

COMMONWEALTH OF DOMINICA

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2002 SOLID WASTE MANAGEMENT ACT 1

COMMONWEALTH OF DOMINICA

Act No. 1 of 2002

I assent



VERNON L. SHAW
President.

29th January 2002.

AN ACT TO ESTABLISH A NATIONAL SOLID WASTE MANAGEMENT CORPORATION AND TO PROVIDE FOR THE MANAGEMENT OF SOLID WASTE IN CONFORMITY WITH BEST ENVIRONMENTAL PRACTICES.

(Gazetted 31st January ,2002)

BE IT ENACTED by the Parliament of the Commonwealth of Dominica as follows:

PART I
PRELIMINARY

1. This Act may be cited as the-

SOLID WASTE MANAGEMENT ACT 2002.

Short title.

Interpretation.

2.(1) In this Act -

“authorised officer” means a person designated by the Minister under section 43.

“biomedical waste” includes any solid waste containing human or animal fluids, flesh, bones or other body parts except hair;

“composting” means making the humus-like end-product of the decomposition of organic waste;

“Comptroller” means the Comptroller of Customs appointed by the President under section 86 of the Constitution;

S.I. 1978 No.1027
(UK).

“Corporation” means the Dominica Solid Waste Management Corporation established under section 3;

“derelict vehicle” means -

(a) any abandoned or discarded motor vehicle; or

(b) any motor vehicle stored or kept in a public place and which is in such a dilapidated condition that it cannot be safely used for the purpose of transportation;

“dumping” means discharging wastes into the environment at a site or location other than one approved and permitted by the competent authority; and “dump” shall be construed accordingly;

“former licensee” includes a reference to a licensee whose licence or permit is cancelled or suspended;

“hazardous waste” means -

(a) any waste or combination of wastes which pose a substantial present or potential hazard to human health or living organisms because -

(i) such wastes are non-degradable or persistent in nature;

(ii) they can be biologically magnified;

(iii) they can be lethal; or

(iv) they may otherwise cause or tend to cause detrimental cumulative effects; and

(b) any material that belongs to any category contained in Annex I of Schedule 1 and which possesses any of the characteristics contained in Annex II of Schedule 1.

Annex I.
Annex II.
Schedule 1.

“incineration” means the destruction of solid waste by high temperature burning in a furnace designed for that purpose whereby solid waste is essentially reduced to ash, carbon dioxide and water vapour;

“incinerator” means a facility for processing waste through incineration and which is designed and constructed so as to protect human health and the environment from adverse impacts associated with the waste over time, and includes pollution control equipment associated with the facility;

“landfill” means a facility for the disposal of solid waste in or on the land and designed and constructed so as to protect human health and the environment from adverse impacts associated with the waste over time, and includes pollution control equipment associated with the facility;

“licence” means a waste management licence issued under section 23;

“licensee” includes a holder of a permit;

“litter” includes any abandoned or discarded article, rubbish, refuse, garbage, waste materials, containers, packages, bottles, cans and any parts of such matter;

“Minister” unless otherwise stated, means the Minister responsible for Health;

“person” includes a body corporate;

“Planning Authority” means the Development and Planning Corporation established under section 3 of the Development and Planning Corporation Act;

Ch. 84:01.

“post-closure and remediation” means the process and its duration whereby a site, which has been, but is no longer, used for solid waste management purposes, is rendered fit for other uses;

“prescribed by regulation” means prescribed by a regulation made under the authority of any Act;

“processing facility” means a facility where waste is processed for the purpose of -

- (a) reducing the volume of the waste;
- (b) reducing the degree of hazard associated with the waste; or
- (c) creating or recovering a secondary resource;

“quarantine waste” includes any waste (imported into or landed in the country), that comprises, or contains, any food, vegetable, meat or dairy product, or any part of such matter;

“radioactive waste” includes any waste that is radioactive;

“recycling” means the process whereby a secondary resource is created from waste;

“reuse” means the use of waste in a manner that does not present a threat to human health, safety or the environment, but does not include the use of waste in a manufacturing process whereby a secondary resource is created;

Schedule 2.

“scheduled agencies” means the agencies listed in Schedule 2;

“scrap metal” includes old or scrap copper, brass, wire rope or cable, batteries, metal debris; junked, dismantled, wrecked or derelict motor vehicles, or parts thereof, any iron, steel, and any other old or scrap ferrous or nonferrous material, and any substance which contains any such material;

“secondary resource” means the material or matter which results from a process whereby waste is rendered into any form that is suitable for re-utilisation providing that the rendered material or matter, or use of such material or matter does

not present a threat to human health, safety or the environment;

“ship-generated waste” means any waste generated on a ship or other sea-going craft;

“solid waste” means garbage, refuse, organic waste, scrap metal, or other solid materials discarded from -

(a) residential, industrial, commercial or government establishments or operations; and

(b) public or community activities;

but does not include solid or dissolved material in domestic sewage, and other substances in water sources, such as silt, dissolved or suspended solids in industrial wastewater effluents, dissolved materials in irrigation return flows or other common water pollutants;

“strategy” means the National Waste Management Strategy under this Act and “draft strategy” shall be construed accordingly;

“waste” includes any derelict vehicles and any material discarded by the owner of the material, whether or not the material is in the same form as it was when it came to be in the possession of the owner;

“waste management facility” means any facility for managing waste by storing or processing or final disposal and includes a processing facility for the creation or recovery of a secondary resource, but excludes a location or facility where waste is stored for less than 5 days;

“waste management policy stakeholders” means the persons and organizations in Dominica other than the Corporation and Ministries, departments and other units of the Government of Dominica, who are considered by the Minister either to be likely to be significantly affected by waste management policy or to be possessed of special expertise or qualification which make them competent to advise on the formation of waste management policy;

“white goods” means disused and abandoned refrigerators, washing machines and other domestic appliances.

PART II

THE SOLID WASTE
MANAGEMENT CORPORATION

Establishment of the
Solid Waste
Management
Corporation.
Schedule 3.

3. (1) There is hereby established a body corporate to be called the Dominica Solid Waste Management Corporation.

(2) The constitution, duties and powers of the Corporation shall be as provided in Schedule 3.

Vesting of solid
waste management
facilities in the
Corporation.

4. (1) The solid waste management facilities listed in Schedule 4, all the rights of the State in the land on which they are situated, the surrounding land used at the commencement of this Act for the purposes of those facilities shall, subject to subsection (2), from the commencement of this Act be vested in the Corporation.

(2) The land referred to in subsection 4(1) shall vest in the Corporation for so long only as the facility continues to be used for the purposes of solid waste management and for the period of closure, post-closure and remediation on the cessation of use for those purposes.

(3) Subject to subsection (4), the Corporation may not alienate or transfer any land referred to in subsection (1) or create any right over such land, whether or not the alienation or transfer is for valuable consideration, save under the authority of a Parliamentary resolution approving that alienation or transfer, and any such resolution may require that all or any part of any valuable consideration for the alienation or transfer shall be paid over to the State.

(4) The Corporation may, for the better discharge of its functions and without the authority of a Parliamentary resolution, grant permission revocable at will for the use of land in subsection (1) and may confer for valuable consideration contractual rights

to use the land, but such permission or contractual rights shall not endure longer than the period referred to in subsection (2) respecting the vesting of the land in the Corporation.

PART III

WASTE MANAGEMENT PLANNING

5. (1) Within 3 months of the commencement of this Act, the Corporation shall complete an inventory and characterisation of the solid waste generated in Dominica.

Waste inventory and formulation of National Waste Management Strategy.

(2) A waste inventory undertaken in accordance with subsection (1) shall -

- (a) identify the total tonnage of waste generated in Dominica;
- (b) identify the proportions of waste according to specific classifications of waste; and
- (c) estimate the proportion of total waste generated by the residential sector, the tourist sector, and the industrial, commercial and institutional sector exclusive of the tourism sector.

(3) The waste inventory and characterization under subsection (1) shall be revised at least every 5 years.

(4) Within one year of the commencement of this Act the Corporation shall prepare a National Waste Management Strategy for consideration by the Minister.

(5) The Minister shall ensure the broadest consultation in the preparation of the Strategy, and in particular, but without prejudice to the generality of the foregoing, shall consult with the scheduled agencies and the waste management policy stakeholders.

6. (1) The Strategy prepared pursuant to section 5(4) shall, without prejudice to the generality of section 5(5), include -

Content and structure of National Waste Management Strategy.

- (a) a summary of the inventory of national waste resources classified under type, volume and area of generation compiled under section 5(2);
- (b) an evaluation of historic, current or proposed activities that impact upon the volume or type of waste generated in Dominica;
- (c) a review of national waste diversion and reduction options;
- (d) an evaluation of national environmental and pollution control policies that may impact upon the nature or volume of waste generated in Dominica; and
- (e) an implementation plan outlining mechanisms, programmes, policies, and strategies that are to be established to ensure that waste management is carried out in such a manner so as not to adversely impact on human health or the environment.

(2) The implementation plan developed under subsection (1)(e) shall establish-

- (a) standards, requirements and procedures for the management of all types of waste, including the generation, handling, storage, treatment, transport and disposal of all types of waste;
- (b) requirements and procedures for the issuance, monitoring and enforcement of licences to site, construct or operate waste management facilities or equipment;
- (c) physical infrastructure requirements to provide waste management services;
- (d) measures for addressing dumping and littering;
- (e) financing and cost recovery mechanisms to ensure the financial viability of all waste management activities; and

(f) measures for effective training of staff involved in solid waste management and for effective public education and awareness regarding solid waste management.

(3) The Strategy shall, in particular and without prejudice to the generality of the foregoing -

(a) establish standards and procedures to be implemented in the reduction, recycling, recovery, reclaiming and re-use of waste and the use of recycled substances;

(b) identify methods by which hazardous and bio-medical wastes and other specified classes of solid waste substances are to be managed;

(c) identify methods by which solid waste is to be transported;

(d) establish standards and procedures for the location of waste disposal sites and plants;

(e) establish procedures for the safe removal, reduction and disposal of litter;

(f) classify, for the purpose of waste management, premises from which waste is generated;

(g) classify, for the purposes of disposal and treatment, different types of waste;

(h) establish targets to be achieved for the reduction of waste, with the objective of -

(i) reducing by a specific percentage all solid waste during a specified time-frame, through source reduction, recycling and composting activities; and

(ii) providing further reductions in solid waste at specified rates after the specified time-frame until such time as a targetted reduc-

tion is achieved through source reduction, recycling and composting activities;

- (i) design waste management measures in such a manner that the costs arising from pollution are met by the polluters;
- (j) subject to paragraph (i), design waste management measures in such a manner as to recover costs from those persons who benefit from those measures; and
- (k) identify suitable enforcement mechanisms and appropriate mechanisms to ensure the implementation of the Strategy, including, where appropriate, the use of economic instruments.

(4) In preparing the Strategy, the Minister shall undertake an evaluation of the social, environmental and economic impacts of the Strategy, and the findings of that evaluation shall be contained in the Strategy submitted to cabinet for approval.

Approval of
National Waste
Management
Strategy.

7. (1) The Minister shall submit the Draft Strategy for public review and comment, and for this purpose shall by -

- (a) notice published in the *Gazette*;
- (b) placement of a notice for two consecutive weeks in at least one newspaper circulating in Dominica; and
- (c) broadcast on at least three occasions on at least one radio station whose signals are received in Dominica;

advise the public-

- (i) of the location where copies of the Draft Strategy can be obtained for review;
- (ii) the address to which any comments on the Draft Strategy should be submitted; and

(iii) subject to subsection (2), the closing date for making any submission.

(2) The Minister shall allow a period of at least 30 days and no longer than 45 days for the receipt of comments on the Draft Strategy.

(3) When all the comments have been received from the public review undertaken under subsection (1) and any changes made which the Minister considers desirable, the Minister shall submit the Draft Strategy to Cabinet for approval.

(4) Cabinet may either-

(a) approve the Draft Strategy as the Strategy, with or without amendments; or

(b) refer the draft back to the Minister with a recommendation to correct any deficiency.

(5) Where Cabinet refers the Draft Strategy back to the Minister, the Minister shall recommence the process of preparing the Strategy at such stage as the Cabinet shall specify, and the term of one year specified in section 5(4) shall be extended by the time which has elapsed since the process last commenced under that section.

(6) Upon approval by Cabinet under subsection (4)(a), every person or authority discharging any function under this Act shall comply with the requirements of the Strategy.

8. The Strategy, once approved by Cabinet, shall provide the basis for evaluating -

National Waste Management.

(a) waste management options relating to all development approval;

(b) the licensing of waste management facilities under this Act; and

(c) the targeted results and impact of the implementation plan.

Variation of National Waste Management Strategy.

9. (1) Before any component or part of the approved Strategy is varied, the Minister shall publish in the *Gazette* a notice of intention to vary the Strategy specifying -

- (a) the area in respect of which the Strategy is intended to be varied;
- (b) the reasons for the variation; and
- (c) that submissions on the variation may be made in writing by any person.

(2) In addition to the publication of a notice as provided under subsection (1), the Minister may establish a consultative process with the scheduled agencies and the waste management policy stakeholders.

Review of National Waste Management Strategy.

10. (1) The Minister responsible for Planning shall, in consultation with the Minister responsible for Health and the Minister responsible for the Environment, keep the National Waste Management Strategy under review and, in any event, shall undertake a comprehensive review of the Strategy within 5 years of its approval by Cabinet to ensure that -

- (a) it complies with obligations under relevant international and regional agreements;
- (b) it is responsive to Dominica's waste management needs;
- (c) it is within Dominica's technical, financial and human resources;
- (d) it includes the accepted recommendations and provides consultation with the waste management policy stakeholders; and
- (e) it contributes to a net improvement in the quality of life and in the quality of the environment.

(2) A review of a Strategy undertaken under subsection (1) shall be through broad-based consultation with the waste management policy stakeholders and with the public.

PART IV
WASTE MANAGEMENT
LICENCES AND PERMITS

11. (1) An environmental impact assessment pre-evaluation shall, subject to subsection (2), be required before any waste management facility is established, whether or not the facility is a facility designed for the sole purpose of waste management or one that is to be part of a facility to serve the purpose of waste management among a number of other purposes.

Environmental impact assessment pre-evaluation required for new waste management facilities.

(2) Subsection (1) does not apply to a waste management facility under section 20(1) or section 35(2)(b).

12. (1) For any proposal that requires an environmental impact assessment pre-evaluation under section 11(1), the applicant shall notify the Planning Authority in writing, in such form as may be prescribed by Regulations, of his desire to establish a waste management facility, enclosing a copy of the relevant waste management licence issued under section 22(2).

Environmental impact assessment pre-evaluation and process.

(2) Upon receiving a notification under subsection (1), the Planning Authority shall commence the pre-evaluation process by referring the notification to the scheduled agencies and by undertaking a preliminary screening to determine whether an environmental impact assessment may be required.

(3) Within 14 working days of the date of receipt of a notification under subsection (1), the Planning Authority shall, after considering any comments from the scheduled agencies complete the pre-evaluation by determining -

- (a) whether there are issues which require further information to be provided by the applicant;
- (b) whether an environmental impact assessment is to be required;
- (c) whether that assessment is to comprise a comprehensive environment impact assessment report or a focus report.

(4) Where the Planning Authority determines that further information is required under subsection (3), the Planning Authority shall advise the applicant in writing of the further information that is required, and any response of the applicant purporting to supply that further information shall be treated as a new proposal under subsection (1).

(5) Following the completion of the pre-evaluation, the Planning Authority shall advise the applicant that -

- (a) a comprehensive environmental impact assessment report is required;
- (b) a focus report is required; or
- (c) no further information is required and that the project will be recommended to Cabinet for approval, subject to such conditions as the Planning Authority may consider necessary.

(6) Where either-

- (a) a comprehensive environmental impact assessment report is required; or
- (b) a focus report is required;

the Planning Authority shall provide the applicant with Terms of Reference for the report, and thereafter the applicant shall undertake, at his own expense, a study and report with those Terms of Reference.

Contents of
environmental
impact assessment
report.

13. (1) Every comprehensive environmental impact assessment report shall include, to the extent required by the Planning Authority -

- (a) the name or other sufficient identifying label of the proposal, its sponsor, its sponsor's location, its date of preparation, and the identification of any person or organisation other than the sponsor who contributed significantly to its preparation;

-
- (b) a description of the purpose and scope of the proposed activity or undertaking, including a description of the background and rationale for the project, and the intended goals and objectives;
 - (c) a description of the proposed action and any alternatives, describing the action and other alternatives that are reasonably foreseeable and technically appropriate, including the option of taking no action or activity, and an outline of the reasons for choosing the proposed action;
 - (d) a description of the environmental setting, including a statement of environmental resources and conditions in the project area before the implementation of the project, and a projection or estimation of changed environmental circumstances that may occur as a result of the project;
 - (e) a description of the social and environmental impacts, which shall include an assessment of the long-term, short-term, adverse, cumulative, primary, secondary or beneficial impacts or lack of impacts or consequences that may result from implementation of any of the alternatives including the proposed project, and including the impacts which may occur during construction, operation, decommission, and abandonment phases of the project;
 - (f) a description of residual adverse environmental and social impacts that cannot be avoided, and a comparison of such impacts and all alternatives;
 - (g) an environmental protection plan which describes all feasible measures to reduce or avoid the adverse environmental consequences attributed to implementation of any of the alternatives, and any actions that are to be undertaken to mitigate any adverse environmental consequences;

- (h) where appropriate, a waste management plan which describes all measures that shall be undertaken to manage or reduce waste during -
 - (i) the construction;
 - (ii) operation; and
 - (iii) abandonment or decommissioning, of any facility under the project;
- (i) an environmental monitoring and surveillance programme describing actions and activities required to verify that the environmental protection plan is being fulfilled and adverse impacts documented;
- (j) a list of individuals or organisations who have an interest, expertise, or jurisdiction in matters relevant to the proposal and who have been consulted; and
- (k) recommendations on the selected project alternatives, mitigation measures, monitoring, other studies, analysis, and additional consultation.

(2) A focus report may contain any of the aspects outlined in subsection (1), but must as a minimum meet the requirements in subsection (1)(a), (d), (e), (g), (i) and (j).

(3) Notwithstanding the provisions of subsections (1) and (2), the Planning Authority may require the applicant to carry out any further studies or to submit additional information for the purpose of ensuring that the environmental impact assessment report is as accurate and as exhaustive as possible.

Review of environmental impact assessment report.

14. (1) The applicant shall submit the comprehensive environmental impact assessment report or focus report to the Planning Authority for review within the time stipulated in the Terms of Reference referred to in section 12(6).

(2) Upon reviewing the report submitted under subsection (1), the Planning Authority may request additional information to be submitted by the applicant.

(3) Having reviewed the report and any additional information that may be submitted, the Planning Authority shall -

(a) approve the report, with or without conditions or amendments;

(b) require the applicant to complete additional work on the environmental impact assessment to meet specific concerns that the Planning Authority identifies; or

(c) reject the report.

(4) Where required, the applicant shall undertake additional work to meet the concerns of the Planning Authority and submit the additional work.

(5) Following the approval of a report under subsection (3) or the advice under subsection 12(5)(c), as the case may be, the Planning Authority shall make a recommendation to Cabinet.

15. (1) Upon receiving the recommendation of the Planning Authority, Cabinet shall review the report and may -

(a) approve the proposed development, with or without conditions; or

(b) reject the proposed development.

(2) The Planning Authority shall communicate Cabinet's decision to the applicant.

Decision on environmental impact assessment report.

16. (1) It shall be the responsibility of the applicant to implement any monitoring programme, protection plan, or mitigation measure that constitutes the conditions of an approval granted under section 15(1)(a).

(2) The Minister or any scheduled agency designated by Cabinet for the approved proposal shall conduct any inspection that may be necessary to determine whether the design, development, construction, operation, or abandonment of any undertaking or activity is undertaken in accordance with any monitoring programme, protection plan, or mitigation measure that constitutes the conditions of an approval granted under section 15(1)(a), and may issue an order to rectify any deficiency.

(3) Where an inspection under subsection (2) reveals any deficiency, the Minister may issue to the applicant -

- (a) an order to stop work on any undertaking or activity;
- (b) an order to restore the site to its original condition with a further order for costs to be borne by the applicant; or
- (c) an order to carry out any improvement or remediation work on the site with a further order for costs to be borne by the applicant.

(4) A person who -

- (a) prior to obtaining an approval under section 15(1)(a) undertakes to construct a facility which is subject to the requirements of an environmental impact assessment;
- (b) after obtaining an approval with conditions under section 15(1)(a), undertakes or constructs any facility under that approval but contravenes any such condition; or
- (c) contravenes any order made under subsection (3),

commits an offence and is liable on conviction to a fine of \$120,000, or imprisonment for a term of twelve months.

17. The Planning Authority may for the purpose of implementing a sound solid waste management policy issue guidelines for -

Environmental impact assessment guidelines.

- (a) the establishment of procedures for screening any proposed activity or application for development by the Government or statutory bodies;
- (b) the establishment of Terms of Reference for any environment impact assessment report; and
- (c) the establishment of procedures for undertaking the monitoring of environmental protection or management plans.

18. (1) In its consideration of a development proposal other than a proposal under section 12(1), the Planning Authority shall have regard to waste generation and waste management considerations and the requirements of any Strategy under section 7(4).

Waste management plans required for development applications.

(2) In furtherance of subsection (1), the Planning Authority shall require the applicant in respect of any development proposal to estimate the amount of waste to be generated in construction and in operation of the proposed facility.

(3) Where an application is in respect of commercial development, the applicant must identify the actions that will be taken to minimise waste generation, and to maximise reuse, recycling and composting, both during construction of the facility and in the course of its operation when constructed.

(4) A specific management plan shall be required for any hazardous wastes which may be generated during construction or operation of a facility.

19. (1) Subject to section 20(3) and section 35(2)(b), a person shall not -

Prohibition on unauthorised disposal of solid waste.

- (a) deposit or knowingly cause the deposit of solid waste in or on any land, beach, foreshore, marine waters, rivers or river banks without a licence;

(b) construct or operate any waste management facility without a licence; or

(c) treat, keep or dispose of solid waste in a manner likely to cause pollution of the environment or harm to human health.

(2) The prohibitions in subsection (1) do not apply -

(a) to household waste from a domestic property which is treated, kept or disposed of by the owner, or the occupier with the permission of the owner, within the curtilage of the dwelling or within the boundaries of the owner's property providing no harm to human health, or the environment results from such activity; or

(b) in cases prescribed by Regulations.

(3) The Minister, in the exercise of his powers under section 47, shall in particular and without prejudice to the generality of those powers have regard to the expediency of excluding from the controls imposed by licences-

(a) any deposits which are small enough or of such temporary nature that they may be so excluded;

(b) any means of treatment or disposal which are innocuous enough to be so excluded; or

(c) cases for which adequate controls are provided by any other Act.

(4) A person who contravenes subsection (1), or any condition of a licence, commits an offence and is liable on conviction:

(a) in the case of an individual to a fine of \$75,000 and imprisonment for a term of twelve months;

(b) in the case of a corporation to a fine of \$200,000.

20. (1) The owner of a waste management facility under construction or in operation on the date of the commencement of this Act shall, subject to section 35(2)(b), be required to apply to the Minister for a licence.

Licences required for existing facilities.

(2) An application for a licence under this section shall be accompanied by an environmental protection plan addressing each of the issues set out in Schedule 5 and a disaster preparedness response plan for actions that the applicant shall take in the event of an accident, a spill or a natural disaster.

Schedule 5.

(3) Without prejudice to the requirements of any other law which may be applicable to the owner of a waste management facility under subsection (1), every such owner shall be deemed, at the date of the commencement of this Act to hold a licence which shall expire one year after the commencement of this Act.

21. (1) Where an application is in respect of a waste management facility (other than one to which section 35(2) applies) to be constructed after the date of the commencement of this Act, the applicant shall obtain a licence from the Minister before the applicant obtains an environmental impact assessment approval under section 15(1) and begins to construct such facility.

Licences for proposed waste management facilities.

(2) The Minister may, on an application under subsection (1) issue a licence, but the licence must be conditional on compliance with the environmental impact assessment requirements under sections 11 to 14 and on the submission of a disaster preparedness response plan for actions that the applicant will take, during the construction or operation of the facility, in the event of an accident, a spill or natural disaster.

22. (1) An application for a licence shall be made to the Minister in the prescribed form and accompanied by the prescribed fees.

Application process for a waste management licence.

(2) The Minister shall, subject to the provisions of this section and section 23, grant the licence applied for under subsection (1) within 90 days of the date on which the application

is received unless the Minister is satisfied that rejection of the application is necessary for the purpose of preventing -

- (a) pollution of the environment;
- (b) harm to human health; or
- (c) serious detriment to the amenities of the locality.

(3) The Minister may, subject to subsection (5), refuse to issue a licence if having regard to the Strategy he considers that the approval could result in the proliferation of waste management facilities in excess of the needs of Dominica.

(4) The Minister may, subject to subsection (5), refuse to issue a licence for the operation of a landfill or incinerator for the purpose of accepting or processing waste on contract if he considers that such facilities ought to be reserved for operation by the Corporation.

(5) Subsections (3) and (4) do not apply to an application under section 20(1).

- (6) Before issuing a licence, the Minister shall -
- (a) within 15 days of receiving the application, refer it to the scheduled agencies for written comments;
 - (b) give notice of the application by publication in the *Gazette*, inviting submissions or representations to him within thirty days of the publication;
 - (c) consider such submissions or representations made about the application by any person or body; and
 - (d) ensure as far as practicable that affected land owners have been consulted and consented to those aspects of the proposed activities or development which in law require such consent.

Particulars of licences.

23. (1) A licence shall specify, as a condition of the licence, the land on which the licensee is licensed to operate a waste management facility, and the licensee shall, for the purpose of his

use of other land, require a separate licence, or a licence issued on re-application, licensing the use of that other land.

(2) A licence issued for a use of land for which planning permission is required in pursuance of this Act is conditional on the grant of such planning permission.

(3) Compliance with the general design and operating standards for waste management facilities prescribed by the Minister is a condition of every licence.

(4) A licence shall be issued subject to such conditions as appear to the Minister to be appropriate for the purpose of conformity with the Strategy under section 7(4).

(5) The Minister may, in issuing a licence, specify conditions for the management of waste during the construction, operation or decommissioning of a facility.

(6) A licence shall identify in respect of each of the conditions identified in the licence the authority which will, subject to section 42, be responsible for monitoring the compliance of the applicant with that condition.

24. (1) Every licence must be retained by the licensee so that it may be inspected upon demand by the Minister or an authorised officer designated under section 43.

Licences to be displayed.

(2) Subject to sections 30(7) and 31, a licensee under section 22(2) who fails to comply with the conditions of the licence under section 23 commits an offence and is liable on conviction to a fine of \$120,000 and imprisonment for a term of twelve months.

25. (1) Subject to subsection (2) and section 31, a person shall not transport waste in the course of business unless that person is the holder of a valid waste haulage licence issued by the Minister.

Waste haulage permits.

(2) The requirement in subsection (1) does not apply to-

- (a) transportation of waste undertaken by the holder of a licence;
- (b) transportation of waste in vehicles of a weight of less than 0.5 tons by a person carrying on a business, which waste is generated in the course of the other activities of the business;
- (c) transportation of waste generated by activity in the vehicle in which the waste is being transported; or
- (d) transportation of waste under such other exempted circumstances as may be prescribed by the Minister by Regulations.

(3) An application for a permit shall be made to the Minister in the prescribed form and accompanied by the prescribed fees.

(4) The Minister shall, subject to the provisions of this section and section 26, issue a permit applied for under subsection (3) within 90 days of the date on which the application is received unless the Minister is satisfied that rejection of the application is necessary for the purpose of preventing -

- (a) pollution of the environment;
- (b) harm to human health or safety; or
- (c) any danger or hazard to public highways or traffic.

(5) Where the Minister proposes to issue a permit, the Minister shall, before doing so-

- (a) refer the application to the scheduled agencies for written comments;
- (b) give notice of the application by publication in the *Gazette*, inviting comments to be received by the Minister within 30 days of the publication; and

(c) consider any submission or representation made in relation to the application received before the expiry of the period specified in paragraph (b).

26. (1) A permit shall be issued subject to such conditions as appear to the Minister to be appropriate for the purpose of conformity with the Strategy. Particulars of permits.

(2) A permit shall expire at such date, not later than one year after the date of its issue, as the Minister shall require as a condition of the permit.

(3) A permit shall specify, as a condition of the permit, the waste management facility or facilities to which the transportation of waste is permitted.

(4) The Minister may, in issuing a permit, specify conditions additional to those in subsections (1) to (3) including -

(a) requirements relating to the maintenance of vehicles in good operating conditions;

(b) requirements for the management of waste during transportation to ensure the coverage of waste in the vehicle at all times sufficient to ensure that waste cannot fall out of, be blown out of or otherwise escape from the vehicle except when deliberately deposited at a waste management facility permitted to accept the waste;

(c) requirements concerning the maintenance of insurance sufficient to provide for the cleaning up of spills or other polluting accidents that might occur;

(d) minimum requirements for drivers' qualifications; and

(e) minimum requirements for training of drivers in management of accidents and disasters.

(5) Nothing in this Act exempts the owner or operator of any vehicle from the requirements of any other Act.

Permits to be displayed.

27. (1) A licensee shall keep the permit in or on the vehicle in a position which may be prescribed by Regulations so that the permit may be easily seen from the exterior of the vehicle.

(2) A licensee who fails to comply with the conditions of the permit under section 26 commits an offence and is liable on conviction to a fine of \$50,000 and imprisonment for a term of six months.

Cancellation and suspension of licences and permits.

28. (1) In this section, “off-licence period” or “off-permit period” means, as the case may be, the period of six months after the cancellation of a licence or a permit, as the case may be, provided that the period ceases on any earlier expiry of the suspension.

(2) The Minister may cancel or suspend a licence or a permit in the event of a violation of a condition of the licence or permit, as the case may be, which violation poses an imminent danger of serious environmental damage.

(3) The Minister may give notice to the licensee requiring the licensee to remedy a violation of the terms of the licence or permit, as the case may be, within a period of 15 days, at the expiration of which period the Minister may either cancel or suspend the licence or permit.

(4) Where a licence is cancelled or suspended under subsections (2) or (3), the former licensee shall be responsible during the off-licence period for the security of all waste, property and equipment affected by the cancellation or suspension of the licence, and the authorization of waste management under the cancelled or suspended licence shall apply to action required by the licensee or former licensee under this section, notwithstanding the cancellation or suspension.

(5) The Minister may at any time after the cancellation or during the period of suspension of a licence or permit under subsections (2) or (3) require the licensee or former licensee to allow the collection of waste, as the Minister may direct.

(6) A former licensee whose licence has been cancelled or a licensee whose licence has been suspended who fails to secure waste, property or equipment under subsection (4) or who fails to allow the collection of waste under subsection (5) commits an offence and is liable on conviction to a fine of \$100,000 dollars and to imprisonment for a term of twelve months.

(7) Where the Minister cancels or suspends a permit under subsections (2) or (3), the Minister shall give directions as to the waste management facility at which any waste shall be deposited which is in the possession of the former licensee, and the former licensee shall comply with those directions.

(8) A former licensee who fails to comply with directions under subsection (7) or fails to allow the collection of waste under subsection (5) commits an offence and is liable on conviction to a fine of \$35,000 and to imprisonment for a term of six months.

29. (1) Every licensee shall review his disaster preparedness response plan under section 20(2) or section 21(2) not later than March of every calendar year. Contingency plans.

(2) The Corporation shall, subject to the directions of the Minister, prepare and maintain contingency plans for -

(a) the restoration of waste management services following a hurricane; and

(b) actions that will be taken in the event of landfill flooding, waste haulage vehicle accident, spillage of waste and other disruptions to daily waste management services.

(3) In preparing the contingency plans, the Minister and the Corporation shall seek to ensure that those plans are in conformity with the National Disaster Preparedness Response Plan.

Liability in the
event of accidents.

30. (1) In the event of any harm to human health, safety or the environment caused through the failure of the licensee to exercise due diligence in the management or transportation of waste, that licensee is liable at the suit of -

(a) a person injured, for damages; and

(b) the State for -

(i) compensatory damages for loss to State property; and

(ii) compensation to the State for its expenses in mitigating the harm to human health, safety or the environment.

(2) Subsection (1) applies *mutatis mutandis* in the event of any harm to human health, safety or the environment caused through failure of the licensee to exercise special care in the management or transportation of waste during a situation caused by an accident or in times of emergency under section 31.

(3) The onus of proving the exercise of due diligence or special care, as the case may be, under this section lies on the licensee.

(4) In the event of spillage of waste in the course of the transportation of waste by the holder of a waste haulage permit, that permit holder shall promptly have the spillage cleaned up and transported to a waste management facility permitted to accept the waste.

(5) Where no waste management facility is available which is permitted to accept the waste referred to in subsection (4), the operator of any waste management facility to which the holder of the waste haulage permit in subsection (4) transports the waste shall co-operate with that permit holder to ensure the safe storage and management of the spilled material.

(6) Any costs incurred by the operator of the waste management facility under subsection (5) shall be met by the licensee.

(7) Any action by the operator of a waste management facility under subsection (5) shall be deemed to comply with the terms of the waste management licence under which that waste management facility is operated.

31. (1) During a state of emergency under the Constitution of Commonwealth of Dominica, the Minister may require any person to take any action that the Minister considers reasonably necessary for the safe management of solid waste.

Emergency powers of Minister responsible for Health.

(2) Whether or not a state of emergency exists, in the event that at any time there is no licensee available for the management or transportation of any solid waste needing such management or transportation, the Minister or any person who the Minister may in writing authorise to act on his behalf under this section shall be responsible for ensuring the management or transportation of such waste.

(3) A person acting pursuant to a requirement under subsection (1) or the authorisation under subsection (2), of the Minister is entitled to recover from the State the expenses incurred by that person in so acting.

PART V

WASTE MANAGEMENT OPERATIONS

32. (1) A person shall not import into Dominica any waste other than -

Prohibition on the importation of waste.

- (a) waste generated on board an aircraft landing in Dominica no earlier than twenty-four hours before the time of landing; or
- (b) a secondary resource which is imported under conditions prescribed by Regulations for the purposes of any manufacturing process.

(2) A person who imports any hazardous waste contrary to subsection (1) commits an offence and is liable -

(a) on conviction on indictment to imprisonment for not more than ten years and a fine of \$3,000,000; or

(b) on summary conviction to a fine of \$250,000;

(3) A person who imports any waste other than hazardous waste in contravention of subsection (1) commits an offence and is liable -

(a) on conviction on indictment to imprisonment not exceeding five years and a fine of \$1,000,000; or

(b) on summary conviction to a fine of \$250,000.

Liability for and ownership of waste.

33. (1) When solid waste which is not in any container, is moved from a place occupied by the owner of the solid waste to a place occupied by another person with the consent of both mentioned persons ownership and possession of the solid waste pass, in the absence of agreement to the contrary, to the second mentioned person at the time when the solid waste is moved from the property of the first mentioned person.

(2) When solid waste belonging to a person is in a container (the original container) and is moved from the original container or is detached and placed in or on another person's container or property with the consent of both mentioned persons, ownership and possession of the Solid Waste pass in the absence of agreement to the contrary to the second mentioned person at the time when the solid waste is moved from the original container or is detached.

(3) When solid waste is being transferred from any property or container, the person undertaking the transfer of the solid waste shall -

(a) ensure that the transfer is undertaken in such a manner so as to prevent the risk of harm to human health, safety or the environment; and

(b) be liable for any harm to human health, safety or the environment that results from the transfer of the solid waste.

34. (1) Every occupier of land and every person in control of a vehicle shall comply with the requirements -

Requirements for waste handling, separation and processing.

(a) for the handling, separation and processing of waste; and

(b) prohibiting the disposal of specific types of waste for which a reuse, recycling or composting alternative is available,

that may be prescribed by this Act, or Regulations made under this Act.

(2) Every occupier of land or every person in control of a vehicle who fails to comply with any requirement prescribed by this Act or Regulations made under the Act, commits an offence and is liable on conviction to a fine of \$50,000 and to imprisonment for a term of twelve months or to both such fine and imprisonment.

35. (1) A person who conducts industrial, commercial and institutional operations in the course of which waste is generated shall make his own arrangements for waste management, and shall ensure that any waste generated does not present a risk to human health, safety or the environment.

Industrial, commercial and institutional waste generators.

(2) For the purpose of giving effect to the requirements of subsection (1), a person who conducts industrial, commercial and institutional operations in the course of which waste is generated may, in addition to or instead of contracting with other licensees -

(a) transport waste to a waste management facility himself, subject to the permit requirements in this Act; or

(b) construct and operate an on-site waste management facility approved by the Minister,

on condition that the management, transportation and disposal of waste in all circumstances comply with the standards and guidelines prescribed by the Minister.

(3) In the event that appropriate facilities are not available in Dominica for managing hazardous or any other class of waste, a person who conducts industrial, commercial, and institutional operations in the course of which waste is generated shall be responsible for the safe management of the waste on his premises or the export of the waste to appropriate facilities.

Waste storage requirements.

36. (1) Every occupier of premises in which waste is at any time stored, shall store that waste in containers that prevent the escape of wastes, liquids or objectionable levels of odour, and infestation by pests or vermin.

(2) An occupier of premises on which waste is generated and not disposed of on the premises shall comply with such schedule as may be prescribed by Regulations for making that waste available for collection for transportation to a waste management facility.

Management of used oil.

37. (1) Within 12 months after the date of the commencement of this Act, the Corporation shall prepare a scheme, in consultation with importers and distributors of oil, for the establishment of a used oil management system that provides for the environmentally-secure management of used oil generated in Dominica.

(2) When the scheme for the used oil management system has been prepared by the Corporation under subsection (1), it shall be submitted to the Minister for approval.

(3) The scheme when approved by the Minister under subsection (2), with or without amendment by the Minister, shall be treated as a variation of the Strategy under section 9.

(4) With effect from one year after the date of the variation of the Strategy referred to in subsection (3) is approved, the operator of any garage, facility selling motor oil and petroleum products or service station shall provide used oil storage facilities and equipment for pumping out used oil, which equipment shall meet the standards prescribed by Regulations.

(5) With effect from one year after the variation of the National Waste Management Strategy under subsection (3) is approved under section 7(4)(a), the Planning Authority shall not grant development approval for the construction of any garage, facility selling motor oil and petroleum products, or service station which does not provide in the construction for used oil storage facilities and equipment for pumping out used oil, which equipment shall meet the standards prescribed by Regulations.

38. A person who, contrary to the provisions of this Act, dumps or litters commits an offence and is liable on conviction to a fine of \$5,000 or to imprisonment for a term of one month.

Offences of dumping and littering.

39. (1) A person who holds in a public place, a gathering, meeting or event which is open to the public shall supply sufficient litter bins for the event and shall ensure that all litter on the site is properly disposed of within 24 hours of the end of the event.

Public events.

(2) A person referred to in subsection (1) who fails to comply with the provisions of that subsection commits an offence and is liable on conviction to a fine of \$15,000 or a requirement to undertake for a period extending over not more than three months such tasks by way of community service as the court may direct or by a combination of such fine and requirement of community service.

40. (1) Derelict vehicles under subsection (2), white goods and other scrap metal shall be taken by the owner to an approved landfill site or other site approved to manage derelict vehicles, white goods or scrap metal.

Derelict motor vehicles, white goods and other scrap metal.

(2) An authorised officer may order the removal under subsection (1) of any derelict vehicle when that officer reasonably considers -

- (a) that its location detracts from the quality of the amenities enjoyed by any owner of property who is not the owner of the vehicle;
- (b) that such vehicle in its location constitutes a nuisance in law; or
- (c) that such vehicle is otherwise a hazard to human health or to the environment.

(3) Where the owner of any derelict vehicle under subsection (2) cannot be identified, the authorised officer may arrange for the removal of the vehicle to an approved site referred to in subsection (1).

(4) The Minister may with the approval of the Minister responsible for Finance offer to purchase derelict vehicles from their owners for the purpose of resale to the operators of approved sites referred to in subsection (1).

PART VI

FINANCING AND COST RECOVERY

Financial instru-
ments.

41. The Minister responsible for Finance may make Regulations to provide for the establishment of fiscal incentives and inducements required to implement the Strategy and the provisions of this Act.

PART VII

MONITORING AND ENFORCEMENT

Monitoring and
audits.

42. (1) An authority charged with monitoring any aspects of compliance with a licence or permit under this Act may enter into an agreement with the licensee, that allows a third party, considered by the authority to be suitably qualified, experienced and

independent, to monitor such compliance on behalf of both the licensee and the authority.

(2) In cases of audits or inspections by a third party pursuant to subsection (1), the third party shall submit all reports simultaneously to both the licensee and the authority.

(3) An authority charged with monitoring any aspect of compliance with a licence or permit under this Act may engage by contract any person, considered by the authority to be suitably qualified, experienced and independent, to monitor any aspect of the compliance by the licensee.

43. (1) The Minister may designate public officers and officers of government agencies as authorised officers for the purposes of this Act.

Appointment and powers of authorised officers.

(2) Every police officer is an authorised officer under this Act.

(3) An authorised officer may at any time enter and inspect any waste management facility to verify compliance with this Act.

(4) A magistrate may issue an order authorizing the inspection of domestic property under section 19(2)(a) where an authorised officer satisfies the magistrate that there is reasonable cause to suspect that such inspection will find evidence of a contravention of this Act.

(5) A police officer may, in order to verify possession of a permit and compliance with any condition of the permit, stop and inspect any vehicle reasonably believed to be transporting waste.

(6) A police officer or other authorised officer may on the direction of the Minister, inspect any aircraft or ship to-

(a) verify whether the aircraft or ship has waste on board; and

(b) take the measures necessary to ensure that any waste on board is not off-loaded contrary to the requirements of this Act or any other law.

(7) An authorised officer other than a police officer in uniform shall produce identification on demand before conducting an inspection under this section.

(8) The means of identification under this section shall include a photograph of the authorised officer, which photograph shall be authenticated by the signature of a public officer authorised by the Minister for that purpose.

Due diligence
defence.

44. (1) The Minister may by Order list any published compilation of waste management standards as a recognised compilation of standards for the purpose of measuring the standard of due diligence under this Act.

(2) In the event of a default by a licensee in compliance with the conditions of his licence, it shall suffice to establish due diligence for the licensee to show compliance with a compilation of standards under subsection (1).

Offences and
penalties.

45. (1) A person who -

- (a) removes any solid waste from a sanitary landfill site or from any place under the control of the Corporation;
- (b) interferes or tampers with the operations of a sanitary landfill site or any place under the control of the Corporation;
- (c) assaults, obstructs or otherwise interferes with any person in the execution of his functions or duties under this Act; or
- (d) knowingly supplies any false or misleading information with respect to any levy or fee payable under this Act or Regulations made under this Act,

commits an offence and is liable on summary conviction -

- (i) in the case of an individual, to a fine of \$5000 and to imprisonment for a term of six months; or

(ii) in the case of a company, to a fine of \$10,000.

(2) A person who commits an offence under this Act or any Regulations made under section 47, for which offence a penalty is not specified is liable on the first conviction for that offence to a fine of \$75,000 and to imprisonment for a term of twelve months, and on a subsequent conviction to a fine of \$150,000 and to imprisonment for a term of twenty four months.

46. Where an offence is created by this Act, the Planning Authority, a member of the Police Force or any other person authorised in writing by the Minister may, in respect of that offence, institute proceedings in a court.

Power to institute proceedings.

PART VIII REGULATIONS

47. The Minister may make Regulations for the purpose of implementing the provisions of this Act, and, in particular and without prejudice to the generality of the foregoing, may make Regulations -

Regulations.

- (a) respecting the development and updating of the Strategy;
- (b) implementing any waste diversion and waste reduction policy as set out in the Strategy;
- (c) respecting waste management strategies and operations;
- (d) establishing the licensing system for the regulation of waste management facilities or equipment and waste haulage;
- (e) respecting the conduct of environmental impact assessment for waste management facilities;

-
- (f) respecting enforcement mechanisms for prohibitions against dumping and littering;
 - (g) establishing standards and requirements for waste handling, separation and processing;
 - (h) regulating or restricting the import of used, second-hand, refurbished or reconditioned materials or goods;
 - (i) prescribing fees for the issue of licences, inspections and other services related to waste management;
 - (j) respecting the training of human resources for the purposes of this Act;
 - (k) respecting the public education in waste management and the production of secondary resources;
 - (l) developing administrative procedures to govern the Corporation;
 - (m) declaring the opening and closing of solid waste disposal sites;
 - (n) concerning the frequency of solid waste collection and type of waste to be collected; and
 - (o) establishing general design and operating standards for waste management facilities.

PART IX

MISCELLANEOUS

No statutory
authorisation.

48. A licence granted under this Act does not authorise the commission of any nuisance.

Amendment of
Schedules.
Schedule 1.
Schedule 6.

49. The Minister may by Order published in the *Gazette* amend Schedules 1 and 6, from time to time.

Register of licences
and permits.

50. (1) The Minister shall maintain a register of all licences and permits granted under this Act.

(2) The register referred to in subsection (1) shall be available for public inspection on the payment of fee as may be prescribed by Regulations.

51. (1) An environmental levy is hereby imposed on each visitor to the State as provided in Schedule 6.

Environmental levy.
Schedule 6.

(2) The levy imposed by subsection (1) shall be collected by the Comptroller or by an agent thereof and paid to the Corporation on or before the twenty-first day of the month following the month in which the collection was made.

(3) For the purpose of this section “visitor” means a person who arrives in the State, whether by air or by sea, for the purpose of business or vacation and is admitted to remain for a day, or part thereof, or any longer period.

(4) The Minister shall cause a notice of the appointment of any person or entity as an agent under subsection (2) to be published in the *Gazette*.

(5) Notwithstanding subsection (1), a visitor who is a diplomat, a person on official government business or a child under the age of twelve years, is exempt from the imposition of the environmental levy.

52. (1) There shall be a haulage fee which shall be paid to the Corporation by any person at whose request the Corporation hauls or transports waste to sanitary landfill sites or elsewhere.

Haulage fee.

(2) The haulage fee shall be charged and paid at the rate provided in Schedule 6.

Schedule 6.

53. (1) There shall be a fee known as a tipping fee which shall be paid to the Corporation by any person at whose request the Corporation unloads any container of solid waste on to a sanitary landfill site.

Tipping fee.

(2) The tipping fee shall be charged and paid at the rate provided in Schedule 6.

Schedule 6.

Act binds State.

54. This Act binds the State.

Repeal and savings.
Act No. 17 of 1996.

55. (1) The Solid Waste Management Corporation Act, 1996 (hereinafter the 1996 Act) is hereby repealed.

(2) Notwithstanding subsection (1) -

- (a) the members of the Corporation established under the 1996 Act shall for all purposes be deemed to be the members of the Corporation established under this Act;
- (b) the officers and employees of the Corporation established under the 1996 Act shall be deemed to be officers and employees of the Corporation established under this Act under the same terms and conditions of service;
- (c) all agreements and contracts entered into by the Corporation established under the 1996 Act shall for all purposes be deemed to be agreements and contracts entered into by the Corporation established under this Act; and
- (d) all assets and liabilities of the Corporation established under the 1996 Act shall for all purposes be deemed to be assets and liabilities of the Corporation established under this Act.

Commencement.

56. This Act shall come into force on such date as the Minister may, by Order published in the *Gazette*, appoint.

SCHEDULE 1

WASTE CLASSIFIED AS HAZARDOUS WASTES

Annex 1

Waste Streams

-
- Y1 Clinical wastes from medical care in hospitals, medical centres and clinics.
 - Y2 Wastes from the production and preparation of pharmaceutical products.
 - Y3 Waste pharmaceuticals, drugs and medicines.
 - Y4 Wastes from the production, formulation and use of biocides and phyto-pharmaceuticals.
 - Y5 Wastes from the manufacture, formulation and use of wood preserving chemicals.
 - Y6 Wastes from the production, formulation and use of organic solvents.
 - Y7 Wastes from heat treatment and tempering operations containing cyanides.
 - Y8 Waste mineral oils unfit for their originally intended use.
 - Y9 Waste oils/water, hydrocarbons/water mixtures, emulsions.
 - Y10 Waste substances and articles containing or contaminated with polychlorinated biphenyls (PCBs) and/or polychlorinated terphenyls (PCTs) and/or polybrominated biphenyls (PBBs).
 - Y11 Waste tarry residues arising from refining, distillation and any pyrolytic treatment.
 - Y12 Waste from production, formulation and use of inks, dyes, pigments, paints, lacquers, varnish.
 - Y13 Wastes from production, formulation and use of resins, latex, plasticizers, glues/adhesive.
 - Y14 Waste chemical substances arising from research and development or teaching activities which are not identified and/or are new and whose effects on man and/or the environment are not known.
 - Y15 Wastes of an explosive nature not subject to other legislation.
 - Y16 Wastes from production, formulation and use of photographic chemicals and processing materials.
 - Y17 Wastes resulting from surface treatment of metals and plastics.
 - Y18 Residues arising from industrial waste disposal operations.

Waste having as constituents:

- Y19 Metal carbonyls.
- Y20 Beryllium and beryllium compounds.
- Y21 Hexavalent chromium compounds.
- Y22 Copper compounds.
- Y23 Zinc compounds.
- Y24 Arsenic; arsenic compounds.
- Y25 Selenium; selenium compounds.
- Y26 Cadmium; cadmium compounds.
- Y27 Antimony; antimony compounds
- Y28 Tellurium; tellurium compounds.
- Y29 Mercury; mercury compounds.
- Y30 Thallium; thallium compounds.
- Y31 Lead; lead compounds.
- Y32 Inorganic fluorine compounds excluding calcium fluoride.
- Y33 Inorganic cyanides.
- Y34 Acidic solutions or acids in solid form.
- Y35 Basic solutions or bases in solid form.
- Y36 Asbestos (dust and fibres).
- Y37 Organic phosphorous compounds.
- Y38 Organic cyanides.
- Y39 Phenols; phenol compounds including chlorophenols.
- Y40 Ethers.
- Y41 Halogenated organic solvents.
- Y42 Organic solvents excluding halogenated solvents.
- Y43 Any congener of polychlorinated dibenzo-furan.
- Y44 Any congener of polychlorinated dibenzp-p-dioxin.
- Y45 Organohalogen compounds other than substances referred to in this Annex (e.g. Y39, Y41, Y42, Y43, Y44).

-
- Y46 Wastes collected from households.
- Y47 Residue arising from the incineration of household wastes.

Other

Radioactive Wastes.

ANNEX II

LIST OF HAZARDOUS CHARACTERISTICS

un class	Code	characteristics
1	H1	Explosive
		An explosive substance or waste is a solid or liquid substance or waste (or mixture of substances or wastes) which is in itself capable by chemical reaction of producing gas at such a temperature and pressure and at such speed as to cause damage to the surroundings.
3	H3	Flammable liquids.
		The word "flammable" has the same meaning as "inflammable". Flammable liquids are liquids, or mixtures of liquids, or liquids containing solids in solution or suspension (for example, paints, varnishes, lacquers, etc., but not including substances or wastes otherwise classified on account of their dangerous characteristics) which give off a flammable vapour at temperatures of not more than 60.5°C. close cup test, or not more than 65.6°C. open-cup test.
4.1	H4.1	Flammable solids.
		Solids, or waste solids, other than those classed as explosives, which under conditions encountered in transport are readily combustible, or may cause or contribute to fire through friction.

- 4.2 H4.2 Substances or wastes liable to spontaneous combustion

Substances or wastes which are liable to spontaneous heating under normal conditions encountered in transport, or to heating up on contact with air, and being then liable to catch fire.

- 4.3 H4.3 Substances or wastes which, in contact with water, emit flammable gases Substances or wastes which by interaction with water, are liable to become spontaneously flammable or to give off flammable gases in dangerous quantities.

- 5.1 H5.1 Oxidising.

Substances or wastes which, while in themselves not necessarily combustible, may, generally by yielding oxygen cause, or contribute to, the combustion of other materials.

- 5.2 H5.2 Organic peroxides.

Organic substances or wastes which contain the bivalent -O-O structure are thermally unstable substances which may undergo exothermic self-accelerating decomposition.

- 6.1 H6.1 Poisonous (Acute).

Substances or wastes liable either to cause death or serious injury or to harm human health if swallowed or inhaled or by skin contact.

- 6.2 H6.2 Infectious substances.

Substances or wastes containing viable micro organisms or their toxins which are known or suspected to cause disease in animals or humans.

7. H7 Radioactive Materials

Substances or materials which spontaneously emit a significant radiation and of which the specific activity is greater than 70Bq/kg (2nCi/g).

8. H8 Corrosives

Substances or waste which, by chemical action, will cause severe damage when in contact with living tissue, or in the case of leakage, will materially damage, or even destroy, other goods or the means of transport; they may also cause other hazards.

9. H9 Liberation of toxic gases in contact with air or water.

Substances or wastes which, by interaction with air or water, are liable to give off toxic gases in dangerous quantities.

10. H10 Toxic (Delayed or chronic).

Substances or wastes which, if they are inhaled or ingested or if they penetrate the skin, may involve delayed or chronic effects, including carcinogenicity.

11. H11 Ecotoxic.

Substances of waste which, if released, present or may present immediate or delayed adverse impacts to the environment by means of bio-accumulation and/or toxic effects upon biotic systems.

12. H12 Other Substances

Capable, by any means, after disposal, of yielding another material e.g. leachate, which possesses any of the characteristics listed above.

(Section 2).

SCHEDULE 2

AGENCIES CONCERNED WITH
SOLID WASTE MANAGEMENT

Local Government Authorities.

Solid Waste Management Corporation.

(Section 3).

SCHEDULE 3

DOMINICA SOLID WASTE MANAGEMENT
CORPORATION

Interpretation.

1. In this Part,

“Chairman” means the Chairman of the Corporation and includes any person for the time being performing the functions of Chairman.

The Solid Waste
Management
Corporation.**2.** (1) The Dominica Solid Waste Management Corporation shall be -

- (a) a body corporate by the name of the Dominica Solid Waste Management Corporation, with perpetual succession and a common seal;
- (b) capable of suing and being sued in its corporate name; and
- (c) be capable of holding, purchasing and otherwise acquiring and disposing of any property, movable or immovable for the purpose of carrying out its functions under this Act.

(2) The provisions of the Annex to this schedule shall have effect with respect to the constitution and proceedings of the Corporation.

(3) There shall be established, solely for the benefit of the Corporation, an account in the National Commercial Bank of Dominica, or any other financial institution approved by the Minister.

Power of the
Corporation.

3. Subject to the provisions of this Act, the Corporation may, with the approval of the Minister, delegate to any member or committee of the

Corporation the power to carry out on its behalf any functions of the Corporation.

4. The Corporation's functions are to -

Functions of the Corporation.

- (a) provided storage facilities for solid waste;
- (b) procure equipment for the collection, transportation and disposal of solid waste;
- (c) provide collection and storage facilities at ports, harbours, and anchorages for the reception of ship-generated waste;
- (d) procure the equipment necessary to transport the ship-generated waste to the final disposal site;
- (e) convert existing dumps into sanitary landfill sites;
- (f) develop and manage new sanitary landfill sites and other disposal methods;
- (g) provide facilities for the treatment and disposal of bio-medical and hazardous wastes;
- (h) introduce measures to encourage recovery of recyclable items from solid waste;
- (i) introduce cost recovery methods for services provided by the Corporation;
- (j) prepare plans and programmes to address the problems of solid waste management in the State;
- (k) oversee the management of all solid waste collection and disposal systems in the State, and
- (l) manage and direct the implementation of the OECS Waste Management Project and any other regional and international waste management project activities.

5. (1) The Minister may, after consultation with the Chairman, give to the Corporation any written direction concerning the policy to be followed by the Corporation in the performance of its functions as appears to the Minister to be necessary in the public interest.

Directions as to policy.

(2) The Corporation shall give effect to any direction given by the Minister under subsection (1).

Application of
Environmental
Health Services.
Act No. 8 of 1997.

6. In the performance of its functions the Corporation shall comply with the provisions of the Environmental Health Services Act, 1997 and any other Act relating to public health and the environment.

Funds and resources
of the Corporation.

- 7.** The funds and resources of the Corporation shall consist of-
- (a) such sums as may be provided by the Government for the purpose;
 - (b) any grant made to the Corporation by the Government or, with the approval of the Minister, by a person, body or international organisation;
 - (c) such sums as may from time to time accrue to the Corporation on account of payment of fees, charges, rent and interest for services provided;
 - (d) all other monies and other property which may in any manner become payable to, or vested in the Corporation in respect of any matter incidental to its functions; and
 - (e) monies borrowed by the Corporation pursuant to section 8 for the purpose of meeting any of its obligations or performing any of its functions.

Borrowing powers.

8. (1) Subject to the provisions of subsection (2), the Corporation may borrow monies required by it for meeting any of its obligations or performing any of its functions.

(2) The power of the Corporation to borrow under subsection (1) shall be exercised only with the prior approval of the Minister responsible for Finance.

Accounts and audit.

9. (1) The Corporation shall keep accounts of its transactions to the satisfaction of the Minister and such accounts shall be audited annually by such persons as the Corporation, with the approval of the Minister, appoints.

(2) Subsection (1) does not derogate from the Director of Audit's powers conferred upon him by any other law.

Annual report.

10. (1) The Corporation shall prepare and present an annual report to the Minister within four months after the expiration of the financial year.

(2) The annual report shall contain the activities of the Corporation during the last financial year and must include a statement of its audited accounts.

(3) The Minister shall as soon as possible after receiving a report in accordance with subsection (1), lay a copy thereof before the House of Assembly.

(4) A copy of the Corporation's annual report shall be published in the *Gazette*.

11. A member of the Corporation who is directly or indirectly interested in a contract made or proposed to be made by the Corporation - Disclosure of interest.

(a) shall disclose the nature of his interest at a meeting of the Corporation; and

(b) shall absent himself from any meeting of the Corporation at which the contract is being discussed.

12. (1) A member of the Corporation shall not be personally liable for any act or default of the Corporation done or omitted to be done in good faith in the course of the operation of the Corporation. Liability of members.

(2) Where a member of the Corporation is exempt from liability by reason only of the provisions of this section, the Corporation is liable to the extent that it would be if that member was a servant or agent of the Corporation.

13. (1) It is hereby declared that the Corporation is not the servant or agent of the State. Corporation not servant or agent of the State.

(2) Notwithstanding subsection (1) the Corporation shall be exempt from tax, duty, rate, levy or any other charge whatsoever.

ANNEX

- 1.** (1) The Corporation consists of the following seven members - Constitution of the Corporation.
- (a) the permanent Secretary, Ministry of Health who shall be the Chairperson;

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- (b) a senior representative of the Ministry of Finance;
 - (c) the General Manager of the Dominica Port Authority;
 - (d) a senior representative of the Ministry of Agriculture and Environment;
 - (e) a legal officer from the Attorney General's Chambers; and
 - (f) two other persons.

(2) Every member of the Corporation shall be appointed by the Minister by Instrument in writing and published in the *Gazette*.

(3) Every member of the Corporation shall, subject to the provisions of this Schedule, hold office for such period, not exceeding three years, as the Minister may direct and shall be eligible for re-appointment.

(4) Every member of the Corporation shall be paid the remuneration and allowances specified by the Minister.

Quorum.

2. (1) The Chairman and three other members shall form a quorum.

(2) In the case of an equality of votes on any question at a meeting the Chairman shall have a casting as well as a deliberative vote in respect of that question.

Revocation of appointments.

3. The Minister may at any time revoke the appointment of any member of the Corporation, except the members appointed by virtue of section 1 (1)(a) and (c) if he thinks it is expedient to do so.

Power to regulate own proceedings.

4. Subject to the foregoing provisions of this Schedule the Corporation shall have the power to regulate its own proceedings.

Appointment of officers, servants and agents.

5. (1) The Corporation may appoint and employ at such remuneration and on such terms and conditions as it thinks fit, a Solid Waste Manager, an accountant, a secretary and such other officers, servants and agents as it thinks necessary for the proper performance of its functions.

(2) The accountant and secretary must be skilled in the use and operation of computers.

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- (3) Notwithstanding subsection (1) -
- (a) a person shall not be appointed Solid Waste Manager, accountant or secretary without the prior written approval of the Minister; and
- (b) salary in the excess of any sum as the Minister may determine and notify in writing to the Corporation shall not be assigned to any post without the prior approval of the Minister;

6. (1) The Public Service Commission may, subject to such conditions as may be imposed, approve the appointment of any public officer to any office with the Corporation, subject to the consent of the public officer.

Transfer of public officers.

(2) Where a member of the public service is appointed to the Corporation, that public officer shall, in relation to pension, gratuity or other allowances and rights as a public officer, be treated as continuing in the service of the Government.

7. The Corporation may appoint a sub-committee or co-opt any one or more persons to attend meetings of the Corporation for the purpose of assisting or advising the Corporation, but no such co-opted person shall have a right to vote.

Power to appoint sub-committee.

SCHEDULE 4

(Section 4(1)).

SOLID WASTE MANAGEMENT FACILITIES
VESTED IN THE CORPORATION

Facilities.

1. Portsmouth Sanitary Landfill
 2. Stockfarm Sanitary Landfill
 3. Any other declared sanitary landfill
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SCHEDULE 5

LIST OF ISSUES TO BE COVERED IN ANY
ENVIRONMENTAL PLAN SUBMITTED WITH
APPLICATION FOR WASTE MANAGEMENT LICENCE

- (a) A description of the proposed or actual facility including the following:
 - (i) scale and hours of operation of the facility;
 - (ii) transportation requirements into and from the facility;
 - (iii) gaseous, liquid, noise, dust and other omissions from the facility; and
 - (iv) the potential of the facility operations to impact on health or the economy.
 - (b) A description of the environment in which the facility is or is proposed to be located, specifying the following:
 - (i) general topography of the location;
 - (ii) surface, subsurface and marine water regimes;
 - (iii) general atmospheric and wind conditions;
 - (iv) fauna, flora and critical habitat;
 - (v) presence of archaeological or cultural resources; and
 - (vi) actual land use and potential for other land uses.
 - (c) Mitigation measures identified for negative impacts.
 - (d) A determination of the extent of residual negative impact.
 - (e) Details of the financial, social and environmental implications of implementation of mitigation measures.
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SCHEDULE 6

(Sections 49, 51(1),
52(2) and 53(2)).

	US\$	EC\$
(a) Environmental levy: per visitor	1.50	4.00
(b) Haulage fee: per ton	35.00	94.50
(c) Tipping fee: per ton-		
(i) for disposal of ship or aircraft generated waste	40.00	108.00
(ii) for industrial, commercial and institutional waste, except special waste such as waste generated by hospitals, doctors, clinics or laboratories (both public and private)	20.00	54.00

Passed in the House of Assembly this 7th day of January, 2002.

RUTH SIMON (MRS.)
Clerk of the House of Assembly (Ag).