

WASTE DISPOSAL ACT 1970 No. 97

[Reprinted as at 2 March 1992]

NEW SOUTH WALES



TABLE OF PROVISIONS

PART 1—PRELIMINARY

1. Short title and commencement
2. (Repealed)
3. Act binds the Crown
4. Effect of this Act on other Acts
5. Definitions

PART 2—CONSTITUTION OF THE METROPOLITAN WASTE DISPOSAL REGION

6. Constitution of the Metropolitan Waste Disposal Region

PART 3—CONSTITUTION OF THE WASTE RECYCLING AND PROCESSING SERVICE

7. Constitution of Service
8. Constitution of Waste Recycling and Processing Service Board
- 8A. Board to determine policies of Authority
- 8B. Managing Director of Service
- 8C. Functions of Managing Director
- 8D. Ministerial control
- 9, 10. (Repealed)
11. Servants
12. Regulation of servants
13. Payments in respect of long service leave on death of servant
14. (Repealed)
15. Preservation of certain rights
16. Service may make use of facilities and employees of the Crown etc.

PART 4—RESPONSIBILITIES, POWERS, AUTHORITIES, DUTIES AND FUNCTIONS OF THE WASTE RECYCLING AND PROCESSING SERVICE

17. Responsibilities etc. of Service
18. Establishment of depots
19. Contracts
20. Agreements for establishment of depots
21. Delegation

Waste Disposal Act 1970 No. 97

PART 4A—HIGH TEMPERATURE WASTE INCINERATION FACILITY

- 21A. Definitions
- 21B. Service may construct and operate incineration facility
- 21C. Incineration facility may be used for disposal of waste generated within Australia
- 21D. Advisory Board to monitor operation of incineration facility
- 21E. Separate financial records and annual reporting for incineration facility

PART 5—REGISTRATION AND LICENSING

- 22. Offences relating to depots or transportation or creation of waste
- 23. Certificates of registration or licences
- 24. Interpretation of "fee or reward" for purposes of sections 22 and 23
- 25. Duration of certificates of registration and licences
- 26. Appeals
- 27. Disputes between Authority and a public authority
- 28. Authority to maintain register

PART 6—FINANCE

- 29. Contributions to Authority
- 30–42. (Repealed)

PART 7—GENERAL

- 43. Acquisition of land
 - 44. Disposal of land
 - 45. Inquiries
 - 46. Charges and fees
 - 47. Property in, and sale of, waste
 - 48. Powers of authorised persons to enter premises and give directions
 - 49. Occupier of premises may be required to furnish information
 - 50. Disclosure of information
 - 51. (Repealed)
 - 52. Service of notice of proceedings on the Service
 - 53. Seal of the Service
 - 54. Financial year of Service
 - 55. Proceedings for offences
 - 56. Recovery of charges etc.
 - 57. (Repealed)
 - 58. Regulations
 - 59. Savings and transitional provisions
- SCHEDULE 1—AREAS AND PARTS OF AREAS WHICH CONSTITUTE THE METROPOLITAN WASTE DISPOSAL REGION
- SCHEDULE 2—CONSTITUTION AND PROCEDURE OF THE BOARD
- SCHEDULE 3—PROVISIONS RELATING TO THE EXECUTIVE OFFICERS
- SCHEDULE 4—SAVINGS AND TRANSITIONAL PROVISIONS
-

WASTE DISPOSAL ACT 1970 No. 97

Reprinted under the Reprints Act 1972

[Reprinted as at 2 March 1992]

NEW SOUTH WALES



An Act to provide for the constitution of a corporation to be called the "Waste Recycling and Processing Service of New South Wales"; to confer and impose on the corporation responsibilities, powers, authorities, duties and functions with respect to the transport, collection, reception, treatment, storage and disposal of waste within the Metropolitan Waste Disposal Region and the construction and operation of a high temperature waste incineration facility; and for purposes connected therewith.

PART 1—PRELIMINARY

Short title and commencement

1. (1) This Act may be cited as the Waste Disposal Act 1970.
- (2) This Act, Part 5 excepted, shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.
- (3) Part 5 shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette, that day being not earlier than the day appointed and notified under subsection (2).

Waste Disposal Act 1970 No. 97

2. * * * * *

Act binds the Crown

3. This Act binds the Crown.

Effect of this Act on other Acts

4. (1) Except as provided by subsection (3), where the provisions, express or implied, of this Act are inconsistent with any of the provisions of any other Act or any regulation, ordinance or by-law made under any other Act (other than the Protection of the Environment Administration Act 1991, Pollution Control Act 1970, the Clean Air Act 1961 or the Clean Waters Act 1970 or any regulations made under any of those Acts), the provisions of this Act shall prevail.

(2) Except as provided by subsection (3), where the provisions of any regulation made under this Act are inconsistent with any of the provisions of any regulation, ordinance or by-law made under any other Act (other than a regulation made under the Protection of the Environment Administration Act 1991, Pollution Control Act 1970, the Clean Air Act 1961 or the Clean Waters Act 1970), the provisions of the regulation made under this Act shall prevail.

(3) Where the provisions of this Act or a regulation made under this Act are inconsistent with:

- (a) Part 2, 3, 5 or 6 of the Marine Pollution Act 1987; or
- (b) a regulation made under Part 2, 3, 5 or 6 of that Act,

in its application to the seas of the State, the provisions of the Marine Pollution Act 1987 shall prevail.

(4) In this section:

“seas of the State” means:

- (a) the territorial sea adjacent to the State; and
- (b) the sea on the landward side of the territorial sea adjacent to the State that is not within the limits of the State.

Definitions

5. (1) In this Act, except in so far as the context or subject-matter otherwise indicates or requires:

“area” has the meaning ascribed thereto in the Local Government Act 1919;

Waste Disposal Act 1970 No. 97

- “Authority”** means the Environment Protection Authority constituted under the Protection of the Environment Administration Act 1991;
- “council”** has the meaning ascribed thereto in the Local Government Act 1919 and includes a county council constituted under that Act;
- “Court”** means the Land and Environment Court;
- “depot”** means any premises to which waste is transported from any other premises for treatment, storage or disposal, and includes a depot established or operated by the Service;
- “effluent”** means any matter or thing, whether solid or liquid or a combination of any solids and liquids, which has been removed from a septic tank, septic closet, chemical closet, sullage pit or grease trap, or from any holding tank or other container forming part of or used in connection with a septic tank, septic closet, chemical closet, sullage pit or grease trap;
- “garbage”** means all refuse other than trade waste and effluent;
- “incineration facility”** means the high temperature waste incineration facility of the Service constructed and operated under Part 4A, and includes the premises used in connection with its operation;
- “occupier”**, in relation to any premises, means the person in occupation or control (otherwise than as an employee) of the premises and, in relation to any premises where different parts are occupied by different persons, means, in relation to any such part, the person in occupation or control (otherwise than as an employee) of that part;
- “premises”** includes any building of any description or any part thereof and any land whether built upon or not;
- “public authority”** means a public authority constituted by or under an Act other than this Act and includes a Government Department and an officer of a Government Department or a statutory body representing the Crown on whom any powers, authorities, duties or functions are conferred or imposed by or under any Act other than this Act;
- “regulations”** means regulations made under this Act;
- “Service”** means the Waste Recycling and Processing Service of New South Wales constituted under this Act;
- “trade waste”** means any matter or thing, whether solid, gaseous or liquid or a combination of any solids, gases and liquids, which is refuse from any industrial, chemical, trade or business process or operation, including any building or demolition work;

Waste Disposal Act 1970 No. 97

“waste” means effluent, garbage or trade waste.

(2) In this Act:

- (a) a reference to a function includes a reference to a power, authority and duty; and
- (b) a reference to the exercise of a function includes, where the function is a duty, a reference to the performance of the duty.

PART 2—CONSTITUTION OF THE METROPOLITAN WASTE DISPOSAL REGION

Constitution of the Metropolitan Waste Disposal Region

6. (1) For the purposes of this Act, the areas or parts of areas from time to time specified or described in Schedule 1 are constituted as a waste disposal region under the name of the Metropolitan Waste Disposal Region.

(2) The Governor may, from time to time by proclamation published in the Gazette:

- (a) exclude any area or part of an area from the Metropolitan Waste Disposal Region; or
- (b) include any other area or part of an area in the Metropolitan Waste Disposal Region,

and as on and from the date specified in the proclamation, or if no date is so specified, as on and from the date of the proclamation, Schedule 1 shall be deemed to be amended accordingly and that Schedule, as deemed to be so amended, shall be Schedule 1 to this Act.

PART 3—CONSTITUTION OF THE WASTE RECYCLING AND PROCESSING SERVICE

Constitution of Service

7. (1) There is constituted by this Act a corporation with the corporate name of the Waste Recycling and Processing Service of New South Wales.

(2) The Service:

- (a) has the functions conferred or imposed on it by or under this or any other Act; and
- (b) is, for the purposes of any Act, a statutory body representing the Crown.

Constitution of Waste Recycling and Processing Service Board

8. (1) There shall be a Waste Recycling and Processing Service Board.

(2) The Board shall consist of:

- (a) the Managing Director of the Service; and
- (b) 6 part-time members, being persons appointed by the Governor on the recommendation of the Minister.

(3) The persons recommended by the Minister must have such managerial or other qualifications as the Minister considers necessary to enable the Board to carry out its functions.

(4) Schedule 2 has effect with respect to the constitution and procedure of the Board.

Board to determine policies of Authority

8A. (1) The Waste Recycling and Processing Service Board has the function of determining the policies of the Authority.

(2) In exercising that function, the Board shall, as far as practicable, ensure that the activities of the Authority are carried out properly, effectively and efficiently.

Managing Director of Service

8B. (1) The Governor may appoint a Managing Director of the Service.

(2) Schedule 3 has effect with respect to the Managing Director.

Functions of Managing Director

8C. (1) The affairs of the Service shall be managed and controlled by the Managing Director of the Service in accordance with the policies of the Waste Recycling and Processing Service Board.

(2) Any act, matter or thing done in the name of, or on behalf of, the Authority by the Managing Director of the Service shall be taken to have been done by the Authority.

(3), (4) * * * * *

Ministerial control

8D. The Waste Recycling and Processing Service Board and the Managing Director of the Service are, in the exercise of their functions, subject to the control and direction of the Minister.

9, 10. * * * * *

Servants

11. (1) The Service shall appoint and employ such servants as may be necessary for carrying out the provisions of this Act.

(2) Subject to this Act, every servant of the Service shall continue in the service of the Service at the will of the Service only.

(3) All servants of the Service shall be subject to the sole control and governance of the Service which may fix wages and conditions of employment where they are not fixed in accordance with the provisions of any other Act.

Regulation of servants

12. The regulations may make provision for and with respect to:

- (a) the control and governance of servants by the Service; and
- (b) any other matter or thing necessary or convenient to ensure the maintenance of discipline and efficiency in the service of the Service.

Payments in respect of long service leave on death of servant

13. (1) Where a servant of the Service has acquired a right to leave with pay in respect of long service leave and dies before entering upon it or, after entering upon it, dies before its termination, the widow or widower of the servant or, if there is no such widow or widower, the children of the servant or, if there is no such widow or widower or there are no such children, a person who in the opinion of the Service was, at the time of the death of the servant, a dependent relative of the servant, shall be entitled to receive the money value of the leave not taken or not completed, computed at the rate of salary or wages the servant received at the time of his or her death, less any amount paid to the servant in respect of the leave not taken or not completed.

(2) Where there is a guardian of any children entitled under subsection (1), the payment to which those children are entitled may be made to that guardian for their maintenance, education and advancement.

Waste Disposal Act 1970 No. 97

(3) Where there is no person entitled under subsection (1) to receive the money value of any leave, payment in respect thereof shall be made to the personal representative of the servant.

(4) Where payment of the money value of leave has been made under this section no action may be brought against the Service for payment of any amount in respect of that leave.

14. * * * * *

Preservation of certain rights

15. (1) Any officer of the Public Service or any person who is an employee within the meaning of the Superannuation Act 1916 or any permanent servant within the meaning of the Local Government (Superannuation) Act 1927 who is appointed as a servant of the Service shall retain any rights which have accrued or are accruing to him as such an officer, employee or permanent servant and shall continue to contribute to any fund or account and shall be entitled to receive any deferred or extended leave and any payment, pension or gratuity as if he had continued to be such an officer, employee or permanent servant during his service with the Service, and for the purposes of this subsection his service as such a servant shall be deemed to be service for the purpose of the Act under which he continues to contribute or by which that entitlement is conferred.

(1A) In subsection (1), “**fund or account**” does not, in relation to a person who is appointed as a servant of the Service on or after the commencement of the Miscellaneous Acts (State Superannuation Fund) Amendment Act 1984, include the State Superannuation Fund.

(2) A servant of the Service shall not, in respect of the same period of service, be entitled to claim a benefit under this Act and another Act.

(3) Where a servant of the Service contributes to a fund or account as referred to in subsection (1), the Service shall pay to the State Superannuation Board or the Local Government Superannuation Board, as the case may be, such amounts as would have been payable to that Board if the servant had remained an employee within the meaning of the Superannuation Act 1916 or a permanent servant within the meaning of the Local Government (Superannuation) Act 1927 and had continued to be employed by the employer by whom he was employed immediately before his appointment as such a servant and as if he were receiving from that employer the same salary and allowances as is or are being paid to him under this Act.

Service may make use of facilities and employees of the Crown etc.

16. (1) For the purposes of exercising and performing the powers, authorities, duties and functions conferred or imposed on the Service by this or any other Act, the Service may, with the approval of the Minister of the Department concerned and on such terms as may be arranged, make use of the facilities, or the services of any of the officers or employees, of any Government Department.

(2) The Service may for the like purpose with the approval of any other public authority and on such terms as may be arranged, make use of the facilities, or the services of any of the officers, servants or employees, of that public authority.

(3) The Service may appoint and employ on such terms and conditions as it thinks fit and for any particular purpose specified in a resolution of the Service any person, body or organisation considered capable of providing services, information or advice required by the Service in exercising and performing the powers, authorities, duties and functions conferred or imposed upon it by this or any other Act.

**PART 4—RESPONSIBILITIES, POWERS, AUTHORITIES,
DUTIES AND FUNCTIONS OF THE WASTE RECYCLING
AND PROCESSING SERVICE**

Responsibilities etc. of Service

17. (1) The Service has the following functions:

(a) the establishment and operation of depots, including:

(i) aqueous waste treatment facilities to process industrial liquid waste; and

(ii) facilities relating to the disposal of liquid, sludge and intractable waste; and

(iii) solid waste disposal, handling, treatment and storage facilities for domestic and industrial waste;

(b) the construction and operation of a high temperature waste incineration facility in accordance with Part 4A.

(2) * * * * *

(3) Nothing in subsection (1) takes away or affects the responsibilities, powers, authorities, duties or functions relating to the transportation, collection, reception, storage, treatment or disposal of waste, of any person or body conferred or imposed by or under any other Act or any regulation, ordinance or by-law made under any other Act.

Establishment of depots

18. Subject to this Act, the Environmental Planning and Assessment Act 1979, and any environmental planning instrument within the meaning of the Environmental Planning and Assessment Act 1979, the Service may establish depots and, for the purpose of establishing any such depot may acquire land, whether within or outside the Metropolitan Waste Disposal Region, by any method authorised by this Act.

Contracts

19. (1) The Service may make and enter into contracts or agreements with any person for the performance of services, or for the supply of goods, plant, machinery, or material in connection with the exercise or performance by the Service of its responsibilities, powers, authorities, duties and functions under this or any other Act.

(2) Any such contract or agreement shall be deemed, for the purposes of the Constitution Act 1902, to be a contract or agreement for or on account of the Public Service of New South Wales.

(3) The Service may, on such terms and conditions as may be agreed upon, sell or let out on hire any plant or equipment acquired by it under this Act.

Agreements for establishment of depots

20. The Service may, with the approval of the Minister, make and enter into agreements with any person for the establishment and operation, or the operation, of depots, whether within or outside the Metropolitan Waste Disposal Region, subject to such terms and conditions as the Service may determine and the Minister approve.

Delegation

21. The Service may delegate any of its functions (other than this power of delegation):

- (a) * * * * *
- (b) to any servant of the Service; or
- (c) to the council of an area in which a depot is situated or, with the consent of that council, to an employee of that council; or
- (d) to any person of whose services the Service makes use pursuant to this or any other Act; or
- (e) to any other person with the approval of the Minister.

PART 4A—HIGH TEMPERATURE WASTE INCINERATION FACILITY**Definitions**

21A. In this Part:

“**intractable waste**” means waste for which the only environmentally acceptable and practicable method of disposal is, in the opinion of the Minister, high temperature incineration;

“**waste**” includes any substance requiring disposal.

Service may construct and operate incineration facility

21B. (1) The Service may construct and operate a high temperature waste incineration facility for the disposal of the following kinds of waste:

(a) intractable waste;

(b) waste which, in the opinion of the Minister, would not otherwise be disposed of by the most environmentally acceptable means and should be disposed of by incineration in the incineration facility.

(2) For the purpose of constructing the incineration facility, the Service may acquire land anywhere in New South Wales by any method authorised by this Act.

(3) The Service may, with the approval of the Minister, make arrangements with suitably qualified persons for the operation on its behalf of the incineration facility.

(4) This section is subject to the Environmental Planning and Assessment Act 1979 and any environmental planning instrument within the meaning of that Act.

(5) The Minister shall, before the expiration of 10 years after the construction of the incineration facility, review the operation of the facility and, for that purpose, hold a public inquiry into the continued operation of the facility.

(6) If, as a result of that review, the Minister is satisfied that there is no longer a need for the incineration facility, the Service shall cease to operate the facility.

Incineration facility may be used for disposal of waste generated within Australia

21C. (1) The Service may, in its incineration facility, dispose of waste referred to in section 21B which was generated anywhere within

Australia, but may not dispose of any such waste generated outside Australia.

(2) In this section:

“Australia” includes any external Territory.

Advisory Board to monitor operation of incineration facility

21D. (1) There shall be an Incineration Facility Advisory Board consisting of:

- (a) the Chairperson of the Waste Recycling and Processing Service Board, who shall be the Chairperson of the Advisory Board;
- (a1) the Managing Director of the Service;
- (b) the manager of the incineration facility;
- (c) a person employed at the incineration facility and appointed by the Minister to represent the persons employed at that facility;
- (d) a person appointed by the Minister to represent the Minister for the Environment of the Commonwealth;
- (e) a person appointed by the Minister to represent industry;
- (f) 2 persons appointed by the Minister to represent organisations formed for the protection of the environment;
- (g) 2 members of the Waste Recycling and Processing Service Board appointed by the Minister;
- (h) the Director-General of the Authority, or the Director-General's nominee;
- (i) a person appointed by the Minister to represent the local community in which the incineration facility is or is to be located;
- (j) the chairperson of the Community Monitoring Committee established under the regulations; and
- (k) a person appointed by the Minister on the nomination of the Minister administering the Dangerous Goods Act 1975.

(2) Each appointed member of the Advisory Board shall hold office as a member for such period (not exceeding 5 years) as may be specified in the member's instrument of appointment, but is eligible for re-appointment.

(3) The function of the Advisory Board is to monitor the operation of the incineration facility and to give such advice to the Minister and the Service in connection with its operation as it thinks fit or as the Minister or the Service requests.

Waste Disposal Act 1970 No. 97

(4) The Advisory Board shall publish, at least once every 6 months, for public information the results of its monitoring of the incineration facility.

(5) The procedure for the calling of meetings of the Advisory Board and for the conduct of business at those meetings shall, subject to any directions by the Minister, be determined by the Board.

(6) An appointed member of the Advisory Board is entitled to be paid such allowances as the Minister may from time to time determine in respect of the member.

Separate financial records and annual reporting for incineration facility

21E. (1) The Service shall maintain its accounting and other financial records so that the operation of its incineration facility comprises a separate cost centre.

(2) The Service shall in any report to Parliament on its financial or other activities make a separate report on the operation of its incineration facility.

PART 5—REGISTRATION AND LICENSING

Offences relating to depots or transportation or creation of waste

22. (1) A person who is the occupier of a depot within the Metropolitan Waste Disposal Region that is not the subject of a certificate of registration in respect of that depot in force under this Part is guilty of an offence against this Act.

(2) A person who, otherwise than as an employee of another person, transports waste into, out of or within the Metropolitan Waste Disposal Region for fee or reward and who is not the holder of a licence in force under this Part is guilty of an offence against this Act.

(3) A person who is the occupier of any premises (not being approved premises) within the Metropolitan Waste Disposal Region, on or in which trade waste is created and which are not the subject of a certificate of registration in respect of those premises in force under this Part is guilty of an offence against this Act.

(4) A person who immediately before the commencement of this Part:

- (a) was the occupier of a depot within the Metropolitan Waste Disposal Region shall, upon that commencement, be deemed to be the holder of a certificate of registration under this Part in respect of that depot to be in force for the prescribed period commencing on the date of that commencement;

Waste Disposal Act 1970 No. 97

- (b) was engaged, otherwise than as an employee, in the business of transporting waste into, out of or within the Metropolitan Waste Disposal Region for fee or reward shall, upon that commencement, be deemed to be the holder of a licence under this Part to be in force for the prescribed period commencing on the date of that commencement; or
 - (c) was the occupier of premises (not being approved premises) within the Metropolitan Waste Disposal Region on or in which trade waste is created shall, upon that commencement, be deemed to be the holder of a certificate of registration under this Part in respect of those premises to be in force for the prescribed period commencing on the date of that commencement.
- (5) The regulations may prescribe different periods, not being less than six months, for the purpose of paragraphs (a), (b) and (c) of subsection (4).
- (6) The provisions of this Part relating to certificates of registration and licences granted under this Part apply to and in respect of certificates of registration and licences referred to in subsection (4) in all respects as if those certificates of registration or licences had been granted on application made under subsection (1) of section 23.
- (7) In this section, “**approved premises**” means:
- (a) any premises or any premises belonging to a class or description of premises for the time being specified in an order made by the Authority for the purposes of this section and published in the Gazette; and
 - (b) any premises specified in an order made by the Authority on the application of the occupier of those premises.
- (8) A person who is guilty of an offence against this Act arising under this section is liable to a penalty not exceeding five thousand dollars and, for each day the offence continues, to a further penalty not exceeding two thousand dollars.
- (9) The Service is subject to the requirements of this section.

Certificates of registration or licences**23. (1) Application for:**

- (a) a certificate of registration in respect of a depot;
- (b) a licence to transport waste for fee or reward; or

Waste Disposal Act 1970 No. 97

- (c) a certificate of registration referred to in subsection (3) of section 22,

shall be made to the Authority in the prescribed form by the occupier of the depot or premises or by the person proposing to transport waste for fee or reward and shall be accompanied by the prescribed fee.

(2) The regulations made for the purposes of subsection (1) may prescribe different fees:

- (a) in respect of certificates of registration of different classes of depots or premises;
- (b) in respect of licences to transport waste for fee or reward according to the class or quantity of waste proposed to be transported by the applicant for the licence; or
- (c) according to such other factors as may be specified in the regulations.

(3) The Authority:

- (a) may grant any application made under subsection (1), either subject to conditions or unconditionally; or
- (b) may refuse any such application.

(4) The Authority may, during the currency of any certificate of registration or licence granted under this section, by notice in writing served on the holder of the certificate or licence:

- (a) revoke the certificate or licence or suspend it for such period expiring not later than the date of expiry of the certificate of registration or licence as it thinks fit if the holder of the certificate or licence has failed to comply with any of the provisions of this Act or the regulations or with any conditions subject to which the certificate or licence was granted, or, in the case of a certificate of registration in respect of a depot, if the Authority is of the opinion that the depot should be closed;
- (b) revoke or vary any condition to which the certificate or licence is, for the time being, subject; or
- (c) attach new conditions to the certificate or licence.

(5) Any conditions referred to in subsection (3) or (4) may:

- (a) in relation to a certificate of registration in respect of a depot, include conditions with respect to the reception, treatment, storage or disposal of waste accepted at the depot, requiring the occupier of the depot to accept waste or any class or description of waste for treatment, storage or disposal at the depot and, where the

Waste Disposal Act 1970 No. 97

occupier of the depot is a public authority, the charges to be made in respect of any waste or any class or description of waste accepted at the depot;

- (b) in relation to a licence granted under this Part, include conditions with respect to the construction, maintenance and cleansing of any container, vehicle or vessel used by the holder of the licence for the transportation of waste and the times during which, the routes along which and the depots or regional depots to which waste or any class or description of waste may be transported by that holder;
- (c) in relation to a certificate of registration referred to in subsection (3) of section 22, include conditions with respect to the storage and treatment of trade waste or any class or description of trade waste pending its removal from the premises;
- (d) in relation to a certificate of registration in respect of a depot, a licence granted under this Part or a certificate of registration referred to in section 22 (3), include conditions with respect to the furnishing (with or without certification) at such times or in such circumstances as the Authority may determine, and in a manner and form approved by the Authority, of information relating to the collection, transportation and disposal of waste; and
- (e) in relation to any such certificate or licence, include such other conditions as the Authority determines to impose, whether those conditions are of the same kind or nature as the conditions mentioned in paragraph (a), (b), (c) or (d) or are of a different kind or nature.

(6) The holder of a certificate of registration or of a licence granted under this Part shall comply with any conditions for the time being attached to the certificate or licence.

Penalty: One thousand dollars and, for each day the offence continues, a further five hundred dollars.

(7) A decision of the Authority to revoke or suspend a certificate of registration or licence granted under this Part, to revoke or vary any condition for the time being attached to any such certificate or licence or to attach a new condition to such a certificate or licence under any of the provisions of this section shall not have any force:

- (a) in the case of such a certificate or licence held by a person, other than a public authority, until the time limited for appealing against the Authority's decision has expired and, where within that time an appeal against the decision has been made under this Part, until the Land and Environment Court confirms the decision; or

Waste Disposal Act 1970 No. 97

- (b) in the case of such a certificate or licence held by a public authority, until the expiration of twenty-one days after the decision is notified by the Authority to the public authority and, where within that time the Authority or the public authority, in accordance with section 27, refers a dispute arising out of the decision, until the decision is confirmed under that section.

Interpretation of "fee or reward" for purposes of sections 22 and 23

24. For the purposes of sections 22 and 23:

- (a) a public authority which transports waste; and
(b) the occupier of any premises referred to in subsection (3) of section 22 who transports trade waste,

shall be deemed to transport that waste for fee or reward.

Duration of certificates of registration and licences

25. Subject to this Part, a certificate of registration or licence granted under this Part shall remain in force for a period of one year from the date of its issue and may from time to time be renewed for a period of one year upon application made within the prescribed time.

Appeals

26. (1) Subject to subsection (2) of section 27, any applicant for, or holder of, a certificate of registration or licence under this Part who is aggrieved by any decision of the Authority under section 23 in relation to the application, certificate or licence may appeal, within twenty-one days after the decision is notified to him, against the decision to the Land and Environment Court.

(2) Any such appeal shall be made in accordance with the regulations.

(3) The Land and Environment Court, in deciding any such appeal, may confirm the decision of the Authority appealed against with or without modification or refuse to confirm that decision.

(4) The decision of the Land and Environment Court in respect of any such appeal shall be final and shall be deemed to be the decision of the Authority.

Disputes between Authority and a public authority

27. (1) Except as provided in subsection (1A), where a dispute arises between the Authority and a public authority with respect to the decision of the Authority to refuse an application made by the public authority for

Waste Disposal Act 1970 No. 97

a certificate of registration or licence under this Part, to grant such a certificate or licence to a public authority subject to conditions, to revoke or suspend such a certificate or licence held by a public authority, to revoke or vary any condition for the time being attached to, or to attach a new condition to, such a certificate or licence held by a public authority, the Authority or that public authority may, within twenty-one days after that decision was notified by the Authority to that public authority, refer the dispute to the Premier for settlement in accordance with this section.

(1A) Where a dispute arises between the Authority and a council with respect to any decision of the Authority referred to in subsection (1), the Authority or the council may, within 21 days after the decision was notified by the Authority to the council, refer the dispute to the Minister for settlement in accordance with this section.

(2) A public authority is not entitled to appeal, under section 26, against a decision of the Authority referred to in subsection (1) or (1A).

(3) On the submission of a dispute to the Premier or the Minister under subsection (1) or (1A), the Premier or Minister may appoint a person to hold an inquiry and make a report to him with respect to that dispute or may himself hold an inquiry with respect to that dispute.

(4) After the completion of an inquiry held under subsection (3) and, where a report is made to the Premier or the Minister under that subsection, after consideration by him of that report, the Premier or the Minister, as the case may be, may make such order with respect to the dispute, having regard to the public interest and to the circumstances of the case, as he thinks fit.

(5) An order made by the Premier or the Minister under subsection (4) may direct the payment of any costs or expenses of or incidental to the holding of the inquiry.

(6) It shall be the duty of the Authority or, as the case may be, an officer of the Authority to comply with an order given to it or him under subsection (4).

(7) The Authority, an officer of the Authority, a council or another public authority, as the case may be, to which or to whom an order is given under subsection (4) is empowered, notwithstanding the provisions of any other Act, to comply with that order.

(8) An order given to a public authority under subsection (4) shall be final and shall, except for the purposes of this section, be deemed to be the decision of the Authority.

(9) A reference in this section to a public authority includes a reference to the Service.

Authority to maintain register

28. (1) The Authority shall maintain a register of all certificates of registration and licences granted under this Part and shall enter in the register such particulars as may be prescribed.

(2) A certificate purporting to be under the hand of the Director-General of the Authority certifying that any person specified in the certificate was or was not, at any time or during any period so specified, the holder of a certificate of registration under this Part in respect of a depot or any premises so specified or of a licence under this Part or that, at any time or during any period so specified, any conditions so specified were attached to a certificate of registration or licence granted under this Part shall be admissible in evidence in any proceedings and shall be prima facie evidence of the matters so specified.

PART 6—FINANCE

Contributions to Authority

29. (1) The occupier of a depot shall pay to the Authority in respect of all waste received at that depot for treatment, storage or disposal such contribution as may be prescribed.

(2) The regulations made for the purposes of subsection (1) may provide for contributions to be calculated on such basis as may be specified in the regulations.

(3) The contribution payable by the occupier of a depot under this section shall be paid at such intervals and in such manner as the Authority may, by notice in writing served on the occupier, direct.

(4) Any contribution payable by the occupier of a depot under this section shall, if it is not paid in accordance with a direction given under subsection (3), be a debt due to the Authority and shall be recoverable as a debt in any court of competent jurisdiction.

(5) Interest is payable on any unpaid contribution under this section at such rate and calculated in such manner as may be prescribed by the regulations. Any such interest may be recovered in the same way as the contribution may be recovered.

(6) The Service is subject to the requirements of this section.

30-42. * * * * *

PART 7—GENERAL

Acquisition of land

43. (1) The Service may, for the purposes of this Act, acquire land by purchase, lease or exchange or, in accordance with the provisions of this section, by way of appropriation or resumption.

(2) Where the Service:

- (a) has made application to the Governor through the Minister for the appropriation or resumption of any land;
- (b) has made provision to the satisfaction of the Minister for payment of compensation for the proposed appropriation or resumption, together with interest and all necessary charges and expenses incidental thereto;
- (c) has given such notice of its application as may be prescribed;
- (d) has considered any objection to the application made, as prescribed, by the owner of the land proposed to be appropriated or resumed; and
- (e) has forwarded to the Minister with its application a report of its consideration of any such objections,

the Governor may appropriate or resume the land under Division 1 of Part 5 of the Public Works Act 1912 as if the appropriation or resumption were for the purposes of carrying out an authorised work within the meaning of that Act and as if the Governor had directed that any land required for that work be taken pursuant to that Division.

(3) Notwithstanding anything contained in the Public Works Act 1912, upon the publication in the Gazette pursuant to subsection (2) of a notification under Division 1 of Part 5 of that Act, the land described or referred to in the notification shall vest in the Service for the purposes of this Act for such estate or interest as is specified in the notification, freed and discharged from all trusts, obligations, estates, interests, contracts, charges, rates, rights-of-way or other easements whatsoever.

(4) The provisions of subsection (2) of section 536A and sections 536AA to 536DH, both inclusive, of the Local Government Act 1919 shall, mutatis mutandis and subject to subsection (5), apply to and in respect of the appropriation or resumption of land pursuant to this section and matters incidental thereto.

Waste Disposal Act 1970 No. 97

(5) For the purposes only of subsection (4), the provisions of the Local Government Act 1919 referred to therein shall, without prejudice to the generality of that subsection, be read and construed as if:

- (a) references therein to the resumption or appropriation of land by a council were references to the appropriation or resumption of land pursuant to this section, and other references to a council were references to the Service; and
- (b) (i) paragraphs (a), (c) and (d) of subsection (2) of section 536C had been omitted therefrom.
- (ii) * * * * *

(6) Except to the extent provided by this section and by the Local Government Act 1919 as applied by this section, the provisions of the Public Works Act 1912 shall not apply to or in respect of an appropriation or resumption pursuant to this section.

(7) In this section "land" means either land in fee simple or any easement, right, or privilege in, over, or affecting land and includes Crown lands and land owned by or vested in the Crown.

Disposal of land

44. The Service may, with the approval of the Minister and subject to such terms and conditions as the Minister may attach to his approval, sell, lease, exchange or otherwise deal with or dispose of land that has been acquired by the Service under this Act, and may with the like approval and subject to the like terms and conditions, grant easements or rights-of-way over such land or any part thereof.

Inquiries

45. (1) The Authority shall, as and when required by the Minister, and may, of its own motion, hold an inquiry into and make a report and recommendation to the Minister on any matter or thing relating to the creation, transportation, collection, reception, storage, treatment or disposal of waste or otherwise relating to waste.

(2) * * * * *

(3) The Authority, for the purpose of conducting any such inquiry, may, by notice in writing served on any person, require that person:

- (a) within such reasonable time as may be specified in the notice, to furnish to the Authority such information and to produce to the Authority such books, documents or other papers in his possession or under his control as may be required for the purpose of the

Waste Disposal Act 1970 No. 97

inquiry and as may be specified in the notice, whether generally or otherwise; or

- (b) to attend at a time and place specified in the notice before the Authority and thereafter from time to time as required by the Authority and to give evidence concerning any matter the subject of the inquiry and to produce all such books, documents or papers in his possession or under his control as may be required for the purpose of the inquiry and as may be specified in the notice, whether generally or otherwise.

(4) The Authority, for the purpose of conducting an inquiry under this section, may, subject to section 13 of the Oaths Act 1900, require any such evidence to be given on oath, and either in writing or orally, and for that purpose the person presiding at the inquiry may administer an oath.

(5) A person shall not neglect or refuse to comply with the requirements of a notice served on him under this section.

Penalty: One thousand dollars.

(6) A person shall not:

- (a) furnish any information referred to in paragraph (a) of subsection (3) required of him pursuant to a notice served on him under that subsection that is false or misleading in a material particular; or
- (b) give any evidence referred to in paragraph (b) of that subsection that is false or misleading in a material particular.

Penalty: One thousand dollars.

(7) It is a sufficient defence to a prosecution for an offence arising under subsection (6), if the defendant proves that he believed the truth of the information or evidence given by him and that it was given in good faith.

(8) The regulations made under this Act may prescribe scales of expenses to be allowed to persons for attending or giving evidence under this section.

Charges and fees

46. (1) Where, under the provisions of this Act or the regulations, the Authority or Service:

- (a) receives waste at a depot;
- (a1) receives waste referred to in section 21B at its incineration facility;
- (b) makes any registration;

Waste Disposal Act 1970 No. 97

- (c) issues any licence;
- (d) gives any permission;
- (e) furnishes any information;
- (f) deals with any application; or
- (g) supplies any services,

it may make such charges and demand such fees therefor as the Authority or Service determines.

(2) * * * * *

Property in, and sale of, waste

47. (1) All waste received at any depot of the Service or the incineration facility shall be the property of the Service.

(2) The Service may sell waste or any residue of waste resulting from any process or operation used for the treatment of waste at a depot of the Service or the incineration facility.

(3) A person shall not interfere with, or remove waste from a depot of the Service or the incineration facility unless he is so authorised by the Service or is an employee of the Service acting in the proper performance of his duties.

Penalty: One thousand dollars.

Powers of authorised persons to enter premises and give directions

48. (1) Any person authorised in writing by the Authority for the purpose may enter:

- (a) any premises used as a factory or any premises in which an industry or trade is being carried on, at any time during which any manufacturing, industrial or trade process is being carried on therein; and
- (b) any other premises, not being a dwelling-house, at any reasonable time,

and may therein make such examinations, tests, inspections or inquiries and take such samples and such photographs as the person considers necessary in connection with the administration of this Act.

(2) A person shall not wilfully delay or obstruct a person authorised under subsection (1) in the exercise of his powers under that subsection or, being the occupier of any premises refuse to permit or to assist a person so authorised to exercise those powers.

Penalty: One thousand dollars.

Waste Disposal Act 1970 No. 97

(3) A person authorised under subsection (1) may, by notice in writing given to any person, give a direction to that person with respect to transportation, treatment, storage and disposal of any waste in the possession or under the control of that person.

(4) A person to whom a direction is given under subsection (3) shall comply with the direction notwithstanding that compliance with the direction would cause any person to be in breach of any of the provisions of the regulations or any condition for the time being attached to a certificate of registration or licence granted under Part 5.

Penalty: One thousand dollars.

(5) A person authorised under subsection (1) shall not, except in circumstances that he considers to be an emergency, give a direction under subsection (3) compliance with which would cause a person to be in breach of any of the provisions of the regulations or any condition for the time being attached to a certificate of registration or licence granted under Part 5.

(6) A person is not guilty of an offence against this or any other Act or any regulation, ordinance or by-law by reason of anything done in compliance with a direction given under subsection (3).

(7) Every person authorised under subsection (1) shall be provided by the Authority with a certificate of his authority, and on applying for admission to any premises which he is empowered by this section to enter or on giving a direction under this section shall, if requested to do so, produce the certificate to the occupier of the premises or to the person to whom the direction is given, as the case may be.

Occupier of premises may be required to furnish information

49. (1) The Authority may by notice in writing require any person to furnish to it such information in connection with the creation, transportation, reception, treatment, storage or disposal of waste as may be specified in the notice.

(2) A person shall not neglect or fail to comply with a requirement made under this section.

Penalty: One thousand dollars.

(3) Any information furnished pursuant to a requirement made under subsection (1) shall not, if the person furnishing the information objected, at the time of furnishing it, to doing so on the ground that it might tend to incriminate him, be admissible in evidence in any prosecution against that person for any offence, not being the offence of neglecting or failing to comply with any requirement made under this section.

Disclosure of information

50. A person shall not disclose any information obtained by him in connection with the administration or execution of this Act, unless the disclosure is made:

- (a) with the consent of the person from whom the information was obtained or, where the information relates to the carrying on on any premises of any trade or industry, with the consent of the occupier of those premises;
- (b) in connection with the administration or execution of this Act;
- (c) subject to the provisions of section 49, for the purposes of any legal proceedings arising out of this Act or of any report of any such proceedings; or
- (d) for the purpose of any inquiry conducted under this Act.

Penalty: One thousand dollars.

51. * * * * *

Service of notice of proceedings on the Service

52. Any notice, summons, writ or other proceeding required to be served on the Service may be served by being left at the office of the Service or, in the case of a notice, by posting it addressed to the Service at its office.

Seal of the Service

53. The seal of the Service is to be kept by the Managing Director of the Service and may be affixed to a document only:

- (a) in the presence of the Managing Director or a member of the staff of the Service authorised in that behalf by the Managing Director; and
- (b) with an attestation by the signature of the Managing Director or that member of the fact of the affixing of the seal.

Financial year of Service

54. (1) The financial year of the Service is the year commencing 1 July.

(2) A different financial year may be determined by the Treasurer under section 4 (1A) of the Public Finance and Audit Act 1983.

Proceedings for offences

55. (1) Any penalty imposed by this Act or the regulations may be recovered in a summary manner before a stipendiary magistrate sitting in petty sessions alone or before the Court in its summary jurisdiction.

(2) A prosecution for an offence against this Act, section 50 excepted, or the regulations shall not be commenced without the consent of the Authority.

(3) If proceedings in respect of an offence against this Act or the regulations are brought in a court of petty sessions held before a stipendiary magistrate, the maximum penalty that the court may impose in respect of the offence is, notwithstanding any other provision of this Act, two thousand dollars (including any daily penalty) or the maximum penalty provided by this Act or the regulations in respect of the offence, whichever is the lesser.

(4) If proceedings in respect of an offence against this Act are brought in the Court in its summary jurisdiction, the Court may impose a penalty not exceeding the maximum penalty provided by this Act or the regulations in respect of the offence.

Recovery of charges etc.

56. (1) Any charge, fee, remuneration or money due to the Service under the provisions of this Act or the regulations may be recovered as a debt in a court of competent jurisdiction.

(2) Proceedings for the recovery of any charge, fee, remuneration or money so due to the Service shall be deemed to be for the recovery of a debt or liquidated demand.

57. * * * * *

Regulations

58. (1) The Governor may make regulations for or with respect to:

- (a) the operation of depots and the incineration facility;
- (b) the treatment, storage or disposal of waste at depots and at premises which are, under subsection (3) of section 22, required to be the subject of certificates of registration, and at approved premises referred to in that subsection;
- (b1) the treatment, storage or disposal of waste referred to in section 21B and, in particular, requiring any such waste to be disposed of in the Service's incineration facility;

Waste Disposal Act 1970 No. 97

- (b2) the establishment of a Community Monitoring Committee to represent the local community in which the incineration facility is or is to be located and to monitor the performance of the incineration facility in accordance with the regulations;
 - (c) the collection or transportation of waste;
 - (d) the construction or maintenance of containers, vehicles, and vessels used for the transportation of waste; or
 - (e) prescribing any matter which by this Act is required or permitted to be prescribed or which is necessary or convenient to be prescribed for the carrying out of or giving effect to this Act.
- (2) The regulations made under subsection (1):
- (a) may be so made as to have a different application according to such factors as may be specified in the regulations;
 - (b) * * * * *
 - (c) may impose a penalty not exceeding five hundred dollars for any offence against the regulations and in the case of a continuing offence a further penalty not exceeding two hundred dollars for each day the offence continues.

Savings and transitional provisions

59. Schedule 4 has effect.

Waste Disposal Act 1970 No. 97

***SCHEDULE 1—AREAS AND PARTS OF AREAS WHICH CONSTITUTE
THE METROPOLITAN WASTE DISPOSAL REGION**

(Sec. 6)

Cities of Campbelltown, Liverpool, Parramatta, Penrith, Sydney.

Municipalities of Ashfield, Auburn, Bankstown, Blacktown, Botany, Burwood, Camden, Canterbury, Concord, Drummoyne, Fairfield, Holroyd, Hunter's Hill, Hurstville, Kogarah, Ku-ring-gai, Lane Cove, Leichhardt, Manly, Marrickville, Mosman, North Sydney, Randwick, Rockdale, Ryde, South Sydney, Strathfield, Waverley, Willoughby, Windsor, Woollahra.

Shires of Baulkham Hills, Hornsby, Sutherland, Warringah.

SCHEDULE 2—CONSTITUTION AND PROCEDURE OF THE BOARD

(Sec. 8 (4))

Definitions

1. In this Schedule:

“Board” means the Waste Recycling and Processing Service Board;

“member” means the Managing Director or a part-time member of the Board;

“part-time member” means a member of the Board other than the Managing Director.

Chairperson of Board

2. (1) Of the part-time members of the Board, one shall (in and by his or her instrument of appointment as a part-time member or in and by another instrument executed by the Governor) be appointed as Chairperson of the Board.

(2) The Governor may remove a part-time member from the office of Chairperson at any time.

(3) A person who is a part-time member and Chairperson vacates office as Chairperson if the person:

- (a) is removed from that office by the Governor; or
- (b) resigns that office by instrument in writing addressed to the Minister; or
- (c) ceases to be a part-time member.

Deputies

3. (1) The Minister may, from time to time, appoint a person to be the deputy of a part-time member, and the Minister may revoke any such appointment.

(2) In the absence of a part-time member, the part-time member's deputy:

- (a) shall, if available, act in the place of the part-time member; and

* See Gazette No. 44 of 20.3.1981, p. 1658 (Municipality of Windsor excluded from, Shire of Hawkesbury included in, Metropolitan Waste Disposal Region).

Waste Disposal Act 1970 No. 97

SCHEDULE 2—CONSTITUTION AND PROCEDURE OF THE BOARD—
continued

- (b) while so acting, has all the functions of the part-time member and shall be taken to be a part-time member.
- (3) The deputy of a part-time member who is Chairperson of the Board does not (because of this clause) have the part-time member's functions as Chairperson.
- (4) A person while acting in the place of a part-time member is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the person.

Terms of office of part-time members

4. Subject to this Schedule, a part-time member shall hold office for such period (not exceeding 4 years) as may be specified in the part-time member's instrument of appointment, but is eligible (if otherwise qualified) for re-appointment.

Remuneration

5. A part-time member is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the part-time member.

Vacancy in office of part-time member

6. (1) The office of a part-time member becomes vacant if the member:
- (a) dies; or
 - (b) completes a term of office and is not re-appointed; or
 - (c) resigns the office by instrument in writing addressed to the Minister; or
 - (d) is removed from office by the Governor under this clause or under Part 8 of the Public Sector Management Act 1988; or
 - (e) is absent from 4 consecutive meetings of the Board of which reasonable notice has been given to the part-time member personally or in the ordinary course of post, except on leave granted by the Board or unless, before the expiration of 4 weeks after the last of those meetings, the part-time member is excused by the Board for having been absent from those meetings; or
 - (f) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit; or
 - (g) becomes a temporary patient or a continued treatment patient within the meaning of the Mental Health Act 1958, a forensic patient within the meaning of the Mental Health Act 1983 or a protected person within the meaning of the Protected Estates Act 1983; or
 - (h) is convicted in New South Wales of an offence which is punishable by penal servitude or imprisonment for 12 months or more or is convicted elsewhere than in New South Wales of an offence which, if committed in New South Wales, would be an offence so punishable.

Waste Disposal Act 1970 No. 97

SCHEDULE 2—CONSTITUTION AND PROCEDURE OF THE BOARD—
continued

(2) The Governor may remove a part-time member from office at any time.

Disclosure of pecuniary interests

7. (1) If:

- (a) a member of the Board has a direct or indirect pecuniary interest in a matter being considered or about to be considered at a meeting of the Board; and
- (b) the interest appears to raise a conflict with the proper performance of the member's duties in relation to the consideration of the matter,

the member shall, as soon as possible after the relevant facts have come to the member's knowledge, disclose the nature of the interest at a meeting of the Board.

(2) A disclosure by a member of the Board at a meeting of the Board that the member:

- (a) is a member, or is in the employment, of a specified company or other body; or
- (b) is a partner, or is in the employment, of a specified person; or
- (c) has some other specified interest relating to a specified company or other body or to a specified person,

is a sufficient disclosure of the nature of the interest in any matter relating to that company or other body or to that person which may arise after the date of the disclosure and which is required to be disclosed under subclause (1).

(3) Particulars of any disclosure made under this clause shall be recorded by the Board in a book kept for the purpose and that book shall be open at all reasonable hours to inspection by any person on payment of the fee determined by the Board.

(4) After a member of the Board has disclosed the nature of an interest in any matter, the member shall not, unless the Minister or the Board otherwise determines:

- (a) be present during any deliberation of the Board with respect to the matter; or
- (b) take part in any decision of the Board with respect to the matter.

(5) For the purposes of the making of a determination by the Board under subclause (4), a member who has a direct or indirect pecuniary interest in a matter to which the disclosure relates shall not:

- (a) be present during any deliberation of the Board for the purpose of making the determination; or
- (b) take part in the making by the Board of the determination.

(6) A contravention of this clause does not invalidate any decision of the Board.

Filling of vacancy in office of part-time member

8. If the office of any part-time member becomes vacant, a person shall, subject to this Act, be appointed to fill the vacancy.

Waste Disposal Act 1970 No. 97

SCHEDULE 2—CONSTITUTION AND PROCEDURE OF THE BOARD—
*continued***Effect of certain other Acts**

9. (1) The Public Sector Management Act 1988 does not apply to the appointment of a part-time member and a part-time member is not, as a part-time member, subject to that Act (except Part 8).

(2) If by or under any other Act provision is made:

- (a) requiring a person who is the holder of a specified office to devote the whole of his or her time to the duties of that office; or
- (b) prohibiting the person from engaging in employment outside the duties of that office,

the provision does not operate to disqualify the person from holding that office and also the office of a part-time member or from accepting and retaining any remuneration payable to the person under this Act as such a part-time member.

(3) The office of a part-time member is not, for the purposes of any Act, an office or place of profit under the Crown.

Liability of members etc.

10. No matter or thing done by the Board, any member or any person acting under the direction of the Board shall, if the matter or thing was done in good faith for the purposes of executing this or any other Act, subject a member or a person so acting personally to any action, liability, claim or demand.

General procedure

11. The procedure for the calling of meetings of the Board and for the conduct of business at those meetings shall, subject to this Act and the regulations, be as determined by the Board.

Quorum

12. The quorum for a meeting of the Board is 4 members.

Presiding member

13. (1) The Chairperson of the Board or, in the absence of the Chairperson, another part-time member elected to chair the meeting by the members present shall preside at a meeting of the Board.

(2) The person presiding at any meeting of the Board has a deliberative vote and, in the event of an equality of votes, has a second or casting vote.

Voting

14. A decision supported by a majority of the votes cast at a meeting of the Board at which a quorum is present is the decision of the Board.

Waste Disposal Act 1970 No. 97

SCHEDULE 2—CONSTITUTION AND PROCEDURE OF THE BOARD—
continued

Minutes

15. The Board shall cause full and accurate minutes to be kept of the proceedings of each meeting of the Board.

Transaction of business outside meetings or by telephone etc.

16. (1) The Board may, if it thinks fit, transact any of its business by the circulation of papers among all the members of the Board for the time being, and a resolution in writing approved in writing by a majority of those members shall be taken to be a decision of the Board.

(2) The Board may, if it thinks fit, transact any of its business at a meeting at which members (or some members) participate by telephone, closed-circuit television or other means, but only if any member who speaks on a matter before the meeting can be heard by the other members.

(3) For the purposes of:

- (a) the approval of a resolution under subclause (1); or
- (b) a meeting held in accordance with subclause (2),

the Chairperson and each member of the Board have the same voting rights as they have at an ordinary meeting of the Board.

(4) A resolution approved under subclause (1) shall, subject to the regulations, be recorded in the minutes of the Board.

(5) Papers may be circulated among members of the Board for the purposes of subclause (1) by facsimile or other transmission of the information in the papers concerned.

Committees

17. (1) The Board may establish committees to assist it in connection with the exercise of its functions.

(2) It does not matter that any or all of the members of a committee are not members of the Board.

(3) The procedure for the calling of meetings of a committee and for the conduct of business at those meetings shall be as determined by the Board or (subject to any determination of the Board) by the committee.

First meeting

18. The Minister shall call the first meeting of the Board in such manner as the Minister thinks fit.

SCHEDULE 3—PROVISIONS RELATING TO THE EXECUTIVE OFFICERS

(Sec. 8B (2))

Definition

1. In this Schedule:

“executive officer” means the Managing Director of the Service.

1A. The employment of an executive officer is subject to Part 2A of the Public Sector Management Act 1988, but is not subject to Part 2 of that Act.

Acting executive officers

2. (1) The Minister may, from time to time, appoint a person to act in the office of an executive officer during a vacancy in the office or during the illness or absence of the executive officer and the person, while so acting, has all the functions of the executive officer and shall be taken to be the executive officer.

(2) The Minister may, at any time, remove any person from an office to which the person was appointed under this clause.

(3) A person while acting in the office of an executive officer is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the person.

3-8. * * * * *

SCHEDULE 4—SAVINGS AND TRANSITIONAL PROVISIONS

(Sec. 59)

PART 1—PRELIMINARY**Savings and transitional regulations**

1. (1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of the following Acts:

Waste Disposal (Amendment) Act 1989;

Waste Disposal (Further Amendment) Act 1989.

(2) Any such provision may, if the regulations so provide, take effect from the date of assent to the Act concerned or a later day.

(3) To the extent to which any such provision takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as:

(a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication; or

Waste Disposal Act 1970 No. 97

SCHEDULE 4—SAVINGS AND TRANSITIONAL PROVISIONS—*continued*

- (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication.

**PART 2—PROVISIONS CONSEQUENTIAL ON THE ENACTMENT OF THE
WASTE DISPOSAL (FURTHER AMENDMENT) ACT 1989**

Definitions

2. In this Part:

“former Authority” means the Waste Management Authority of New South Wales as constituted in accordance with this Act immediately before the relevant commencement and formerly known as the Metropolitan Waste Disposal Authority;

“reconstituted Authority” means the Waste Management Authority of New South Wales constituted in accordance with this Act;

“relevant commencement” means the commencement of Schedule 1 (3) to the Waste Disposal (Further Amendment) Act 1989.

Continuity of Authority

3. The reconstituted Authority is a continuation of, and the same legal identity as, the former Authority.

Members of former Authority

4. (1) A person who, immediately before the relevant commencement, held office as a member of the former Authority ceases to hold office as such on that commencement.

(2) A person who so ceases to hold office as a member of the former Authority is not entitled to any remuneration or compensation because of the loss of that office.

(3) A reference in any other Act, in any instrument made under any Act or in any other instrument of any kind to a member of the former Authority shall be read as a reference to a member of the Waste Management Authority Board.

Existing executive officers

5. The person who, immediately before the relevant commencement, held office:

(a) as Director of the former Authority—shall be taken to have been appointed as Managing Director of the reconstituted Authority; or

(b) as Deputy Director of the former Authority—shall be taken to have been appointed as Deputy Managing Director of the reconstituted Authority,

on the same terms and conditions, and for the rest of the term of office, on and for which the person was appointed as Director, or Deputy Director, of the former Authority.

*Waste Disposal Act 1970 No. 97*SCHEDULE 4—SAVINGS AND TRANSITIONAL PROVISIONS—*continued***Existing delegation**

6. A delegation by the former Authority of any of the former Authority's functions made under section 21 of this Act and in force immediately before the relevant commencement shall be taken to be a delegation made under that section by the reconstituted Authority.

PART 3—PROVISIONS CONSEQUENT ON ENACTMENT OF PROTECTION OF THE ENVIRONMENT ADMINISTRATION ACT 1991**Continuity of Waste Management Authority**

7. The Waste Recycling and Processing Service is a continuation of, and the same legal entity as, the Waste Management Authority of New South Wales.

Dissolution of Waste Management Authority Board

8. (1) On the commencement of this clause, the Waste Management Authority Board becomes the Waste Recycling and Processing Service Board.

(2) The change in the name of that Board does not affect the persons holding office as members of that Board immediately before that commencement.

Existing executive officers

9. (1) The person who, immediately before the commencement of this clause, held office as Managing Director of the Waste Management Authority is taken, on that commencement, to have been appointed as Managing Director of the Service for the balance of the person's term of office as Managing Director of that Authority.

(2) The person who, immediately before the commencement of this clause, held office as Deputy Managing Director of the Waste Management Authority ceases to hold office as such on that commencement.

(3) The person who so ceases to hold office as Deputy Managing Director is not entitled to any remuneration or compensation because of the loss of that office, except as provided by Part 2A of the Public Sector Management Act 1988. For the purposes of that Part of that Act, the Deputy Managing Director is taken to have been removed from office under section 42Q of that Act.

Certain existing staff transferred to Authority

10. (1) The persons employed by the Waste Management Authority immediately before the commencement of this clause and designated by the Minister as transferred employees are, on the commencement of this clause, taken to be employed by the Environment Protection Authority (otherwise than under Part 2 of the Public Sector Management Act 1988).

(2) A person who is taken under this clause to be employed by the Environment Protection Authority is to be employed as a salaried employee on the same terms and

Waste Disposal Act 1970 No. 97

SCHEDULE 4—SAVINGS AND TRANSITIONAL PROVISIONS—*continued*

conditions as applied to the person immediately before the commencement of this clause, until those terms and conditions are duly changed in accordance with law.

Construction of references

11. In any other Act, in any instrument made under an Act or in any document of any kind, a reference to the Managing Director or Deputy Managing Director of the Waste Management Authority of New South Wales is to be read as a reference to the Managing Director of the Waste Recycling and Processing Service.

Existing licences

12. A licence or certificate granted by the Waste Management Authority of New South Wales and in force on the commencement of this clause is taken to have been granted by the Environment Protection Authority.

NOTES

See also Pollution Control Act 1970.

Table of Acts

Waste Disposal Act 1970 No. 97. Assented to, 9.12.1970. Date of commencement, Part 5 excepted, 15.6.1971, sec. 1 (2) and Gazette No. 52 of 14.5.1971, p. 1534; date of commencement of Part 5, 1.4.1975, sec. 1 (3) and Gazette No. 48 of 21.3.1975, p. 1040. This Act is reprinted as amended by:

Supreme Court Act 1970 No. 52. Assented to, 14.10.1970. Date of commencement, Pt. 9 excepted, 1.7.1972, sec. 2 (1) and Gazette No. 59 of 2.6.1972, p. 2018. Amended by Supreme Court (Amendment) Act 1972 No. 41. Assented to, 11.4.1972.

District Court Act 1973 No. 9. Assented to, 10.4.1973. Date of commencement, 1.7.1973, sec. 2 and Gazette No. 75 of 8.6.1973, p. 2158.

Statutory and Other Offices Remuneration Act 1975 (1976 No. 4). Assented to, 7.1.1976. Date of commencement of Sch. 5, 2.2.1976, sec. 2 (2) and Gazette No. 15 of 30.1.1976, p. 398.

Notice of Action and Other Privileges Abolition Act 1977 No. 19. Assented to, 24.3.1977. Date of commencement, 19.8.1977, sec. 2 and Gazette No. 92 of 19.8.1977, p. 3541.

Miscellaneous Acts (Planning) Repeal and Amendment Act 1979 No. 205. Assented to, 21.12.1979. Date of commencement of Sch. 2, Pt. 1, 1.9.1980, sec. 2 (4) and Gazette No. 91 of 4.7.1980, p. 3366.

Waste Disposal (Amendment) Act 1980 No. 21. Assented to, 15.4.1980.

Government and Related Employees Appeal Tribunal Act 1980 No. 39. Assented to, 28.4.1980. Date of commencement of Sch. 5, 1.9.1980, sec. 2 (2) and Gazette No. 121 of 29.8.1980, p. 4509.

Waste Disposal Act 1970 No. 97

NOTES—*continued*

Table of Acts—*continued*

Miscellaneous Acts (Retirement of Statutory Officers) Amendment Act 1980 No. 187. Assented to, 17.12.1980.

Miscellaneous Acts (Financial Accommodation) Amendment Act 1981 No. 83. Assented to, 9.6.1981. A proclamation was published in Gazette No. 79 of 12.6.1981, p. 3097, specifying 11.6.1981 as the date of commencement of Sch. 1. The amendments directed to be made by that Schedule have been included in this reprint.

Miscellaneous Acts (Public Finance and Audit) Repeal and Amendment Act 1983 No. 153. Assented to, 29.12.1983. Date of commencement of Sch. 2, 6.1.1984, sec. 2 (2) and Gazette No. 4 of 6.1.1984, p. 19.

Miscellaneous Acts (State Superannuation Fund) Amendment Act 1984 No. 10. Assented to, 31.5.1984.

Statute Law (Miscellaneous Provisions) Act 1986 No. 16. Assented to, 1.5.1986.

Waste Disposal (Amendment) Act 1986 No. 42. Assented to, 6.5.1986.

Miscellaneous Acts (Marine Pollution) Amendment Act 1987 No. 300. Assented to, 16.12.1987. Date of commencement, 4.5.1990, sec. 2 and Gazette No. 57 of 4.5.1990, p. 3511.

Waste Disposal (Amendment) Act 1989 No. 30. Assented to, 21.4.1989. Date of commencement of Sch. 1, 30.6.1989, sec. 2 and Gazette No. 81 of 30.6.1989, p. 3811.

Waste Disposal (Further Amendment) Act 1989 No. 38. Assented to, 10.5.1989. Date of commencement of Sch. 1, 1.7.1989, sec. 2 and Gazette No. 81 of 30.6.1989, p. 3812.

Miscellaneous Acts (Public Sector Executives Employment) Amendment Act 1989 No. 105. Assented to, 15.8.1989. Date of commencement of the provisions of Sch. 1 relating to the Waste Disposal Act 1970, 1.10.1989, sec. 2 and Gazette No. 98 of 29.9.1989, p. 7742.

Protection of the Environment Administration Act 1991 No. 60. Assented to, 12.12.1991. Date of commencement of the provisions of Sch. 3 relating to the Waste Disposal Act 1970, 1.3.1992, sec. 2 and Gazette No. 26 of 21.2.1992, p. 1043.

This Act has also been amended pursuant to an order under secs. 8 (2) and 9 (3) of the Reprints Act 1972 No. 48 (*formerly* Acts Reprinting Act 1972). Order dated 6.5.1976, and published in Gazette No. 61 of 7.5.1976, p. 2058, declaring that:

- (a) the Waste Disposal Act 1970 is an enactment to which sec. 8 (2) of the Acts Reprinting Act 1972 applies; and
- (b) the Waste Disposal Act 1970, the words "of this Act" where secondly occurring in sec. 6 (2) excepted, is an enactment to which sec. 9 (3) of the Acts Reprinting Act 1972 applies.

Table of Amendments

(No reference is made to certain amendments made by the Reprints Act 1972.)

Long title—Am. 1989 No. 30, Sch. 1 (1); 1991 No. 60, Sch. 3.

Sec. 2—Am. 1981 No. 83, Sch. 1. Rep. 1989 No. 30, Sch. 1 (2).

Sec. 4—Am. 1987 No. 300, Sch. 1; 1991 No. 60, Sch. 3.

Sec. 5—Am. 1979 No. 205, Sch. 2, Part 1; 1989 No. 30, Sch. 1 (3); 1989 No. 38, Sch. 1 (1); 1991 No. 60, Sch. 3.

Waste Disposal Act 1970 No. 97

NOTES—*continued*

Table of Amendments—*continued*

- Part 3, heading—Subst. 1989 No. 30, Sch. 1 (4). Am. 1991 No. 60, Sch. 3.
 Sec. 6—Am. 1989 No. 38, Sch. 1 (2).
 Sec. 7—Am. 1976 No. 4, Sch. 5; 1989 No. 30, Sch. 1 (5). Subst. 1989 No. 38, Sch. 1 (3); 1991 No. 60, Sch. 3.
 Sec. 8—Am. 1976 No. 4, Sch. 5; 1980 No. 187, Sch. 1. Subst. 1989 No. 38, Sch. 1 (3). Am. 1991 No. 60, Sch. 3.
 Sec. 8A—Ins. 1989 No. 38, Sch. 1 (3). Am. 1991 No. 60, Sch. 3.
 Sec. 8B—Ins. 1989 No. 38, Sch. 1 (3). Subst. 1991 No. 60, Sch. 3.
 Secs. 8C, 8D—Ins. 1989 No. 38, Sch. 1 (3). Am. 1991 No. 60, Sch. 3.
 Sec. 9—Am. 1989 No. 38, Sch. 1 (4). Rep. 1989 No. 105, Sch. 1.
 Sec. 10—Rep. 1989 No. 38, Sch. 1 (5).
 Secs. 11–13—Am. 1991 No. 60, Sch. 3.
 Sec. 14—Rep. 1980 No. 39, Sch. 5.
 Sec. 15—Am. 1976 No. 4, Sch. 5; 1984 No. 10, Sch. 1; 1989 No. 38, Sch. 1 (6); 1989 No. 105, Sch. 1; 1991 No. 60, Sch. 3.
 Sec. 16—Am. 1991 No. 60, Sch. 3.
 Part 4, heading—Am. 1989 No. 30, Sch. 1 (6); 1991 No. 60, Sch. 3.
 Sec. 17—Am. 1989 No. 30, Sch. 1 (7); 1991 No. 60, Sch. 3.
 Sec. 18—Am. 1979 No. 205, Sch. 2, Part 1; 1991 No. 60, Sch. 3.
 Secs. 19, 20—Am. 1991 No. 60, Sch. 3.
 Sec. 21—Subst. 1989 No. 38, Sch. 1 (7). Am. 1991 No. 60, Sch. 3.
 Part 4A—Ins. 1989 No. 30, Sch. 1 (8).
 Sec. 21A—Ins. 1989 No. 30, Sch. 1 (8).
 Secs. 21B, 21C—Ins. 1989 No. 30, Sch. 1 (8). Am. 1991 No. 60, Sch. 3.
 Sec. 21D—Ins. 1989 No. 30, Sch. 1 (8). Am. 1989 No. 38, Sch. 1 (8); 1991 No. 60, Sch. 3.
 Sec. 21E—Ins. 1989 No. 30, Sch. 1 (8). Am. 1991 No. 60, Sch. 3.
 Sec. 22—Am. 1991 No. 60, Sch. 3.
 Sec. 23—Am. 1980 No. 21, Sch. 1 (1); 1986 No. 42, Sch. 1; 1991 No. 60, Sch. 3.
 Sec. 26—Am. 1991 No. 60, Sch. 3.
 Sec. 27—Am. 1980 No. 21, Sch. 1 (2); 1991 No. 60, Sch. 3.
 Sec. 28—Am. 1989 No. 38, Sch. 1 (9); 1991 No. 60, Sch. 3.
 Sec. 29—Am. 1991 No. 60, Sch. 3.
 Sec. 30—Rep. 1991 No. 60, Sch. 3.
 Sec. 31—Subst. 1983 No. 153, Sch. 2. Rep. 1991 No. 60, Sch. 3.
 Sec. 32—Rep. 1983 No. 153, Sch. 2.
 Sec. 33—Rep. 1991 No. 60, Sch. 3.
 Secs. 34–39—Rep. 1981 No. 83, Sch. 1.
 Sec. 40—Am. 1970 No. 52, Sch. 2 (as am. by 1972 No. 41, Sch. 2); 1979 No. 205, Sch. 2, Part 1. Rep. 1981 No. 83, Sch. 1.
 Secs. 41, 42—Rep. 1981 No. 83, Sch. 1.
 Sec. 43—Am. 1989 No. 30, Sch. 1 (9); 1991 No. 60, Sch. 3.
 Secs. 44, 45—Am. 1991 No. 60, Sch. 3.
 Sec. 46—Am. 1989 No. 30, Sch. 1 (10); 1991 No. 60, Sch. 3.
 Sec. 47—Am. 1989 No. 30, Sch. 1 (11); 1991 No. 60, Sch. 3.
 Sec. 48—Am. 1986 No. 16, Sch. 23.
 Sec. 51—Rep. 1989 No. 38, Sch. 1 (10).

Waste Disposal Act 1970 No. 97

NOTES—*continued*Table of Amendments—*continued*

- Sec. 52—Am. 1991 No. 60, Sch. 3.
Sec. 53—Rep. 1989 No. 38, Sch. 1 (10). Ins. 1991 No. 60, Sch. 3.
Sec. 54—Am. 1970 No. 52, Sch. 2 (as am. by 1972 No. 41, Sch. 2); 1973 No. 9, Sch. 2.
Rep. 1977 No. 19, Sch. 1. Ins. 1991 No. 60, Sch. 3.
Sec. 55—Am. 1979 No. 205, Sch. 2, Part 1; 1989 No. 38, Sch. 1 (11); 1991 No. 60,
Sch. 3.
Sec. 56—Am. 1991 No. 60, Sch. 3.
Sec. 57—Rep. 1991 No. 60, Sch. 3.
Sec. 58—Am. 1989 No. 30, Sch. 1 (12); 1991 No. 60, Sch. 3.
Sec. 59—Ins. 1989 No. 38, Sch. 1 (12).
Sch. 1, heading—Subst. 1989 No. 38, Sch. 1 (13).
Sch. 2—Ins. 1989 No. 38, Sch. 1 (14). Am. 1991 No. 60, Sch. 3.
Sch. 3—Ins. 1989 No. 38, Sch. 1 (14). Am. 1989 No. 105, Sch. 1; 1991 No. 60, Sch. 3.
Sch. 4—Ins. 1989 No. 38, Sch. 1 (14). Am. 1991 No. 60, Sch. 3.
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