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I assent,

CUTHBERT M SEBASTIAN

Governor-General.

20th May, 2009.

SAINT CHRISTOPHER AND NEVIS

No. 11 of 2009

AN ACT to provide for the management of solid waste in conformity with the best environmental practices; and to provide for related or incidental matters.

[Published 28th May 2009, Official Gazette No. 24 of 2009.]

BE IT ENACTED by the Queen's Most Excellent Majesty by and with the advice and consent of the National Assembly of Saint Christopher and Nevis, and by the Corporation of the same as follows:

PART I PRELIMINARY

1. This Act may be cited as the Solid Waste Management Act, 2009, and shall come into force on such date as the Minister may, by Order, appoint. Short title and commencement.
2. In this Act, unless the context otherwise requires, Interpretation.
 - "authorised officer" means an officer designated by the Minister as an authorised officer under section 45 of this Act;
 - "clinical waste" means;
 - (i) any part of the human body including tissues and bodily fluids, but excluding fluids, extracted teeth, hair, nail clippings and the like that are not infectious,
 - (ii) any part of the carcass of an animal infected with a communicable disease; or
 - (iii) non-anatomical waste infected with a communicable disease,
 - (iv) any waste that is generated in the diagnostic treatment or immunisation of human beings or animals and related activities that include research or autopsies;

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

“Corporation” means the Saint Christopher and Nevis Solid Waste Management Corporation established under section 3 of the Saint Christopher and Nevis Solid Waste Management Corporation Act, 1996;

“derelict vehicle” means a motor vehicle that:

- (a) is abandoned or discarded;
- (b) is stored or kept in a public place in such a dilapidated condition that it cannot safely be used for the purposes of transportation; or
- (c) in its location, detracts from the quality of the amenities enjoyed by a person who owns property in or near where the vehicle is located, constitutes a nuisance in law, or is otherwise a hazard to human health or the environment.

“dumping” means discharging wastes into the environment at a site or location other than one approved and permitted by the Corporation or a local Corporation;

“flammable waste” means a waste that is either solid, liquid, an oxidizing substance or an ignitable compressed gas, which, under certain conditions may be readily combustible or may cause or contribute to fire through friction, absorption of moisture or spontaneous chemical changes and when ignited, burns so vigorously and persistently that it creates a danger;

“hazardous waste” means any solid or liquid material or by-product, or a combination of solid or liquid materials or products that contain highly persistent chemical elements and compounds that are likely to endanger human health and the environment and includes

- (i) hazardous industrial waste,
- (ii) acute hazardous waste chemicals ,
- (iii) hazardous waste chemicals,
- (iv) severely toxic waste,
- (v) flammable waste,
- (vi) corrosive waste,
- (vii) reactive waste,
- (viii) radioactive waste,

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- (xi) clinical waste,
- (xii) leachate toxic waste, or PCB waste,

and includes a mixture of acute hazardous waste chemicals, hazardous waste chemical, pathological waste, radioactive waste or severely toxic wastes and any other waste or material, but does not include

- (i) hauled sewage,
- (ii) waste from the operation of state owned or sewage works where such works are operating under reasonably controlled conditions, wastes collected from residences or residues arising from the incineration of residential wastes;
- (iii) residential waste,
- (iv) incinerator ash resulting from the incineration of waste that is neither hazardous waste or liquid industrial waste,
- (v) waste that is a hazardous industrial waste, hazardous waste chemical, flammable waste, corrosive waste, leachate toxic waste or reactive waste and that is generated in an amount that is less than five kilograms or otherwise accumulated in an amount less than five kilograms,
- (vi) waste that is an acute hazardous chemical and that is generated in any month in an amount that is less than one kilogram or otherwise accumulated in an amount that is less than one kilogram,
- (vii) an empty container or the liner from an empty container that contained hazardous industrial waste, hazardous waste chemical, flammable waste, corrosive waste, leachate toxic waste or reactive waste,
- (viii) the residue or contaminated materials from the clean-up of a spill of less than five kilograms of waste that is hazardous industrial waste, a hazardous waste chemical, flammable waste, corrosive waste, leachate waste or reactive waste, or
- (ix) the residue or contaminated materials from the clean-up of a spill of less than one kilogram of waste that is an acute hazardous waste chemical,
- (x) agricultural wastes,
- (xi) used tyres that have been refurbished for road use,
- (xii) used oil, and

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(xiii) radioactive substances.

“incineration” means the destruction of solid waste by high temperature burning in a furnace designed for such purpose whereby such 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 specific types of waste that are incinerated at the facility, including pollution control equipment associated with the facility;

“industrial waste” means waste from

- (a) an enterprise or activity involving warehousing, storage or industrial, manufacturing or commercial processes or operations,
- (b) research or an experimental enterprise or activity,
- (c) an enterprise or activity to which clause (a) would apply if the enterprise or activity were carried on for profit,
- (d) clinics that provide medical diagnosis or treatment, or
- (e) schools, laboratories or hospitals;

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

“licence” means a waste management licence;

“litter” includes any abandoned or discarded article, rubbish, refuse, garbage or waste materials, containers, packages, bottles, cans or any parts of such matter disposed of or discarded in a place where its presence is undesirable or is likely to be injurious to health;

“Minister” means the Minister responsible for solid waste management;

“permit” means a waste haulage permit;

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“person” means any person, firm, partnership, association, corporation, company or organization of any kind and includes the Solid Waste Management Corporation;

“person responsible”, in relation to a solid waste management facility, means

- (i) the owner of the facility,
- (ii) any person who has charge, management or control of the facility or any portion of the facility;

“planning authority” means the ministry responsible for development planning or a body designated for that purpose;

“post” includes utility poles;

“Scheduled Agencies” mean the agencies listed in Schedule 1 to this Act;

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

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

“solid waste” means litter, garbage, refuse, organic waste, scrap metal, and other solid materials:

- (a) discarded from residential, industrial, institutional or commercial establishments or operations; and
- (b) generated from public or community activities; or
- (c) 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; or
- (d) any derelict vehicle;

but does not include

- (i) animal manure and absorbent bedding used for soil enrichment;
- (ii) suspended solid or dissolved material in domestic sewage, or other substances in water sources, such as silt, dissolved or suspended

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solids in industrial wastewater effluents, dissolved materials in irrigation return flows or other common water;

- (iii) industrial discharges from pipelines conveying such wastes;

“solid waste management facility” means a facility designed, constructed and operated for the collection, processing, transferring, separation, storage, reuse, recycling, transportation, transfer, treatment or disposal of the solid waste stream or components thereof, including a national solid waste landfill, bulky waste disposal sites, hazardous waste disposal sites, transfer stations, composting facilities, dump, recycling facilities, incinerators and any other facility utilised for the disposal or reuse of solid waste except a location or facility where waste is stored, for less than seven days;

“Strategy” means the National Waste Management Strategy mentioned in section 15(4);

“waste” includes litter;

“waste management policy stakeholders” means the persons and organisations in Saint Christopher and Nevis, other than the Corporation and Ministries, departments or other units of Scheduled Agencies, who are considered by the Corporation either to be likely to be significantly affected by waste management policy or to be possessed of special expertise or qualifications which make them competent to advise on the formation of waste management policy;

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

PART II

SOLID WASTE MANAGEMENT CORPORATION

Continuance of Corporation.

3. (1) Notwithstanding the repeal of the Solid Waste Management Act, the Solid Waste Management Corporation established by that Act and in existence before the coming into force of this Act shall continue in existence, subject to the provisions of this Act.

(2) The Corporation shall continue to be a body corporate with perpetual succession and a common seal, and be capable of suing and being sued in its corporate name.

(3) The Corporation shall be capable of holding, purchasing and otherwise acquiring and disposing of any property, movable or immovable, for the purpose of carrying out its duties under this Act.

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(4) The Corporation may do such other things as are necessary for the purpose of carrying out its functions.

4. (1) The Corporation shall generally be responsible for overseeing the management of the solid waste collection and disposal systems in the Islands of Saint Christopher and Nevis, and without prejudice to the generality of the foregoing the Corporation shall, in particular,

Functions of the Corporation.

- (a) provide 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 before transportation to the final disposal sites;
- (d) procure equipment necessary for the transportation of ship-generated waste to the final disposal sites;
- (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 medical and hazardous waste;
- (h) introduce measures aimed at encouraging 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 Saint Christopher and Nevis;
- (k) manage and direct the implementation of the OECS Waste Management Project and any other approved regional and international activities.

(2) The Corporation shall, in the performance of its functions, comply with the provisions of the Public Health Act and any other enactment relating to public health and the environment.

5. (1) The Corporation shall have a governing body to be known as the Board of Directors, which Board shall consist of the following members

Board of Corporation.

- (a) a senior representative of the Ministry of Health;
- (b) a senior representative of the Ministry of Finance;

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- (c) the General Manager, Saint Christopher Air and Sea Ports Authority;
- (d) a senior representative of the Ministry responsible for The Environment;
- (e) a member of the Chamber of Industry and Commerce, nominated by the Chairperson thereof;
- (f) one member from Nevis, nominated by the Premier of the Nevis Island Administration; and
- (g) one member representing the St. Kitts and Nevis Trades and Labour Union.

(2) The Minister shall appoint from among the members of the Board a Chairperson and Vice-Chairperson of the Corporation, respectively.

(3) The Board shall be responsible for carrying out the functions conferred on the Corporation by this Act, any other enactment and regulations made under this Act.

(4) Subject to the provisions of this Act and the approval of the Minister, the Board may delegate to any member or committee of the Board the power to carry out on its behalf such functions as the Board may determine.

(5) Schedule 2 to this Act shall apply to meetings and other matters of the Board as are specified in that Schedule.

Disclosure of interest.

6. A member of the Board who is directly or indirectly interested in a contract made or proposed to be made by the Board shall disclose the nature of his interest at a meeting of the Board, and shall absent himself from that part of the meeting of the Board with respect to the contract.

Liability of members.

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

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

Directions to the Board.

8. The Minister may, after consultation with the Chairperson, give to the Board directions of a general nature as to the policy to be followed by the Board in the performance of its functions and the Board shall give effect to the directions.

Staff of the Corporation.

9. (1) For the purposes of section 3.(1), any person in the employment of the Corporation immediately before the coming into

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force of this Act shall continue in the employment of the Corporation, subject to the provisions of this Act.

(2) A person referred to in subsection (1) shall be deemed to be employed under the provisions of this Act without any break in his service and his or her terms and conditions of service shall not be varied to his or her detriment.

(3) The Corporation may appoint and employ a Solid Waste Manager, an accountant, a secretary, and such other officers, servants and agents as are necessary for the proper performance of the functions of the Corporation.

(4) The persons referred to in subsection (3) shall be appointed on such terms and conditions as the Corporation may, in writing, determine.

(5) Notwithstanding subsections (3) and (4),

- (a) no person shall be appointed Solid Waste Manager without the prior written approval of the Minister;
- (b) no salary in excess of such sum as the Minister may determine and notify in writing to the Corporation shall be assigned to any post without the prior approval of the Minister;
- (c) no appointment to any post to which a salary, honorarium, or allowance is assigned shall be made without the prior approval of the Minister.

(6) The Governor-General or the Public Service Commission may, subject to such conditions as may be imposed, approve of the appointment of a public officer to an office with the Corporation, subject to the consent of the public officer.

(7) Where a member of the public service is appointed to the Corporation, the 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 Government.

10. The funds and resources of the Corporation shall consist of

Funds of the Corporation.

- (a) such sums which shall be increased each year to off-set inflation 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;

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- (c) such sums as may, from time to time, accrue to the Corporation on account of payments, fees, charges, rent and interest for services provided;
- (d) monies and properties which may in any manner become payable to, or vested in the Corporation in respect of any matter incidental to its functions;
- (e) monies borrowed by the Corporation under section 11 for meeting of any of its obligations or performing any of its functions;
- (f) moneys recovered from court matters.

Borrowing powers.

11. (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 monies shall be exercisable only with the prior approval of the Minister responsible for finance.

Accounts and audit.

12. (1) The Corporation shall keep accounts of its transactions to the satisfaction of the Minister, and the accounts shall be audited annually by such auditors as the Corporation, with the approval of the Minister, may appoint.

(2) Nothing in subsection (1) shall prevent the Director of Audit from exercising the powers conferred upon him by any law.

Annual report.

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

(2) The annual report shall

- (a) contain the activities of the Corporation during the last financial year; and
- (b) include a statement of the Corporation's audited accounts in accordance with the provisions of section 12.

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

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

Exemptions of Corporation.

14. The Corporation shall not be regarded as the servant or agent of the State or as enjoying any status, immunity or privilege of the State, except that as agent of the State it shall be exempt from tax, duty, rate, levy

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or other charge, and the Corporation's property shall not be regarded as property of, or property held on behalf of, the State.

**PART III
WASTE MANAGEMENT PLANNING**

15. (1) Within eight months of the commencement of this Act, the Corporation shall undertake and complete an inventory and characterisation of the solid waste generated in Saint Christopher and Nevis.

Formulation of
waste inventory
etc.

(2) Any waste inventory undertaken in the course of the process of completing the requirements of subsection (1) shall in respect of solid waste

- (a) identify the total volume and tonnage of waste generated in Saint Christopher and Nevis;
- (b) identify the proportions of waste according to specific classifications of waste;
- (c) estimate the proportion of total waste generated by the residential sector, the tourist sector, and the industrial, commercial and institutional sector exclusive of tourism;
- (d) identify the equipment that is available.

(3) The waste inventory and characterisation referred to under subsection (1) shall be reviewed at least every five years.

(4) Within eighteen months from the date of the coming into force of this Act a National Waste Management Strategy shall be prepared by the Corporation.

(5) The Corporation shall ensure the broadest consultation in the preparation of the National Waste Management 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 to the extent that their interests are, in the opinion of the Corporation, likely to be affected.

16. (1) The National Waste Management Strategy prepared pursuant to the requirements of section 15(2) shall, without prejudice to the generality of section 15(4), include the following

Content and
structure of
Strategy.

- (a) a summary of the inventory of national waste resources classified under type, volume and area of generation compiled under section 17(2);
- (b) an evaluation of historic, current or proposed activities that impact upon the volume or type of waste generated in Saint Christopher and Nevis;

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- (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 Saint Christopher and Nevis;
- (e) an implementation programme 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 adversely to impact on human health or the environment;
- (f) a disaster preparedness plan;
- (g) a rationalisation of the laws and institutions that discharge responsibilities for solid waste management;

(2) The implementation programme developed under paragraph (e) of subsection (1) shall without prejudice to the generality of the foregoing

- (a) implement standards, requirements and procedures for management of waste, including the generation, handling, storage, treatment, transport and disposal of all types of waste;
- (b) establish requirements and procedures for the issuance, monitoring and enforcement of licences to site, construct or operate waste management facilities or equipment;
- (c) develop physical infrastructure requirements to provide waste management services;
- (d) introduce measures for addressing illegal dumping of litter, wastes and derelict vehicles;
- (e) outline financing and cost recovery mechanisms to ensure the financial viability of waste management activities;
- (f) outline measures for training of staff involved in solid waste management, public relations and public education and awareness regarding solid waste management.

(3) The National Waste Management Strategy shall, in particular, without prejudice to the generality of the foregoing,

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- (a) implement standards and procedures for the reductions, recycling of, recovery, reclaiming and reuse of waste and the use of recycled substances;
- (b) identify methods by which all types of wastes 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 facilities;
- (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) establish targets for the reduction of waste to be achieved and commencement dates;
- (h) design waste management measures in such a manner that the costs arising from pollution are met by the polluters;
- (i) subject to subsection (3)(h), design waste management measures in such a manner as to recover costs from those who benefit from those measures; and
- (j) identify suitable enforcement mechanisms and appropriate mechanisms to ensure the implementation of the National Waste Management Strategy, including, where appropriate, the use of economic instruments.

(4) In preparing the National Waste Management Strategy, the Corporation shall undertake an evaluation of the potential social, environmental and economic impacts of the Strategy, and the findings of such an evaluation shall be contained in the Strategy that is submitted to Cabinet for approval.

(5) The Corporation shall submit the Strategy to the Minister.

17. (1) Subject to subsection (2), the Minister shall submit the Draft National Waste Management Strategy for public review and comment, and for this purpose shall by notice

- (a) published in the *Gazette*;
- (b) advertised for two weeks in at least one newspaper published regularly in St. Christopher and Nevis;

Public Review of
Strategy.

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- (c) broadcast on at least three occasions on at least one radio station whose signals are received in Saint Christopher and Nevis;

advise the public as provided in subsection (2) of this section.

(2) Pursuant to subsection (1), the public shall be advised on the:

- (a) location where copies of the Draft National Waste Management Strategy can be obtained for review;
- (b) address to which any comments on the Draft National Waste Management Strategy should be submitted; and
- (c) closing date for making any submission.

(3) The Minister shall allow at least a period of not less than thirty days and not more than forty-five days for the receipt of comments on the Draft National Waste Management Strategy as required by subsection (1).

(4) When all the comments are received from the public review undertaken under subsection (1), and any changes considered desirable by the Minister are made, the Minister shall submit the Draft National Waste Management Strategy to Cabinet for approval.

(5) Upon receipt and consideration of the Draft Strategy, Cabinet may approve the draft, with or without amendments, or refer the draft back to the Minister with a recommendation to correct any deficiency.

(6) Where Cabinet refers the draft back to the Minister, the Minister shall recommence the process of preparing the Strategy at the stage referred to in subsection (4) of section 15 of this Act or at such later stage as Cabinet may specify, and the period of one year specified in that subsection shall be extended by the time which has elapsed since the process last commenced under that subsection.

(7) Upon approval by Cabinet of the Draft Strategy under subsection (5), any person or Corporation discharging any function under this Act shall comply with the National Waste Management Strategy.

Strategy basis for evaluation.

18. The National Waste Management Strategy, once approved by Cabinet, shall provide the basis for evaluating waste management options relating to all development approvals, and the licensing of waste management facilities under this Act.

Variation of Strategy.

19. (1) Before any component or part of the approved National Waste Management Strategy is varied, the Corporation shall publish a notice of intention to vary the Strategy specifying

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

(2) In addition to the publication of the notice as provided under sub section (1) the Minister may establish a consultative process with the Scheduled agencies and the waste policy stakeholders.

20. (1) The Corporation shall keep the National Waste Management Strategy under review and, in any event, shall undertake a comprehensive review of the Strategy within five years from the date of its approval by Cabinet to ensure that

Review of Strategy.

- (a) it complies with obligations under relevant international and regional agreements;
- (b) it is responsive to the waste management needs of Saint Christopher and Nevis;
- (c) it is within Saint Christopher and Nevis' technical, financial and human resources;
- (d) in its current form and potential future modified form it includes consultation with the waste management policy stakeholders, to the extent that their interests are, in the opinion of the Minister, likely to be affected;
- (e) the programmes and activities are maintained.

(2) A review of the National Waste Management Strategy undertaken under subsection (1) shall be through broad-based consultation with the Scheduled Agencies and the waste management policy stakeholders, to the extent that their interests are, in the opinion of the Minister, likely to be affected.

PART IV**WASTE MANAGEMENT LICENCES AND PERMITS**

21. (1) For the purpose of determining the environmental impact which might arise out of any new or significantly modified construction, process, works or other activity in respect of a solid waste management facility the Corporation shall designate a list of activities for which an express grant of permission from the planning authority and an environmental impact assessment is required.

Requirement for environmental impact assessment.

(2) No person shall proceed with any activity which the Corporation has designated as requiring an express grant of permission

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from the planning authority unless such person applies for and obtains an approval from the planning authority.

(3) The application mentioned in subsection (2) shall be in writing in such form as may be prescribed by regulations and should state the desire of the applicant to establish such facility together with such information and particulars as may be required by the Corporation.

(4) A person who

- (a) prior to obtaining an approval from the planning Corporation under subsection (2) undertakes or constructs any facility before obtaining an approval; or
- (b) after obtaining an approval with or without conditions under subsection (2) undertakes or constructs any facility under that approval but contravenes any condition;

commits an offence, and is liable to the penalties prescribed under paragraph (c) of Schedule 3.

Waste management licence.

22. No person shall construct or operate a waste management facility unless that person is the holder of a prescribed waste haulage licence.

Waste haulage permit.

23. No person shall transport waste unless he is the holder of a waste haulage permit.

Establishment of collection zones.

24. (1) The Corporation shall establish areas to be known as collection zones for which a person holding a waste haulage permit is authorized to collect waste.

(2) A list of collection zones is prescribed at Schedule 5.

(3) The Corporation may amend Schedule 5 from time to time.

Contingency plans.

25. (1) The holder of a waste management licence shall review his Disaster preparedness response plan referred to under regulation 6(2), 7(3)(a) in every calendar year and not later than March of that year.

(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, vehicular accident, spillage of waste and other disruptions to daily waste management services.

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(3) In preparing the contingency plans, the Minister and the Corporation shall seek to ensure that those plans are in conformity with the the National Disaster Management Act, No.5 of 1998.

26. (1) In the event of any harm to human health, safety or the environment caused through the failure of the holder of a waste management licence or waste haulage permit to exercise due diligence in the management or transportation of any waste, the holder of the licence or permit shall be liable, at the suit of

Liability in the event of accident.

- (a) any 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) In the event of any harm to human health, safety or the environment caused through failure of the holder of a waste management licence or waste haulage permit to exercise special care in the management or or transportation of any waste during a situation caused by any accident or in times of emergency under section 27 (3), the holder of the licence or permit shall be liable as provided in subsection (1).

(3) The onus of proving the exercise of due diligence or special care under this section shall lie on the holder of the licence or permit.

(4) In the event of a spillage of waste in the course of the transportation of that 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 that type of waste.

(5) If the waste management facility referred to in subsection (4) is not available, then the operator of any waste management facility to which the holder of the waste haulage permit transports the waste shall co-operate with the holder of the haulage permit to ensure the safe storage of the spilled material and the management of the spilled material until a waste management facility becomes available that is permitted to accept that type of waste.

(6) Any costs incurred by the operator of the waste management facility who temporarily stores waste as provided by subsection (5) shall be met by the holder of the waste haulage permit referred to under that subsection.

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

Emergency powers.

27. (1) During any state of emergency declared under the Constitution, the Minister responsible for health may require any person to take any action that the Minister considers reasonably necessary for the safe management of solid waste.

(2) Whether or not a state of emergency exists, in the event that at any time there is no holder of a waste management licence or a waste haulage permit available for the management or transportation of any solid waste that needs management or transportation, the Corporation shall ensure that the waste is managed or transported, as the case may be, and any person acting under the Corporation's authority under this subsection shall, while so acting, be authorised to manage or transport, as the case may be, any solid waste.

(3) Any person acting pursuant to subsection (1) or (2) shall be entitled to recover from the State the expenses incurred by that person in compliance with either of the provisions of those subsections.

Unauthorised disposal of solid waste.

28. (1) Subject to subsection (2) and section 27 of this Act, a person shall not

- (a) deposit or knowingly cause to be deposited solid waste in or on any land, beach, foreshore, marine waters, rivers, or river banks;
- (b) construct or operate any waste management facility without a waste management 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) Subsection (1) of this section shall not apply to

- (a) 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, if no harm to human health, safety or the environment results from such activity; or
- (b) to any prescribed exception.

(3) The Corporation shall, in exercising its powers under section 4 in particular, and without prejudice to the generality of its

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powers, have regard to the expediency of excluding from the controls imposed by waste management 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;
- (c) cases for which adequate controls are provided by any other Act.

(4) Any person who contravenes subsection (1) of this section, or any condition of a waste management licence, commits an offence, and shall be liable, upon conviction

- (a) in the case of an individual, to the penalties prescribed under paragraph (c) of Schedule 3;
- (b) in the case of a corporation, to the penalties prescribed under paragraph (f) of Schedule 3.

**PART VI
WASTE MANAGEMENT OPERATIONS**

29. (1) No person shall import into Saint Christopher and Nevis any waste, other than

- (a) waste governed by the *Merchant Shipping Act, No. 24 of 2002*, imported under conditions authorised by that Act;
- (b) waste generated on board any aircraft landing in Saint Christopher and Nevis no earlier than twenty-four hours before the time of such landing;
- (c) any secondary resource which is imported under conditions prescribed by regulations for the purposes of any manufacturing process.

(2) Any person who imports any hazardous waste contrary to sub-section (1) of this section commits an offence, and shall be liable,

- (a) on summary conviction, to the penalties prescribed under paragraph (g) Schedule 3;
- (b) on conviction on indictment, to the penalties prescribed under paragraph (h) Schedule 3.

(3) Any person who imports any waste, other than hazardous waste, in contravention of subsection (1) of this section commits an offence, and shall be liable,

Prohibition on the importation of waste.

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- (a) on summary conviction, to the penalties prescribed under paragraph (e) of Schedule 3;
- (b) on conviction on indictment, to the penalties prescribed under paragraph (f) of Schedule 3.

Liability for and ownership of waste.

30. (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 the owner of the solid waste and of that other person, ownership and possession of the solid waste shall, in the absence of an agreement to the contrary, pass to that other person at the time when the solid waste is moved from the property of the original owner of the solid waste.

(2) When solid waste, which is in a container, is moved from that container or detached and placed in or on another person's container or property with the consent of the owner of the solid waste and of that other person, ownership and possession of the solid waste shall, in the absence of an agreement to the contrary, pass to that other person at the time when the solid waste is moved from the original container.

(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.

Requirements for waste handling, etc.

31. (1) Every occupier of land and every person in control of a vehicle shall comply with the following requirements, that is to say,

- (a) for waste handling, separation and processing;
- (b) prohibiting the disposal of specific types of waste for which a reuse, recycling, or composting alternative is available;
- (c) that may be prescribed by this Act or Regulations.

(2) Any person who fails to comply with a requirement prescribed by this section, or regulations made under the Act, or imposed by the Minister, commits an offence, and shall be liable, on conviction, to the penalties prescribed in paragraph (d) of Schedule 3.

Industrial, commercial and

32. (1) Persons who conduct industrial, commercial and institutional operations in the course of which waste is generated

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shall make their own arrangements for their waste management, and shall ensure that any waste generated does not present a risk to human health, safety, or the environment.

institutional
waste generators

(2) For the purpose of giving effect to the requirements of subsection (1), any 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 holders of licences or permits

- (a) transport waste to a waste management facility themselves, subject to the permit requirements specified in this Act;
- (b) construct and operate an on-site waste management facility that is approved by the Corporation; on condition that the management, transportation and disposal of wastes in all circumstances shall comply with the standards and guidelines made by the Minister by regulations.

(3) In the event that appropriate facilities are not available in Saint Christopher and Nevis for managing hazardous or any other class of waste, any 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 their premises or the export of the waste to appropriate facilities.

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

Waste storage
requirements.

(2) Any 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 regulation for making that waste available for collection for transportation to a waste management facility.

34. (1) Within 12 months after 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 St. Christopher and Nevis.

Management of
used oil.

(2) When the scheme for the used oil management system has been prepared by the Corporation pursuant to 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, shall be treated as a variation

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of the National Waste Management Strategy referred to under section 19 of this Act.

(4) With effect from one year after the variation of the National Waste Management Strategy referred to under 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 such standards as shall be prescribed by regulations.

(5) With effect from one year after the variation of the National Waste Management Strategy referred to under subsection (3) is approved as required by section 5(5), 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, in the construction, provide for used oil storage facilities and equipment for pumping out used oil, which storage facilities and equipment shall meet such standards as may be prescribed by regulations made by the Minister.

Dumping of used oil.

35. A person who dumps any waste oil from any mechanic's shop or operations commits an offence, and shall be liable, on conviction, to the penalties prescribed in paragraph (c) Schedule 3.

Public events.

36. (1) A person who holds any gathering, meeting, or event which is open to the public and takes place wholly or in part on State land shall apply sufficient litter bins for the event, and shall ensure that all litter on the site is properly disposed of within twenty four hours of the end of the gathering, meeting or event.

(2) A person who contravenes subsection (1) commits an offence and shall be liable, on conviction

- (a) to the penalties prescribed in paragraph (a) of Schedule 3;
- (b) to an order ordering him to undertake, for a period not exceeding three months, such tasks by way of community service as the court may order; or
- (c) to both the fine and order.

Derelict vehicles, etc.

37. (1) A person who owns a derelict vehicle, white goods, or other scrap metal shall take such vehicle, goods, or scrap metal to an approved landfill site or another site approved for the purpose of managing such vehicles, goods or scrap.

(2) An authorised officer may order a person referred to in subsection (1) to remove such vehicle within seven days.

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(3) Where a person who owns a vehicle referred to in subsection (2) cannot be identified the authorised officer shall affix the removal notice on the vehicle that is required to be removed and if on the expiry of seven days such vehicle is not removed, the authorised officer shall arrange for the removal of such vehicle and take it to a site referred to in subsection (1).

(4) All expenses incurred by the Corporation by virtue of this section may be recovered from the owner or person in charge of the vehicle as a civil debt owing to the Government in any court.

**PART VI
MONITORING AND ENFORCEMENT**

38. (1) A person or Corporation empowered to monitor any aspect of compliance with a licence or permit under this Act may enter into an agreement with the holder of the licence or permit, as the case may be, that allows a third party, considered to be suitably qualified, experienced, and independent, to monitor such compliance on behalf of the holder of the licence or permit and the authorised person or Corporation.

Monitoring and
audit.

(2) Where audits or inspections are carried out by a third party pursuant to subsection (1), the third party shall submit reports simultaneously to both the holder of the licence or permit and the authorised person or Corporation.

(3) A person or Corporation empowered to monitor any aspect of compliance with a licence or permit under this Act may engage, by contract, any person considered to be suitably qualified, experienced, and independent, to monitor any aspect of compliance by the holder of the licence or permit.

39. The Environmental Health Department shall monitor compliance of any permit or licence issued by the Corporation to ensure compliance with the nationally established environmental health standards as regards solid waste management.

Monitoring by
Environmental
Health
Department.

40. The Minister may designate public officers, and officers of government agencies as authorised officers for purposes of this Act, and without prejudice to the generality of the foregoing, any police officer shall, for the purposes of this Act, be an authorised officer.

Authorised
officers.

41. (1) An authorised officer may, at any time, enter and inspect any waste management facility to verify whether the operator of the facility is operating it in compliance with this Act.

Powers of
authorised
officers.

(2) Where an authorised officer satisfies a magistrate that there is reasonable cause to suspect that an inspection of domestic

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property referred to in section 44 of this Act would reveal evidence of contravention of this Act the magistrate may issue an order authorising the inspection of that property.

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

(4) An authorised officer may, on the direction of the Minister, inspect any aeroplane or ship to

- (a) verify whether the aeroplane or ship has waste on board; and
- (b) take such measures as are necessary to ensure that any waste on board is not off-loaded contrary to the provisions of this Act or any other law.

(5) An authorised officer, other than a police officer in uniform, shall produce identification on demand before conducting any inspection pursuant to the powers conferred on him by this section.

(6) The means of identification referred to in subsection (5) shall be by an official identity card bearing the photograph of the authorised officer duly authenticated by the signature of a public officer authorised for the purpose by the Minister.

(7) A person who assaults, hinders, molests, interferes with or obstructs an authorised officer, while the authorised officer is discharging his functions under this Act, commits an offence, and shall be liable, on conviction to the penalties prescribed under paragraph (e) of Schedule 3.

Due diligence
defence.

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

(2) In the event of a default by the holder of a waste management licence, it shall suffice to establish due diligence if the holder of the licence shows compliance with the list of compilation of standards referred to in sub-section (1).

Compliance with
directives.

43. Notwithstanding any other Act, the Corporation shall, in all its operations, ensure that its decisions, actions, and undertakings do not jeopardise the interests of public health and in this regard the Corporation shall comply with any directives that may be given by the Environmental Health Department regarding the management of solid waste in the interests of public health.

**PART VII
PROCEDURE REGARDING APPEALS**

44. (1) A person aggrieved by a decision of any functionary who is authorised to act under this Act or any regulations made thereunder may appeal against that decision, by way of complaint, to the magistrate who has jurisdiction in the district in which the aggrieved person resides.

Appeals to
Magistrate's
court.

(2) The time within which an appeal under subsection (1) may be brought, shall be twenty-one days from the date on which notice of the decision concerned was given to the person desiring to appeal and for the purposes of this subsection the application for the complaint shall be deemed to be the bringing of the appeal.

(3) In any case where an appeal lies under this section, the document notifying the person concerned of the decision of the functionary in the matter shall indicate therein the right of appeal to a Magistrate's Court and the time within which the appeal may be brought.

(4) The appellant shall within the time specified in subsection (2), serve a notice in writing on the person whose decision is being appealed from signed by the appellant, or his counsel or attorney and stating the general grounds of appeal; but any person aggrieved by any such decision may upon notice to that person apply to the magistrate for leave to extend the time within which the notice may be served and the Magistrate upon the hearing of such application may extend the time prescribed by this section.

(5) The person whose decision is being appealed from shall upon receiving the notice of appeal, transmit to the magistrate a copy of the decision and all papers relating to the appeal.

(6) At the hearing of the appeal the appellant shall, before going into the case, establish all grounds of appeal on which he intends to rely and shall not, unless by leave of the magistrate, go into matters not raised by the State.

45. Where, on the hearing of an appeal mentioned in section 41, a court varies or reverses the decision of a Corporation, it shall be the duty of the Corporation to give effect to the order of the court, and, in particular, to grant any necessary licence and to make any necessary entry in any register.

Effect of court
decision.

46. (1) Where a decision of the Corporation is appealable under this Act or the regulations and such decision makes it unlawful for a person

Right to carry on
business pending
hearing of appeal.

- (a) to carry on any business which he, or his immediate predecessor in the business was lawfully carrying on at the date when the decision was given;
or

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- (b) to use any premises for any purpose for which he, or his immediate predecessor, was lawfully using them at the said date,

he may carry on that business and use those premises for that purpose until the time for appealing has expired and, if an appeal is brought, until the appeal is disposed of.

(2) The rights given by subsection (1) shall also apply where the decision of a court, in any proceedings in respect of an offence under this Act or the Regulations, makes it unlawful for a person to carry on a business or use premises for any purpose which he was lawfully carrying on or so using immediately before such decision was given.

**PART VIII
LITTER ABATEMENT**

Prohibition on disposal of litter etc.

47. (1) No person shall
- (a) deposit litter in a public place except in a receptacle provided for the purpose as set out under section 48 or in a place designated for the purpose under that section;
 - (b) deposit litter in a public place at any time other than during the time prescribed for the deposit of that litter;
 - (c) interfere with any receptacle, whether public or private, in which litter is placed for collection, or interfere with the contents of the receptacle or remove any litter from the receptacle without the consent of the owner of the receptacle;
 - (d) transport litter in such a manner that it is scattered or is likely to be scattered in a public place while it is being transported;
 - (e) permit unreasonable accumulation of litter on premises under his occupation or control;
 - (f) discharge or permit the discharge of any litter from a moving or stationary vehicle;
 - (g) wilfully break a bottle, glass or article of glass in or on a public place without lawful or reasonable excuse or without the express consent (the proof of which shall lie on the accused person) of the person, public body or Corporation having the control or management of the place;

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(h) unreasonably erect, display, whether by writing or marking or otherwise, deposit or affix anything in a public place or on any building, wall, fence or structure abutting or adjoining a public place in such circumstances so as to cause, contribute to or tend to the defacement of that place, building, wall, fence or structure as the case may be.

(2) For the purposes of subsection (1)(d), a receptacle is a public receptacle if it is provided under section 42(1) for public use, and a receptacle other than a public receptacle is a private receptacle.

(3) A person who acts in contravention of subsection (1) herein commits an offence and shall be liable on conviction to a penalty prescribed in Schedule 3.

(4) Where any person, on behalf of some other person employing him or recruiting him for the purpose, does any act in contravention of subsection (1), then the person employing or recruiting him also commits an offence under this part unless the employer or recruiter proves that the act done was contrary to his or her specific instructions and that the act, if performed as instructed, would not have been in contravention of this section.

(5) In any proceedings under this section, it shall be a defence to prove that the act, the subject matter of the proceedings, was authorized by law or was done with the consent of the owner or occupier of the public place or building, wall, fence or structure, as the case may be.

(6) If a company contravenes any provision of this Part, a director, manager, secretary, or other similar officer of that company commits an offence if the act or omission constituting the offence occurred with his knowledge.

48. (1) The Corporation may authorise the provision of receptacles for the depositing of litter in such places as the Corporation considers necessary.

Receptacles for disposal.

(2) In addition to the provision of receptacles under subsection (1) the Minister may, by notice published in the *Gazette* and in at least one newspaper of general circulation or by any other public medium, designate places as disposal sites for litter that is collected.

49. (1) The following persons shall be *ex-officio* Litter Wardens:

Litter Wardens.

- (a) an Environmental Health Inspector;
- (b) a member of the Police Force;
- (c) the General Manager of the Solid Waste Management Corporation,

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(d) the Operations Manager of the Solid Waste Management Corporation; and

(e) a Member of the Board of the Solid Waste Management Corporation.

(2) The Minister may, by instrument in writing, appoint other persons to be Litter Wardens.

(3) The instrument of appointment referred to under subsection (2) shall specify whether the appointment is for remuneration or is voluntary.

(4) An appointment of a Litter Warden under subsection (2) shall be published in the *Gazette* and in the Press.

(5) Except for an *ex-officio* Litter Warden, the post of Litter Warden shall be a non-established and a non-pensionable post.

(6) The Minister shall, with the approval of the Minister of Finance, make arrangement for the payment of allowances to a Litter Warden who is to be paid remuneration.

Functions and powers of Litter Wardens.

50. (1) The Litter Wardens shall be responsible for the following:

- (a) preventing contravention of any provision of this Part;
- (b) ensuring enforcement of the provisions of this Part where any of its provisions are contravened;
- (c) assisting generally in administering the provisions of this Part.

(2) Subject to this section, a Litter Warden may, upon production of a duly authenticated document showing his identity and Corporation, if required to do so, enter any premises at all reasonable hours during the day for the purposes of this Part.

(3) A Litter Warden who enters any premises by virtue of this section may take with him such other persons as may be necessary, and the Litter Warden shall, on leaving any unoccupied premises which he has entered, leave such premises as effectively secured against trespassers as he found it.

Litter removal order.

51. (1) Where a Litter Warden finds a person contravening any provision of section 47 (1) the Litter Warden may

- (a) require the person to state his true name and place of residence for the purpose of instituting proceedings against that person in accordance with the provisions of this Act; or

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(b) issue to the person a litter removal order, set out as Form B in Schedule 4 to this Act, requiring the person to remove the litter within such period as may be specified in the order.

(2) Where a Litter Warden issues a litter removal order under sub-section (1) (b) and the person to whom it is addressed fails to comply with the terms of the order that person commits an offence and the Litter Warden may institute legal proceedings against that person.

(3) Where a person complies with the terms of a litter removal order no legal proceedings in respect of the offence shall be instituted against that person.

52. (1) A person who owns or is in charge of vacant land shall keep that land clean and free of overgrown grass, bush, or trees, and shall not allow that land to be used as a place for the dumping of litter.

Vacant land to be kept clean etc.

(2) A Litter Warden may, in accordance with the provisions of section 51 issue a litter removal order to a person referred to in subsection (1).

(3) Where a person who is issued a litter removal order under sub-section (2) fails to comply with the terms of the order the Litter Warden may clean the vacant land and recover the expenses incurred in cleaning up the land as a civil debt owing to the Government in a court of law.

53. (1) After obtaining the approval of the Development Control and Planning Board a Litter Warden shall issue a notice in writing to the owner, occupier, or person in charge of a building that has become dilapidated, ruinous, injurious to health, or unfit for human habitation requiring any of those persons, as the case may be, to demolish the building specified in the notice to the satisfaction of the Litter Warden.

Dilapidated buildings etc.

(2) The notice referred to in subsection (1) shall be in such form as may be prescribed, and the Litter Warden shall also affix a copy of the notice to the building that is required to be demolished.

(3) Where a person referred to in subsection (1) fails or neglects to comply with the notice served on him within the time specified in the notice the Litter Warden may make a complaint in respect of the non-compliance before a Magistrate and the Magistrate may order the person to comply with the notice within such time as the Magistrate may specify in the order.

(4) If the order made by the Magistrate under subsection (3) is not complied with in the time that was specified by the Magistrate the Litter Warden may, without prejudice to the right to prosecute the person who has failed to comply with the order, enter the building or the land on which the building stands and authorise the demolition of the building.

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(5) Where the owner, occupier, or person in charge of a building that has become dilapidated, ruinous, injurious to health, or unfit for human habitation cannot be identified and the building appears to be abandoned the Litter Warden shall affix a notice to the building indicating that after a period of thirty days or such shorter period as the Minister may determine the Litter Warden intends to authorise the demolition of the building.

(6) After the period referred to in subsection (5) has elapsed the Litter Warden shall proceed to have the building demolished.

(7) All expenses incurred by the Litter Warden by virtue of this section may be recovered from the owner, occupier, or person in charge of the demolished building as a civil debt owing to the Government in any court.

(8) In this section, the term “building” includes a part of a building or a structure.

**PART IX
MISCELLANEOUS PROVISIONS**

Register of
licences and
permits.

54. (1) The Corporation shall maintain a register of licences and permits granted under this Act or Regulations made thereunder.

(2) The register maintained pursuant to subsection (1) shall be available for public inspection, during normal working hours, on payment of a fee that is prescribed by Regulations.

(3) A register maintained by the Corporation under section 54 shall contain full particulars of

- (a) waste management licences or permits (“licences”) granted by the Corporation;
- (b) applications to the Corporation for licences or permits or for the transfer or modification of licences or permits, including details of
 - (i) documents submitted by applicants containing supporting information;
 - (ii) written representations considered by the Corporation under the Act;
 - (iii) notices by the Corporation rejecting applications;
- (c) notices issued by the Corporation effecting the modification of licences and permits;
- (d) notices issued by the Corporation effecting the *revocation or suspension of licences or imposing requirements* on the holders of licences and permits;

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- (e) notices of appeal relating to decisions of the Corporation and other documents relating to such appeals served on or sent to the Corporation;
 - (d) convictions of holders of licences and permits granted by the Corporation for any offence under the Act or regulations made thereunder (whether or not in relation to a licence or permit) including the name of the offender, the date of conviction, the penalty imposed and the name of the Court;
 - (e) remedial or preventative action taken by the Corporation;
 - (f) any monitoring information relating to the carrying on of any activity under a licence or permit issued by the Corporation;
 - (g) any summary prepared by the Corporation of the amount of special waste produced or disposed of in Saint Christopher and Nevis;
 - (h) applications to the Corporation for the surrender of licences or permits;
- (2) The register shall also contain the following
- (a) where an authorised officer exercises any power under this Act, a record showing when the power was exercised and indicating what information was obtained, and what action was taken, on that occasion;
 - (b) notices issued pursuant to Regulations made under this Act effecting the modification of waste management licences or permits or effecting the revocation or suspension of waste management licences or permits.

55. A licence or permit granted under this Act shall not authorise the commission of any nuisance.

Nuisance not authorised.

56. (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 operation of any sanitary landfill site or any place under the control of the Corporation;

Offences and penalties.

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- (c) assaults, obstructs or otherwise interferes with any person in the execution of his or her functions or duties under this Act;
- (d) personates or pretends to be a person carrying out functions under this Act;
- (e) knowingly supplies any false or misleading information with respect to any levy or fee payable under this Act;
- (f) after being required by a Litter Warden to state his true name and place of residence
 - (i) refuses to give his name and place of residence or gives a false name or place of residence; or
 - (ii) gives such general description of his place of residence as is illusory for the purpose of discovery; commits an offence.

(2) A person who commits an offence referred to in subsection (1) shall be liable, on summary conviction,

- (a) in the case of an individual, to the penalties prescribed under paragraph (c) of Schedule 3;
- (b) in the case of a company or an agent or employee of a company, to the penalties prescribed under paragraph (f) of Schedule 3.

(3) Notwithstanding subsection (2), where any person contravenes section 56 a Litter Warden may serve on the person, a notice affording the person an opportunity of discharging any liability that would arise out of a conviction for the contravention, and the notice shall be in the form set out in Form "A" of Schedule 4.

(4) A person on whom a notice is served under subsection (4) shall be exempted from any further liability in respect of the contravention if,

- (a) before the expiration of a period of seven days from the date of the notice or such longer period as may be specified in the notice; or
- (b) before the date on which proceedings are commenced against him or her in respect of the contravention, he or she pays the fixed penalty prescribed in subsection (8).

(5) No proceedings shall be brought against a person on whom a notice has been served under subsection (4) until after the expiration of a period of seven days from the date of the notice and if a

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longer period is specified in the notice as being the period allowed for payment of the fixed penalty, no proceedings shall be brought until after the expiration of that period.

(6) Payment of a fixed penalty under this section shall be made to the Clerk of the Magistrate's Court specified in the notice and the payment shall be treated for all purposes as payment of a fine imposed after a summary conviction, and a certificate by the Clerk of the Court to the effect of the payment or non-payment of the fixed penalty shall be prima facie evidence of all the facts stated in the certificate.

(7) The fixed penalty referred to in this section shall be five hundred dollars, and the Minister may, by Order, amend the fixed penalty.

(8) A notice referred to in subsection (4) shall be prepared in triplicate, that is to say,

- (a) the original, which shall be served on the offender;
- (b) a second copy, which the Litter Warden shall send to the Clerk of the Magistrate's Court, and which shall be deemed to be a complaint laid before a Magistrate and the summons issued by the Magistrate for the purposes of the Magistrate's Code of Procedure Act; and
- (c) a third copy, which shall be retained by the Litter Warden.

(9) The notice referred to in subsection (4) shall be served personally and shall

- (a) contain a statement of the alleged contravention with particulars sufficient to inform the offender adequately of the allegation;
- (b) specify the period allowed for payment of the fixed penalty after the expiration of which proceedings will be brought;
- (c) specify the amount of the fixed penalty; and
- (d) specify the Magistrate's Court to which the fixed penalty shall be paid.

(10) Where the fixed penalty is not paid within the time specified in the notice, proceedings in respect of the offence specified in the notice shall proceed in the manner prescribed by the Magistrate's Code of Procedure Act.

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(11) A person who commits an offence under this Act or regulations made under this Act in respect of which offence no penalty is prescribed shall be liable,

- (a) on first conviction, to the penalties prescribed under paragraph (a) of Schedule 2; and
- (b) on any subsequent conviction, to the penalties prescribed under paragraph (b) of Schedule 2.

(12) An offence under this Act or regulations made under this Act, which is a continuing offence, may be charged as a separate offence for each day the offence continues.

Regulations.

57. (1) The Minister may generally make regulations to give effect to the provisions of this Act, and without prejudice to the generality of the foregoing, the Minister may, in particular, make regulations

- (a) providing for the establishment of fiscal incentives and inducements required to implement the National Waste Management Strategy and the provisions of this Act;
- (b) prescribing the methods of handling for various types of waste including the disposal of different types of waste for which reuse, recycling or composting alternatives are available;
- (c) respecting waste management strategies and operations including matters pertaining to the importation of hazardous waste as a secondary resource for manufacturing processes;
- (d) establishing the licensing and permitting system for the regulation of waste management facilities or equipment and waste haulage;
- (e) implementing standards and requirements for waste handling, separation and processing;
- (f) prescribing fees for the issue of licences, permits, inspections and other services related to waste management;
- (g) respecting the training of human resources for the purposes of this Act;
- (h) respecting public education in waste management and the production of secondary resources;
- (i) any other matter to give effect to the implementation and enforcement of this Act and regulations made thereunder;

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(2) The Minister may, after consultation with the Board, make regulations

- (a) for developing administrative procedures to govern the Corporation;
- (b) designating the opening or closing of solid waste disposal sites;
- (c) respecting the frequency of solid waste collection and type of solid waste collected;
- (d) any other matter deemed necessary or convenient for carrying out or giving effect to this Act.

58. (1) An environmental levy is hereby imposed on each visitor to Saint Christopher and Nevis as provided in the Second Schedule.

Environmental
levy.

(2) The levy imposed by subsection (1) shall be paid directly to the Corporation or to its agent 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 Saint Christopher and Nevis, 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 longer.

(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*.”

59. (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 a sanitary landfill or elsewhere.

Haulage fee

(2) The haulage fee shall be charged and paid at a rate to be prescribed.

60. (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 onto the sanitary landfill site.

Tipping fee.

(2) The tipping fee shall be charged and paid at a rate to be prescribed.

61. This Act shall bind the State.

Act to bind State.

62. The following laws are hereby repealed:

Repeal.

(a) The Saint Christopher and Nevis Solid Waste Management Act, 1996;

(b) The Litter (Abatement) Act, 1989.

Schedule 1**(Section 2)****List of Scheduled Agencies**

1. The Ministry of Physical Planning and the Environment.
2. The Saint Christopher and Nevis Solid Waste Management Corporation.
3. The Saint Christopher Air and Sea Ports Authority.
4. The Nevis Air and Sea Ports Authority.
5. The Ministry of Health and Department of Environment (Nevis Island Administration).

Schedule 2**(Section 5. (5))****Meetings of the Board etc.**

1. (1) The Board shall meet at such times as may be necessary or expedient for the transaction of its business, and such meetings shall be held at such places and times and on such days as the Board may determine.
- (2) The Chairperson may, at any time, call a special meeting of the Board and shall call a special meeting to be held within seven days of a written request for that purpose addressed to him by three members of the Board.
- (3) The Chairperson shall preside at all meetings of the Board at which he is present and in case of the absence of the Chairperson the Vice-Chairperson shall preside, and in case of the absence of both the Chairperson and the Vice-Chairperson the members present and forming a quorum shall elect one of their number to preside at the meeting.
2. (1) The Chairperson and three other members shall form a quorum.
- (2) In the case of an equality of votes on any question at a meeting the Chairperson shall have a casting vote in respect of that question.
3. Minutes of each meeting of the Board shall be kept and in such form as the Minister may determine.
4. Subject to the provisions of this Schedule, the Board may regulate its own procedure.
5. (1) The Seal of the Corporation shall be authenticated by the signatures of the Chairperson or a member of the Board authorized to act in that behalf and an officer of the Corporation so authorised.
- (2) All documents, other than those required by law to be under seal, made by the Board, and all decisions of the Board may be signified in writing under the hand of the Chairperson or a member of the Board authorized to act in that behalf or an officer of the Corporation so authorized.
- (3) The Seal of the Corporation shall be kept in the custody of the Chairperson or the Solid Waste Manager of the Corporation.

Schedule 3**(Sections 21, 33, 34, 35, 37, 42, 46, 48, 57)****PENALTIES**

ss.

Paragraph	Prescribed Penalties
(a)	A fine of not less than five thousand dollars but not exceeding twenty thousand dollars
(b)	A fine of not less than ten thousand dollars but not exceeding thirty thousand dollars
(c)	A fine of not less than twenty thousand dollars but not exceeding fifty thousand dollars and imprisonment for six months
(d)	A fine of not less than fifty thousand dollars nor more than seventy-five thousand dollars and imprisonment for six months
(e)	A fine of not less than seventy-five thousand dollars but not exceeding one hundred thousand dollars and imprisonment for one year.
(f)	A fine of not less than two hundred thousand dollars but not exceeding three hundred thousand dollars and imprisonment for two years
(g)	A fine of not less than five hundred thousand dollars and imprisonment but not exceeding seven hundred and fifty thousand dollars and imprisonment for five years
(h)	A fine of not less than nine hundred thousand dollars but not more than two million dollars and imprisonment for seven years

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Schedule 4

(Section 49)

Solid Waste Management Act, 2009

Fixed Penalty Notice

Form A

Dated the _____ day of _____ 200_____ at _____

Name of Offender: _____

Address: _____

COMMITTED THE FOLLOWING OFFENCE

Statement of Offence:

- (a) deposited litter in a public place in contravention of Section 47 (1) (a).
- (b) deposited litter in a private place without being so authorised by the occupier in contravention of section 47(1) (b).
- (c) interfered with a receptacle for litter collection or its contents in contravention of section 47 (1) (c).
- (d) transported litter in a manner that it be scattered or was likely to be scattered in a public place in contravention of section 47(1) (d).
- (e) permitted the accumulation of litter on premises under your occupation or control in contravention of section 47(1) (e).
- (f) discharged litter from a moving vehicle in contravention of section 47(1) (f).
- (g) failing to comply with a litter removal order under section 47(2).
- (h) failing to make private arrangements for disposal of commercial litter under section 48.
- (i) failing to keep vacant land clean and free of overgrown grass, bush and trees under section 52.
- (j) failing to demolish ruinous or dilapidated buildings which are beyond repair under section 53.

All fines from (a) to (j) shall attract a penalty of \$500.00 payable within fourteen days at the Magistrate's Court, _____

Signature and identification of
Litter Warden.

Date _____

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Form B

Solid Waste Management Act, 2009
Litter Removal Order

Name _____

Address _____

Take Notice that pursuant to section 47 of the *Solid Waste Management Act, 2009* you are hereby ordered to remove the litter unlawfully deposited by you at

The removal of such litter must be completed within _____ days or a summons may be issued with respect to the offence.

Dated this _____ day of _____, 2009

Litter Warden.

CURTIS A. MARTIN
Speaker

Passed by the National Assembly this 23rd day of April, 2009.

JOSÉ LLOYD
Clerk of the National Assembly