a statement under this section shall be legally bound to state the truth, whether or not such statement is made wholly or partly in answer to the question.

(4) An authorized officer examining a person under subsection (1) shall first inform that person of the provisions of subsections (2) and (3).

(5) A statement made by any person under this section shall, whenever possible, be reduced into writing and signed by the person making it or affixed with his thumb-print, as the case may be -

(a) after it has been read to him in the language in which he made it; and

(b) after he has been given an opportunity to make any correction he may wish.

Admissibility of statements in evidence

50. (1) Except as provided in this section, no statement made by any person to an authorized officer in the course of an investigation made under this Enactment shall be used in evidence.

(2) When any witness is called for the prosecution or for the defence, other than the accused, the court shall, on the request of the accused or the prosecutor, refer to any statement made by that witness to an authorized officer in the course of an investigation under this Enactment and may then, if the court thinks fit in the interest of justice, direct the accused to be furnished with a copy of it and the statement may be used to impeach the credit of the witness in the manner provided by the Evidence Act 1950 [Act 56].

(3) Where the accused had made a statement during the course of an investigation, such statement may be admitted in evidence in support of his defence during the course of the trial.

(4) Nothing in this section shall be deemed to apply to any statement made in the course of an identification parade or falling within section 27 or paragraphs 32(1)(a), (i) and (j) of the Evidence Act 1950 [Act 56].

(5) When any person is charged with any offence in relation to -

(a) the making; or

(b) the contents,

of any statement made by him to an authorized officer in the course of an investigation made under this Enactment, that statement may be used as evidence in the prosecution's case.

Forfeiture or release of seized property, etc.

51. (1) Any property, equipment, machinery, book, record, document, container, receptacle or other article, or any vehicle or any things found in the vehicle, seized in exercise of any power conferred by this Enactment shall be liable to forfeiture.

(2) If prosecution is instituted with regard to any property, equipment, machinery, book, record, document, container, receptacle or other article, or any vehicle or any things found in the vehicle, under this Enactment, the court before which the prosecution with regard thereto has been held may order the forfeiture or release of the property, equipment, machinery, book, record, document, container, receptacle or other article, or the vehicle or any things found in the vehicle.

(3) The court shall order the forfeiture of the property, equipment, machinery, book, record, document, container, receptacle or other article, or the vehicle or any things found in the vehicle referred to in subsection(1) if it is proved to the satisfaction of the court that an offence under this Enactment has been committed and that the thing was the subject matter of or was used in the commission of the offence, notwithstanding that no person may have been convicted of such offence.

(4) If no prosecution is to be instituted with regard to any property, equipment, machinery, book, record, document, container, receptacle or other article, or any vehicle or any things found in the vehicle, seized under this Enactment, the authorized officer in whose custody it is held shall notify the person from whose possession, custody or control of the property, equipment, machinery, book, record, document, container, receptacle or other article, or the vehicle or any things found in the vehicle, was seized of the fact and of the provisions of subsection (7).

(5) A notice under subsection (4) shall be in writing and shall be sent to the last known address of the person concerned.

(6) If no claim is made under subsection (7) within thirty days from the date of service of the notice referred to in subsection (4), the property, equipment, machinery, book, record, document, container, receptacle or other article, or the vehicle or any things found in the vehicle, seized under this Enactment shall be taken and deemed to be forfeited at the expiration of that period.

(7) A person who asserts that he is the owner of the property, equipment, machinery, book, record, document, container, receptacle or other article, or the vehicle or any things found in

the vehicle, referred to in subsection (4) and that it is not liable to forfeiture may personally or by his agent authorized in writing give written notice to the authorized officer in whose possession such things is held that he claims the thing.

(8) On receipt of the notice referred to in subsection (7), the authorized officer shall refer the claim to the Authority who -

(a) may direct that the property, equipment, machinery, book, record, document, container, receptacle or other article, or the vehicle or any things found in the vehicle, be released; or

(b) may direct the authorized officer in writing, to refer the matter to Magistrate for a decision.

(9) The Magistrate to whom a matter is referred under subsection (8) shall issue a summons requiring -

(a) the person asserting that he is the owner of the property, equipment, machinery, book, record, document, container, receptacle or other article, or the vehicle or any things found in the vehicle; and

(b) the person from whom the property, equipment, machinery, book, record, document, container, receptacle or other article, or the vehicle or any things found in the vehicle, was seized,

to appear before the Magistrate and upon their appearances or default to appear, but due service of the summons being proved, the Magistrate shall proceed to the examination of the matter and on proof that an offence under this Enactment has been committed and that such things was the subject matter of or was used in the commission of such offence shall order the property, equipment, machinery, book, record, document, container, receptacle or other article, or the vehicle or any things found in the vehicle, to be forfeited and shall, in the absence of such proof, order its release.

(10) The property, equipment, machinery, book, record, document, container, receptacle or other article, or the vehicle or any things found in the vehicle, forfeited or deemed to be forfeited shall be delivered to the Authority and shall be disposed of by the Authority in accordance with the directions of the Magistrate.

(11) The Authority may direct that any things seized under this Enactment be sold at any time and the proceeds of the sale be held pending the result of any prosecution or claim under this section if -

- (a) it is of a perishable nature or is subject to speedy and natural decay;
- (b) the custody of the thing involves unreasonable expense and inconvenience; or
- (c) it is believed to cause obstruction or hazard to the public.

Cost of holding seized property, etc.

52. If any property, equipment, machinery, book, record, document, container, receptacle or other article, or any vehicle or any things found in the vehicle, seized under this Enactment is held in the custody of the Authority pending the completion of any proceedings in respect of an offence under this Enactment, the cost of holding it in custody shall, in the event of any person being found to commit an offence, be a debt due to the Authority by such person and shall be recoverable accordingly.

No costs or damages arising from seizure to be recoverable

53. No person shall, in any proceedings before any court in respect of any property, equipments, machinery, book, record, document, container, receptacle or other article, or any vehicle or any things found in the vehicle, seized in the exercise or the purported exercise of any power conferred by this Enactment, be entitled to the costs of such proceedings or to any damages or other relief unless such seizure was made without reasonable cause.

Obstruction

54. Any person who -

- (a) refuses any authorized officer access to any premises which the authorized officer is entitled to have under this Enactment or any regulations made under this Enactment or in the execution of any duty imposed or power conferred by this Enactment;
- (b) assaults, obstructs, hinders or interferes with any authorized officer in the execution of his duty imposed or power conferred by this Enactment or any regulations made under this Enactment;
- (c) refuses to give any authorized officer any information relating to an offence or suspected offence under this Enactment or any regulations made under this Enactment or any other information which may reasonably be required of him and which he has in his knowledge or power to give,

commits an offence and shall, on conviction, be liable to a fine not exceeding ten thousand ringgit or to imprisonment for a term not exceeding six months or to both and in the case of a

continuing offence be liable to a fine not exceeding one thousand ringgit for every day or a part of a day during which the offence continues after conviction.

Solid waste management facilities installed or constructed without approval before the coming into operation of this Enactment

55. (1) If the Authority is satisfied on reasonable ground that -

(a) any solid waste management facilities had been installed or constructed without approval under any written law before the coming into operation of this Enactment; and

(b) the continued existence of the solid waste management facilities -

(i) is such that the danger is posed to the safety or health of any person living in the vicinity of the solid waste management facilities; or

(ii) is likely to be used in contravention of this Enactment,

the Authority may make a written complaint to a Magistrate.

(2) Upon receipt of the written complaint under subsection (1), the Magistrate shall issue a summons requiring the owner or occupier of the solid waste management facilities to appear before the Magistrate and upon his appearance or default to appear, but due service of the summons being proved, the Magistrate shall proceed to hear the complaint and may -

(a) dismiss the complaint; or

(b) make an order for the demolition of the solid waste management facilities within a time specified in the order.

(3) Any person who fails to comply with the order made under paragraph (2)(b) commits an offence and shall, on conviction, be liable to a fine not less than ten thousand ringgit and not exceeding one hundred thousand ringgit or to imprisonment for a term not exceeding six months or to both.

(4) Upon expiry of the time specified in the order under paragraph (2) (b), the Authority may execute the order and cost of such work shall be a debt due to the Authority and shall be recoverable accordingly.

PART X
REDUCTION AND RECOVERY OF CONTROLLED SOLID WASTE

Reduction, reuse and recycling of controlled solid waste

56. (1) The Minister may, upon recommendation of the Council, by order published in the *Gazette*, require -

- (a) any solid waste generator to reduce the generation of controlled solid waste in any manner or method;
- (b) any person to use environmental friendly material;
- (c) any person to use specified amount of recycled materials for specified products;
- (d) any person to limit the generation, import, use, discharge or disposal of specified products or materials;
- (e) the implementation of coding and labeling systems for any product or material to promote recycling;
- (f) the use of any method or manner for the purpose of reducing the adverse impact of the controlled solid waste on the environment; and
- (g) the use of any method or manner for the purpose of reduction, reuse and recycling of the controlled solid waste.

(2) Any person who fails to comply with the order made under subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding ten thousand ringgit or to imprisonment for a term not exceeding six months or to both.

Take back system and deposit refund system

57. (1) The Minister may, upon recommendation of the Council, by order published in the *Gazette*, establish take back system which -

- (a) require that specified products or goods after use shall be taken back by the manufacturer, assembler, importer or dealer and that the manufacturer, assembler, importer or dealer shall be obliged on their own account and cost to recycle or dispose any products or goods taken back in a specified manner;
- (b) require that any person shall deliver specified products or goods to the manufacturer, assembler, importer or dealer; and

(c) require any dealer of specified products or goods to receive and store specified products or goods to be taken back.

(2) The Minister may, by order published in the Gazette, establish deposit refund system and determine -

(a) the specified products or goods;

(b) the deposit refund amount;

(c) the labelling of the products or goods; and

(d) the obligation of the dealers of the products or goods.

(3) Any person who contravenes any order made under subsection (1) or (2) commits an offence and shall, on conviction, be liable to a fine not exceeding ten thousand ringgit or to imprisonment for a term not exceeding six months or to both.

PART XI GENERAL

Compounding of offences

58. (1) The Authority may compound any offence committed by any person under this Enactment or any regulations made under this Enactment which prescribed to be a compoundable offence by making a written offer to such person to compound the offence on payment to the Authority of an amount of money not exceeding fifty per centum of the amount of the maximum fine for that offence within the time specified in the offer.

(2) An offer under subsection (1) may be made at any time after the offence has been committed, but before any prosecution for it has been instituted.

(3) If the amount specified in the offer made under subsection (1) is not paid within the time specified in the offer or within such extended period as the Authority may grant, prosecution for the offence may be instituted at any time after that against the person to whom the offer was made.

(4) If an offence has been compounded under subsection (1), no prosecution shall after that be instituted in respect of the offence against the person to whom the offer to compound was made.

Institution of prosecution

59. No prosecution for an offence under this Enactment shall be instituted except by or with the consent in writing of the Public Prosecutor.

Offences by body corporate

60. (1) Where a body corporate commits an offence under this Enactment or any regulations made under this Enactment, any person who at the time of the commission of the offence was a director, manager, secretary or other similar officer of the body corporate or was purporting to act in any such capacity or was in any manner or to any extent responsible for the management of any of the affairs of the body corporate, or was assisting in such management -

- (a) may be charged severally or jointly in the same proceedings with the body corporate; and
- (b) where the body corporate is found to have committed the offence, shall be deemed to have committed that offence unless, having regard to the nature of his functions in that capacity and to all circumstances, he proves -
 - (i) that the offence was committed without his knowledge, consent or connivance; and
 - (ii) that he took all reasonable precautions and had exercised due diligence to prevent the commission of the offence.

(2) Where any person liable under this Enactment or any regulations made under this Enactment to any punishment or penalty for any act, omission, neglect or default, he shall be liable to the same punishment or penalty for every such act, omission, neglect or default of any employee or agent of his, or of the employee of such agent, if such act, omission, neglect or default was committed -

- (a) by his employee in the course of his employment;
- (b) by the agent when acting on his behalf; or
- (c) by the employee of such agent in the course of his employment by such agent or otherwise on behalf of the agent.

Service of document

61. (1) Service of documents on any person shall be effected -

- (a) by delivering the document to the person or by delivering the document to the last known address of the person to an adult member of his family;
- (b) by leaving the document at the last known address or place of business of the person in a cover addressed to the person; or
- (c) by forwarding the document by registered post addressed to the person at his last known address or place of business.

(2) A document required to be served on the owner or occupier of any premises -

- (a) shall be deemed to be properly addressed if addressed by the description of the owner" or "occupier" of such premises without further name or description; and
- (b) may be served -
 - (i) by delivering the document to an adult person on the premises; or
 - (ii) if there is no such person on the premises to whom the document can with reasonable diligence be delivered, by fixing the document on some conspicuous part of the premises.

Inaccuracies in documents

62. (1) No misnomer or inaccurate description of any person or premises named or described in any document prepared, issued or served for the purposes of this Enactment or any regulations made under this Enactment shall in any way affect the operation of this Enactment or any regulations made under this Enactment with respect to that person or place if that person or place is so designated in the documents is identifiable.

(2) No proceedings taken under or by virtue of this Enactment or any regulations made under this Enactment shall be invalid for want of form.

Liability of transferor

63. (1) Every person who sells or transfers any property in respect of which costs and expenses have been incurred by the Authority or a licensee, as the case may be, in or about the execution of any work which are, under this Enactment, recoverable from the owner of the property, shall continue to be liable for the payment of all such costs and expenses payable in respect of the property and for the performance of all other obligations imposed by this Enactment upon the owner of the property which become payable or are to be performed at any time before the transfer becomes effective.

(2) Nothing in this Enactment shall affect the liability of the purchaser or transferee to pay costs and expenses in respect of the property referred to in subsection (1) or affect the right

of the Authority or licensee, as the case may be, to recover those costs and expenses from, or to enforce any obligation under this Enactment against, the purchaser or transferee.

Power to exempt

64. (1) The Minister may, if he considers it consistent with the purposes of this Enactment or in the interest of the public, by order published in the *Gazette*, exempt any person, vehicle, premises or solid waste management facilities or any class of persons, vehicles, premises or solid waste management facilities from all or any of the provisions of this Enactment or any regulations made under this Enactment for such duration and subject to such conditions as the Minister may specify and he may alter or add to conditions so specified.

(2) The Minister may at any time by order published in the *Gazette* revoke any order made under subsection (1) if he is satisfied that such exemption should no longer be granted.

Protection against suit and legal proceedings

65. No action or prosecution shall be brought, instituted or maintained in any court against -

(a) the Authority or any officers duly authorized under this Enactment for or on account of or in respect to any act ordered or done for the purpose of carrying into effect this Enactment and any regulations made under this Enactment; and

(b) any other person for any act done or purported to be done by him under the order, direction or instruction of the Authority under this Enactment,

if the act was done in good faith and in a reasonable belief that it was necessary for the purpose intended to be served by it and for the carrying into effect the provisions of this Enactment.

Jurisdiction to try offences

66. Notwithstanding any written law to the contrary, a Sessions Court shall have jurisdiction to try any offence under this Enactment or any regulations made under this Enactment, and to impose the full punishment for any such offence.

General penalty

67. (1) Any person who commits an offence under this Enactment or any regulations made under this Enactment for which no penalty is expressly provided shall, on conviction, be liable to a fine not exceeding ten thousand ringgit or to imprisonment for a term not exceeding one year or to both.

(2) Any body corporate which commits an offence under this Enactment or any regulations made under this Enactment for which no penalty is expressly provided shall, on conviction, be liable to a fine not exceeding fifty thousand ringgit.

Power to make regulations

68. (1) The Minister may make regulations as may be necessary or expedient for carrying out, or giving effect to, the purposes of this Enactment.

(2) Without prejudice to the generality of subsection (1), the Minister may make regulations in respect of all or any of the following matters:

- (a) to prescribe the standards and specifications for the design, construction, operation and maintenance of any prescribed solid waste management facilities;
- (b) to prescribe the methods or manner of collection, transportation, treatment or disposal of controlled solid waste including the types of controlled solid waste which may require pre-treatment before its disposal;
- (c) to prescribe the scheme for carrying out solid waste management services including the duties and obligations of licensee and solid waste generators, the geographical area, the types of controlled solid waste and the services to be provided;
- (d) to prescribe the design, type and number of receptacles to be provided and the materials or articles which may or may not be placed in the receptacles;
- (e) to prescribe the specifications and requirements for vehicles used in transportation of controlled solid waste;
- (f) to prescribe the methods or manner and level of recycling by any prescribed solid waste management facilities;
- (g) to prescribe any controlled solid waste to be recyclable solid waste and the duty of any person to separate recyclable solid waste;
- (h) to prescribe the duty of any person to separate special solid waste and the requirements for storage at any premises;
- (i) to prescribe the methods or manner for carrying out the public cleansing management services;
- (j) to prescribe the form and contents of licences to be granted under this Enactment, the conditions to be imposed and the fees to be paid for the licences;

- (k) to prescribe the form of notifications, notices, orders or directions to be made under this Enactment and the manner of service thereof;
- (l) to prescribe the offences which may be compounded and the forms to be used in and the method and procedure for compounding offences;
- (m) to prescribe the charges, fees, levy or the rate for late payment charges which may be prescribed under this Enactment;
- (n) to prescribe the submission of data by the owner or occupier of any premises generating any controlled solid waste and any licensee providing solid waste management services;
- (o) to prescribe the procedures in taking and dealing with samples of any controlled solid waste;
- (p) to prescribe the manner and form in respect of plans and specifications for any prescribed solid waste management facilities to be submitted under this Enactment;
- (q) to prescribe specific qualifications for any person involved with any solid waste management services; and
- (r) to prescribe all other matters as are necessary or expedient to be prescribed for giving effect to this Enactment or for the purposes of removing any difficulties occasioned by the coming into operation of this Enactment or any of its provisions.

(3) Regulations made under subsection (1) may prescribe any act or omission in contravention of any of the regulations to be an offence and may prescribe penalty of a fine not exceeding ten thousand ringgit or imprisonment for a term not exceeding six months or to both for such offence.

PART XII SAVINGS AND TRANSITIONAL

Savings and transitional

69. Subject to the provisions of this Part, any registration, instruction, act, order, direction, approval or decision done, made or given before the appointed date, under any written law relating to the management of the solid waste and public cleansing which is consistent with this Enactment shall be deemed to have been done, made or given under this Enactment and shall continue in full force and effect relating to whom they apply until amended or revoked

under this Enactment or under any regulations made under this Enactment or until the date of the expiry of the registration, instruction, act, order, direction, approval or decision.

Existing solid waste and public cleansing management services

70. (1) Any person who are, prior to the appointed date, authorized under any written law to -

- (a) undertake or provide any solid waste management services;
- (b) manage or operate any solid waste management facilities; or
- (c) undertake or provide any public cleansing management services,

shall continue to be authorized under this Enactment to undertake, provide, manage or operate the aforesaid services or facilities for a period of one year from the appointed date or such other period as may be extended by the Authority if such authorized person register with the Authority within six months or such other period as may be extended by the Authority after the appointed date.

(2) The authorization granted to the person under subsection (1) shall lapse if he fails to register with the Authority within six months or any extended period mentioned in subsection (1) after the appointed date.

(3) The person may at any time prior to the expiry of the authorization period apply for a licence under this Enactment to continue to -

- (a) undertake or provide any solid waste management services;
- (b) manage or operate any solid waste management facilities; or
- (c) undertake or provide any public cleansing management services,

after the expiration of the authorization period.

Existing agreements and supplementary agreements

71. (1) A person shall only be authorized to carry out the services and activities stipulated in any agreement and supplementary agreement in respect of solid waste management services and public cleansing management services made with a local authority for a period of one year from the appointed date or such other periods as may be extended by the Authority if the person lodges a certified copy of the agreement and supplementary agreement with the Authority within six months from the appointed date or such other period as may be extended by the Authority.

(2) The authorization granted to the person authorized under subsection (1) shall lapse if he fails to register with the Authority within six months or any extended period mentioned in subsection (1) after the appointed date.

Existing solid waste management facilities

72. (1) Any solid waste management facilities approved under any written law before the appointed date shall be deemed to have been approved under section 15.

(2) The Authority may, at any time if it is satisfied that the approved solid waste management facility does not conform to current requirements regarding environmental impact, quality and level of solid waste management services or public health, serve upon the owner or occupier of such facility a notice in writing of his intention to require him to apply for a fresh approval under section 16.

SCHEDULE

[Section 9]

Tenure of office

1. Subject to paragraph 2, any member of the Council appointed under paragraph 9(1)(j) of the Enactment shall, unless he sooner resigns his office or his appointment is sooner revoked, hold office for such period not exceeding three years as may be specified in his instrument of appointment and shall be eligible for reappointment.

Revocation of appointment and resignation of members

2. (1) The appointment of any member under paragraph 9(1)(j) of the Enactment may, at any time, be revoked by the Minister without assigning any reasons for the revocation.

(2) A member appointed under paragraph 9(1)(j) of the Enactment may, at any time, resign his office by giving a written notice to the Minister.

Vacation of office

3. The office of a member appointed under paragraph 9(1)(j) of the Enactment shall be vacated if -

(a) he dies;

(b) there has been proved against him, or he has been convicted of, a charge in respect of -

- (i) an offence involving fraud, dishonesty or moral turpitude;
 - (ii) an offence under any law relating to corruption; or
 - (iii) any other offence punishable with imprisonment (in itself only or in addition to or in lieu of a fine) for more than two years;
- (c) he becomes a bankrupt;
- (d) he is of unsound mind or is otherwise incapable of discharging his duties;
- (e) he absents himself from three consecutive meetings of the Council without leave in writing of the Chairman;
- (f) his resignation is accepted by the Minister; or
- (g) his appointment is revoked by the Minister.

Filling of vacancies

4. Where a member appointed under paragraph 9(1)(j) of the Enactment ceases to be a member of the Council, the Minister may appoint another person to fill the vacancy for the remainder of the term for which the vacating member was appointed.

Meetings

5. (1) The Council shall convene its meeting as often as may be necessary but which shall not be less than once in every three months.

(2) The Chairman shall preside at all meetings of the Council or in the absence of the Chairman, the members present at the meeting shall appoint a chairman from amongst them.

(3) The quorum of the Council shall be eight members.

(4) The decision of the Council shall be by majority votes, and where there is an equality of votes, the Chairman shall have the casting vote.

Procedures

6. Subject to this Enactment, the Council shall determine its own procedure.

Allowances

7. Members of the Council or a committee may be paid from the Fund such allowances or other expenses as the Minister may determine.

CERTIFIED by me to be true copy of the Bill passed by the Legislative Assembly on Thursday, the 24th day of March, 2022.

DATUK HAJI KADZIM BIN HAJI M. YAHYA,
Speaker,
State Legislative Assembly.