

Provincial Councils Notifications

WESTERN PROVINCE

WESTERN PROVINCE WASTE MANAGEMENT AUTHORITY

No. 1157-34-Friday, November 10, 2000

Statute No. 09 of 1999

(Certified on 05th October, 2000)

A STATUTE TO PROVIDE FOR THE MANAGEMENT OF THE COLLECTION, TRANSPORTATION, TRANSFERRING, TREATMENT AND DISPOSAL OF WASTE IN THE PROVINCE ; FOR THE ESTABLISHMENT OF AN AUTHORITY KNOWN AS THE WASTE MANAGEMENT AUTHORITY OF THE WESTERN PROVINCE ; FOR THE CREATION OF AN ACCOUNT FOR SUCH MANAGEMENT; AND FOR OTHER MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO. TO BE CARRIED OUT IN ACCORDANCE WITH THE NATIONAL POLICY FRAMEWORK ON THE MANAGEMENT OF WASTE OF THE GOVERNMENT OF THE DEMOCRATIC SOCIALIST REPUBLIC OF SRI LANKA.

Be it passed by the Provincial Council of Western Province of the Democratic Socialist Republic of Sri Lanka as follows :

This Statute may be sited as the Waste Management Authority Statute No. 09 of 1999 of the Western Province and shall come into operation on the date of the assent of the Governor.

PART I

Waste Management Authority of the Western Province

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| Establishment of the waste Management Authority. | 2. There shall be established an Authority which shall be called the Waste Management Authority of the Western Province (hereinafter referred to as "the Authority"). This Authority shall be under the direct control of a Board of Management constituted as described in Part II below. |
| Authority to be a body corporate. | 3. The Authority shall by the name assigned to it by Section 2, be a body corporate and shall have perpetual succession and a common seal, and may sue or be sued in such name. |
| Policy Statements by the Authority. | 4. The Authority shall, from time to time as deemed necessary by the Provincial Council, issue a Policy Statement to the Local Authorities, the Public and the Media, expressing the Authority's policy and strategy for the improvement of Waste Management in the Western Province. The first Policy Statement shall be issued within 60 days of the incorporation of the Authority. |
| Objectives of the Authority. | 5. The Objectives of the Authority shall be :
<p style="margin-left: 40px;">(a) To implement the provisions of this Statute ;</p> |

(b) To keep the environment of the urban and rural areas in the Province clean for the well being of the people as well as for the flora and fauna of the Province ;

(c)

(i) To introduce waste management regulations for the guidance and control of handling of Solid Waste, of local authority areas of the Western Province hazardous waste and clinical or infectious waste in the province. These regulations shall apply to those who would deal with the Authority. When such regulations affect the activities of local authorities, the Authority will get the consent of relevant Local authorities for such regulations.

(ii) To introduce, having obtained the co-operation of local authorities, waste management guidelines for the handling of Solid Waste in local authority areas of the Western province, hazardous waste and clinical or infectious waste in the province. These guidelines may be applied by local authorities, other institutions and private sector contractors generating or handling waste of all descriptions within the boundaries of Western Province.

(d) To assist Local authorities in the management and control of all categories (municipal, hazardous and clinical or infectious) of their waste collection, transportation, treatment, transfer and disposal needs ;

(e) The Authority may provide and manage facilities for siting, designing constructing and operating of waste management transfer stations, treatment facilities, disposal facilities and haulage systems within the province ;

(f) To impart to Local Authorities and to other relevant institutions, in appropriate stages, technical knowledge in handling their waste and to organise waste management technical training for managers and operatives working in the waste management field and to conduct public awareness campaigns in the province ;

(g) To maintain a Waste Management data recording and reporting system for all Local authorities within the Western province ;

(h) To study the present solid waste management problems and issues and make plans to solve these problems via a strategy, agreed between the Authority and the relevant Local Authorities, and implement via limited term Action Plans ;

(i) To investigate the possibilities of using solid waste as a resource, to promote waste separation, re-use, recycling and resource recovery. To promote the use of waste in products and by-products and to promote appropriate research and development;

(j) To evaluate and promote the use of treating solid waste in ways such as sanitary land filling, waste minimisation, materials recovery facilities (MRF), recycling, composting, anaerobic digestion, waste to energy, incineration, refuse derived fuels and other technologies which the Authority might deem proven, efficient and appropriate for implementation in the province ;

(k) To co-ordinate and monitor in collaboration with the Ministry of Provincial Councils and Local government all foreign assisted and/or locally funded projects implemented by the Authority (of by others anywhere within the province) in the field of Waste Management ;

(l) To engage in any other activities relevant to the purpose of this Statute ;

(m) To engage in such other related activities as are necessary to be undertaken by the authority in the opinion of the Provincial Council.

Powers of the Authority

6. The Authority shall have the power to -

(a) take possession of, hold, obtain on lease or rent, mortgage or otherwise dispose of movable or immovable property subject to any law. (In the event such property belongs to a local authority, the Authority shall get the consent of the relevant local authority for any such action.);

(b) enter into contracts, or joint agreements to further any of the objectives of the Authority in accordance with the provisions of the relevant law ;

(c) charge fees or rent for the facilities provided by the Authority ;

(d) appoint, employ, remunerate and enforce, disciplinary control over the necessary staff and frame and enforce rules and regulations necessary for this purpose ;

(e) allocate specific duties to the members of the staff and to evaluate their performances and take remedial steps where necessary ;

(f) to procure machinery, equipment and vehicles required to fulfil any of the above said objectives of the Authority by way of importation or otherwise ;

(g) having obtained the consent of relevant local authorities, take decisions on waste management in local authorities under the Western Provincial Council;

(h) enforce the regulations made under this Statute by appropriate methods deemed suitable by the Authority ;

(i) make agreements with Government Departments, Ministries, other Provincial Councils and Statutory Boards including Central Environmental Authority, regarding the funds, technology, expertise or other relevant matters on Waste Management, and implement such agreements ;

(j) negotiate with foreign agencies in order to obtain funds, technology and expertise or any other assistance to the extent that Provincial Councils are permitted to act under the existing law and make such requests through relevant government institutions ;

(k) investigate complaints made by general public, Local Authorities or any other institution regarding the violation of rules and regulations on Waste Management and to take appropriate action ;

(l) obtain reports over regular periods or at any specific time or for

any specific matter, from Local Authorities or provincial departments or institutions ; and

(m) delegate the functions described in 5(e) to Local Authorities or to an agency / agencies as appropriate.

PART II

Board of Management of the Authority

Board of Management. 7.

(1) There shall be a Board of Management to act for and administer the affairs of the Authority (hereinafter referred to as " the Board") consisting of seven ex-officio members and eight appointed members.

(2) the ex-officio members of the Board shall be

(a) The Chief Secretary of the Western Provincial Council;

(b) The Secretary to the Ministry which has been assigned the function of Local Government.

(c) A nominee from the Provincial Ministry in charge of Environment of the Western Provincial Council ;

(d) The Deputy Secretary (Engineering) or the Director (Engineering) of the Western Provincial Council ;

(e) The Deputy Secretary (Planning) or the Director (Planning) of the Western Provincial Council;

(f) Commissioner of Local Government;

(g) Provincial Director of Health Services or one Regional Director of Health Services nominated by the former.

(3) The eight appointed members to be nominated by the Minister with the consent of the Chief Minister (hereinafter referred to as the appointed members) shall be -

(a) two representatives from Municipal Councils, two representatives from Urban Councils and two representatives from Pradeshiya Sabhas of the province ; At least one of the two representatives from Municipal Council should be from Colombo Municipal Council.

(b) a representative of community organisations which actively participate in matters on Waste Management ; and

(c) a person who has been engaged in Waste management, and has a good knowledge and experience in that field.

(4) The Chief Minister with concurrence of the Provincial Minister in charge of the subject of waste management shall appoint one of the members of the Board as its Chairman.

(5) The Commissioner of Local Government shall be the Secretary to the Board.

Term of Office of 8.
an appointed
member.

(1) An appointed member shall hold office for a period of three years. Unless he earlier vacates office by resignation, death, removal or otherwise.

Eligibility of
members for
re-
appointment.

(2) An appointed member who vacates office through time limit restrictions shall be eligible for reappointment.

(3) An appointed member may resign office by letter addressed to the Minister.

Resignation
or removal of
members.

(4) A member of Parliament or Provincial Council shall not be qualified to be or to continue as an appointed member of the Board.

appointment of 9.
acting Member.

(1) If any member is temporarily unable to discharge the duties of his office due to ill health, absence from Sri Lanka or any other cause, the Minister may, subject to Section 8, appoint some other person to act as member in his place.

(2) If the Chairman is unable to function in his office for reasons specified in Sub -section (1), the Minister may appoint another member of the Board to act for the Chairman during his absence.

Meetings of the
Board.

10. The Board shall meet at least once a month.

- Quorum. 11. The quorum for any meeting of the Board should be five.
- Procedure of meetings of the Board. 12. The Board may formulate its own procedure in regard to its meetings and other relevant matters at such meetings by regulations subject to the other provisions of the Statute.
- Any action etc., not to be invalid by reason of a Vacancy in the Board. 14. Any action or decision of the Board shall not be deemed to be invalid by any reason of a vacancy existing in the Board or a defect in an appointment of a member of the Board.
- Remuneration. 15. The members of the Board shall be paid remuneration as may be decided by the Minister.
- Common seal of the authority. (1) The Common seal of the Authority shall be in the custody of the Secretary to the Board.
- (2) The seal of the Authority may be designed or altered in such manner as may be determined by the Authority.
- (3) The seal of the Authority shall not be affixed to any instrument or document except in the presence of two members of the Board, both whom shall sign such instrument or document in token of their presence.
- (4) The Board shall maintain a register of instruments or documents to which the seal of the Authority is affixed.
- Powers of the Board. 16. The Board shall have the powers to exercise any or all of the powers of the Authority referred to in Section 5 or any other provision of the statute, in addition to exercising, performing and discharging the powers, functions and duties directly assigned to or conferred on the Board under or by this Statute.
- Duties of the Board. 17. Duties of the Board shall be -
- (a) To render, as far as possible such services as are contemplated in the objectives of the Authority for the benefit of ;
1. The Provincial Council or any Ministry of the Provincial Council, or
 2. Any organisation established under the Authority to achieve objectives of the Authority, or
 3. Any Local Authority, incurring out its relevant functions of waste management.
- (b) To take all such measures as may be necessary for the fulfilment of its objectives.
- (c) Either on its own motion, or at the request of the Minister to advise him on all matters relating to the collection, transportation, treatment and disposal of waste.

(1) The Board may delegate its powers, functions and duties to any member or employee of the Board.

Delegation of powers, functions, and duties of the Board.

(2) Any such member or employee to whom any powers, functions or duties have been so delegated, shall exercise, discharge or perform them subject to the general or special direction of the Board.

Minister's directions to the Board.

19.

(1) In the exercise, discharge and performance of its powers, functions and duties, the Board shall be subject to, and act in accordance with such general or special direction as the Minister may from time to time issue.

(2) The Minister shall, in giving any direction under Sub-section (1) with regard to any matter affecting the function assigned to any other Minister, shall do so in consultation with that Minister.

20. Subject to the other provisions of this Statute, the Board may -

Powers of the Board.

(a) Appoint a suitable person to be the Director of the Authority on full time basis, who shall be the Chief Executive of the Authority on such remuneration and other conditions as may be determined by the Board ;

(b) Appoint, dismiss and exercise disciplinary control over the staff of the Authority.

(c) Fix the wages or salaries or other remuneration of such staff ;

(d) Determine the terms and conditions of service of such staff ; and

(e) Establish and regulate a provident fund or scheme for the benefit of such staff and make contribution towards such fund or scheme.

PART III

Finance and Accounts

Waste Account. 21.

(1) There shall be operated and maintained a separate account of the Provincial Fund called the "Waste Management Account" (hereinafter referred to as the "Waste Account") constituting -

(a) Funds allocated to it by the Provincial Council ;

(b) Funds contributed by Local Authorities, under the directions of the Minister ;

(c) All income received for the services provided by the Authority ;

(d) All loans and foreign assistance received by the Authority with the approval of the Government of Sri Lanka ; and

(e) Any other income received by the Authority from its activities.

(2) The maintenance and operation of the Waste Management Account subject to the provisions of Chapter III of the Provincial Councils Act, No. 42 of 1987 relating to the Provincial Fund.

(3) All such sums of money as may be required from time to time, by the Board for the purposes of Sub-section (4) shall be transferred to the Waste Management Account from the Provincial Fund.

(4) There shall be paid out of the Waste Management Account all sums of money required to defray any expenditure incurred by the Board in Exercising its powers or in discharging or performing its functions or duties under this Statute, including payments to agencies under contract to the Authority.

Financial year of the Authority. 22. The Financial year of the Authority shall be the calendar year.

Audit of the Accounts of the Authority. 23.

(1) The Accounts of the Authority in respect of each financial year shall be submitted to the Auditor-General for audit before the laps of six months from the end of the financial year. For the purpose of assisting him in the audit of such accounts, the Auditor-General may employ the services of any qualified auditor or auditors who shall act under his direction and control.

(2) For the purpose of meeting the expenses incurred by him in auditing the accounts of the Authority, the Auditor-General shall be paid from the funds of the Authority such remuneration as the Minister may determine. Any remuneration received from the Authority by the Auditor-General shall, after deducting any sums paid by him to any qualified auditor employed by him for the purpose of such audit, be credited to the Consolidated Fund of Sri Lanka.

(3) The Auditor-General and any person assisting him in the audit of the accounts of the Authority shall have access to all such books, deeds, contracts, accounts, vouchers and other documents of the Authority as the Auditor-General may consider necessary for the purpose of the audit, and the Board or its officers shall furnish them with such information within their knowledge as may be required for such purpose.

(4) For the purpose of this section, the expression "qualified auditor means :

(a) An individual who, being a member of the Institute of Chartered Accountants of Sri Lanka, or of any other institute established by law, possesses a certificate to practise as an accountant issued by the Council of such Institute ; or

(b) A firm of Accountants, each of the resident partners of which, being a member of the Institute of Chartered Accountants of Sri Lanka or of any other Institute established by law, possesses a certificate to

practise as an Accountant issued by the Council of such Institute.

Auditor-General's 24.
report.

(1) The Auditor-General shall examine the accounts of the Authority and furnish a report.

(a) Stating whether he has or has not obtained all the information and explanations required by him ;

(b) Stating whether the accounts referred to in the report are properly drawn up so as to exhibit a true and fair view of the affairs of the Authority ; and

(c) Drawing attention to any item in the accounts which in his opinion may be of interest to the Provincial Council and examination of such activities and accounts of the Authority.

(2) The Auditor-General shall transmit his report to the Director, finance of the Authority together with the audited accounts.

Auditor-General's 25. The Director of the Authority shall, on receipt of the audited accounts and the
report and the Auditor-General's report each year, transmit report and such accounts together with
report of annual the statement of the activities of the Authority to the Chief Minister who shall cause
activities. copies thereof to be laid before the Provincial Council within twelve months of the
close of the financial year of the Authority to which the accounts relate.

PART IV

General

26.

(1) The Minister may make regulations for the purpose of Regulations carrying out and giving effect to the principles and provisions of this Statute, to be prescribed, or in respect of which regulations are required to be made.

(2) Every regulation made by the Minister shall be published in the Gazette and shall come into force on the date of such publication or on such later date as may be specified therein.

(3) Every regulation made by the Minister shall, as soon as convenient after its publication in the Gazette, be brought before the Provincial Council for approval. Any such regulation which is not approved shall be deemed to be rescinded as from the date of such disapproval but without prejudice to anything previously done thereunder. Notification of the date on which any regulation made by the Minister is so deemed to be rescinded shall be published in the Gazette.

(4) Waste Regulations, made by the Waste Management Authority of the Western Province and enacted by the Western Provincial Council shall amplify and shall not contradict regulations concerning

environmental pollutants dealt with under the National Environmental Act No. 47 of 1980 as amended from time to time or any other regulations made thereunder. Should, however, any conflict arise between interpretation of regulations made by the two bodies, interpretation under the National Environmental Act No. 47 shall apply.

(5) Any Waste Regulations dealing with waste or environmental pollutants enacted by the Western Provincial Council shall not contradict any rights or obligations of the Republic of Sri Lanka under any International Convention, International Treaty or Agreement to which the Republic of Sri Lanka is a party.

Land acquired under the powers of this statute. 27.

(1) Where the Minister is of the opinion that any land situated in the province is required for any of the purposes of this Statute, the Provincial Council may, on the recommendation of the Minister, by resolution passed at a meeting of the Provincial Council resolve :

(a) If the land is a state land, to apply to the relevant authority to make such land available to the Authority for such purpose in terms of item 1:2 of Appendix 11 of List 1 of the Ninth Schedule of the 13th Amendment to the Constitution ; and

(b) If the land is a private land, apply to the Minister of the Cabinet of Ministers in charge of the subject of lands to acquire such land on behalf of the Authority for such purpose under the land acquisition Act.

(2) Where the Provincial Council has made a resolution under sub-section (1) it may make an application in such form as may be prescribed, to :

(a) The relevant authority, if the resolution relates to a state land ; or

(b) The Minister of the Cabinet of Ministers in charge of the subject of Lands, if the resolution relates to a private land, requesting for such land to be made available to the Authority for the said purpose.

(3) On the application under sub-section (2) if the relevant authority or the Minister of the Cabinet of Ministers in charge of the subject of Lands, as the case may be, make available the said land to the Provincial Council, such land shall be utilised by the Authority, for the purpose for which it was applied for and for no other purpose, subject to such terms and conditions, including the payment of compensation which may be required by any act, ordinance, law of the relevant authority or the Minister of the Cabinet of Ministers in charge of the subject of lands, as the case may be, when the land was made available as aforesaid.

Contracts with any public corporation, company, etc.

28. The Board may, subject to the provisions of this Statute or any other written law, enter into and perform or carry out all such contracts and agreements with any public corporation, company or other body of persons as may be necessary for the purpose of this Statute.

Employees of the Board deemed to be public servants. 29. All officers and employees of the Authority shall be deemed to be public servants within the meaning and for the purposes of the Penal Code.

Maintaining secrecy. 30. No officer, employee or agent of the Authority shall disclose to any person, except the Minister for the purpose of the performance of his duties or the discharge of his functions or the exercise of his powers or except when required to do so before a court under any law, any information acquired by him in the performance or discharge of his functions under this Statute.

Protection against acts done under this statute or on the direction of the Board. 31.

(1) No suit or prosecution shall lie:

(a) Against the board for any act which, in good faith, is done or purported to be done by it under this Statute, or

(b) Against any member of the Board, officer, employee or agent of the Board for any act which, in good faith, is done or purported to be done by him under this statute or on the direction of the Board.

(2) Any expenses incurred by any such person as is referred to in sub-section (1) in any suit or prosecution brought against him before any court in respect of any act which is done or purported to be done by him under this Statute or on the direction of the Board shall, if the court holds that the act was done in good faith, be paid out of the Waste Management Account.

32. In this Statute, unless the context otherwise required.-

"Company" means any company registered under the Companies Act, No. 17 of 1982;

"Governor" means the Governor of the Western Province:

"Hazardous Waste" means waste generated during production or other activities by society that can pose a substantial or potential hazard to human health or the environment when improperly managed. It possesses at least one of four characteristics ignitability, corrosivity, reactivity, or toxicity);

"Local Authority" means a Municipal Council, Urban Council, or a Pradeshiya Sabha established under the respective Ordinance and or Acts and which function within the Province;

"Minister" means the Provincial Minister of the Board of Ministers in charge of the subject of Waste Management;

"Ministry" means the Ministry of Provincial Councils and Local Government;

"Municipal Solid Waste" means any waste which the local authorities must collect and dispose under current laws which includes non-hazardous waste generated in households, commercial and business establishments, institutions and not-hazardous industrial process waste, agricultural waste, sewage sludge, road sweepings and construction debris;

"Province" means the Western Province of the Democratic Socialist Republic of Sri Lanka;

"Provincial Council" means the Provincial Council of the Western Province;

"Public Corporation" means a Corporation, board or other body which was or is established by or under any written law other than the Companies Act, No. 17 of 1982 with funds or capital wholly or partly provided by the Government by way of grant, loan or otherwise; and

"Solid Waste" means municipal waste composed of solid matter from house-holds, commercial, institutional and industrial sources.

33. In the event of any inconsistencies between the Sinhala, Tamil and English texts of this Statute, the Sinhala text shall prevail.