

No. of 2005 *The National Solid Waste Management
Authority Act, 2005*

1 ANTIGUA
AND
BARBUDA

ANTIGUA AND BARBUDA

No. of 2005

BILL FOR

AN ACT to amend The National Solid Waste Management Authority Act, No. 10 of 1995.

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ENACTED by the Parliament of Antigua and Barbuda as follows —

1. This Act may be cited as the National Solid Waste Management Authority (Amendment) Act, 2005. Short title.

2. The National Solid Waste Management Authority Act 1995, in this Act referred to as the principal Act, is amended in section 2 as follows — Amendment of section 2. No. 10 of 1995

(a) by inserting the following definitions in their alphabetical order —

“authorized officer” includes a police officer and a health inspector appointed under the Public Health Act, a litter warden appointed under the Litter Act and any person

designated by the Minister to carry out the provisions of this Act;

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

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

“derelict vehicle” means —

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

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

“hazardous waste” means any substance or preparation which by reason of its chemical or physicochemical or biological properties or handling, is liable to cause harm to human beings, other living creatures, plants, microorganisms, property or the environment; and includes but is not limited to the category and characteristics contained in Annexes I or II of the Second Schedule;

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

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

“litter” includes any abandoned or discarded article, rubbish, refuse, garbage or waste materials, and any other material or product within the meaning of the Litter Act;

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

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

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

“quarantine waste” includes any waste imported into or landed in Antigua and Barbuda by any ship or aircraft that comprises food, vegetable, meat or dairy or any part of such matter;

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

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

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

“ship-generated solid waste” means all kind of victual, domestic and operational waste generated during the normal operation of a ship and liable to be disposed of continuously or periodically but does not include small quantities of food waste for the specific purpose of fish feeding in connection with fishing or tourist operations;

“solid waste” includes ash, garbage, refuse, organic waste, scrap metal, litter and other solid material but does not include sewage, sludge and residuals;

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“waste” includes hazardous and quarantine waste;

“waste management facility” includes any facility for managing waste by storing or processing, and a processing facility for the creation or recovery of a secondary resource, but does not include a location or facility where waste is stored for less than five days;

“waste management policy stakeholders” mean the persons and organizations in Antigua and Barbuda specified in the Third Schedule;

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

(b) by deleting the definition , “solid waste”.

Section 5 repealed
and replaced.

3. Section 5 of the principal Act is repealed and replaced by the following —

(1) The Authority shall have the general responsibility for the management of solid waste including ship generated solid waste in Antigua and Barbuda.

(2) The Authority shall pursuant to subsection (1) —

(a) own, operate or contract facilities and equipment for the collection, treatment or processing, reutilization, and disposal of solid waste, non-hazardous and quarantine waste;

(b) own, operate or otherwise provide for the management of solid waste, solid hazardous and liquid hazardous wastes;

(c) provide collection and storage facilities at ports, harbours and anchorages for the reception of ship-generated solid waste;

(d) train its staff in those aspects of waste management for which they are responsible;

(e) design, implement and maintain a programme of public education on waste management.

- (f) provide for the storage, treatment or processing, reutilization and disposal of domestic sewage solids;
- (g) supervise the transportation of ship-generated waste to the final disposal site;
- (h) develop and manage new sanitary landfill sites and other disposal methods;
- (i) introduce, charge fees, cost recovery methods for services provided by the Authority;
- (j) provide for the closure, post-closure and remediation where necessary of waste management facilities;

(3) The Authority shall prepare and maintain —

- (a) a strategic plan that identifies —
 - (i) facility and equipment needs over a 20 year period;
 - (ii) capital cost requirement over a 20 year period; and
- (b) an operational plan that identifies —
 - (i) staffing requirement over a 5 year period;
 - (ii) training requirement over a 5 year period;
 - (iii) recurrent costs requirement over a 5 year period;
 - (iv) a financial and cost recovery plan sufficient to meet the capital and recurrent cost projections identified.

(4) The Strategic plan shall be submitted to the Cabinet for adoption.

(5) The plan shall be updated annually and shall be submitted to the Cabinet by the Minister.

(6) The Authority shall provide collection and storage facilities at ports, harbours, and anchorages for the reception of ship-generated wastes; and supervise the transportation of ship-generated waste to the final disposal site.

(7) The Authority shall develop and manage new sanitary landfill sites and other disposal methods.

(8) The Authority shall introduce cost recovery methods for services provided by the Authority”.

Amendment of
section 14 of the
Principal Act.

4. Section 14 of the Principal Act is repealed and replaced by the following —

“14. (1) The Minister may on the recommendation of the Authority, make regulations —

- (a) for carrying into effect the provisions of this Act;
- (b) for prescribing fees for services provided pursuant to this Act.

(2) The Minister may amend any regulations made pursuant to subsection (1) and any such amendment shall be made in consultation with the Authority and the waste management policy stakeholders specified in the Third Schedule.”

Section 15
repealed and new
sections added.

5. Section 15 of the principal Act is repealed and the following new sections are added—

15. (1) Any authorised officer may, in order to verify compliance with any condition of a waste haulage permit, stop and inspect any vehicle reasonably believed to be transporting waste. “Stop and search.

(2) Any authorised officer may at the direction of the Executive Director inspect any aircraft or ship within twenty-four hours of its arrival to —

- (a) verify whether the aircraft or ship has waste on board; and
- (b) take the measures necessary to ensure that any waste on board is not off-loaded contrary to the requirements of these Regulations or any other law.

(3) Any person who —

- (a) prevents or obstructs any authorized officer while discharging his duties under this Act or any Regulations made thereunder;
- (b) assaults any authorised officer while discharging his duties under this Act or any Regulations made thereunder;

commits an offence and is liable on conviction to a fine not exceeding fifty thousand dollars or to imprisonment for a term not exceeding twelve months or to both such fine and imprisonment.

16. (1) Any person who commits an offence under this Act or any regulation made thereunder, and for which no penalty is provided is liable on conviction — Penalties for offences for which no penalty is provided.

- (a) if he is an individual, to a fine not exceeding ten thousand dollars or to imprisonment not exceeding two years;
- (b) if the person is a company to a fine not exceeding fifty thousand dollars.

(2) On conviction of any person of a second offence the penalty in the case of an individual is a fine of five thousand dollars or more but not exceeding twenty thousand dollars and in the case of a body of persons whether corporate or un-incorporated the penalty is a fine of twenty thousand dollars or more but not exceeding one hundred thousand dollars.

(3) Where the offence is a continuing offence, the person shall, in addition to the penalty imposed under subsection (1) and (2), pay a penalty for two hundred dollars for every day that the offence continues.

Power to institute Criminal proceedings.

17. An authorized officer shall, with the consent in writing of the Director of Public Prosecutions, institute and prosecute offences under this Act.

Emergency powers of Minister.

18. (1) During a state of emergency or natural disaster in Antigua and Barbuda, the Minister may require the Authority to take any action which the Minister considers reasonably necessary for the safe management of solid waste.

(2) Where there is no holder of a waste management licence or a waste haulage permit for the management or transportation of any solid waste, the Minister may authorise the Authority to manage or transport any solid waste.

Appointments and power of authorised officers.

19. The Minister may designate any public officer or any employee of a Government agency as authorised officer for the purpose of this Act or any regulations made thereunder.

Power to enter premises.

20. (1) It shall be lawful for a duly authorised officer to enter and inspect any waste management facility at all reasonable times and to require the person in charge to provide him with all relevant information in respect of the facility and to assist him in the performance of his duties under this Act or any regulations made thereunder.

(2) Notwithstanding subsection (1) an authorised officer shall not enter a waste management facility or other premises for purposes of subsection (1) except —

- (a) with the consent of the owner or occupier of the premises; or

(b) under the authority of a warrant issued by a magistrate.

(3) An authorised officer shall produce his identification on demand before conducting any inspection under this Act or any Regulations made thereunder.

21. The Minister may, by Order amend, repeal or replace the Schedules.” Amendment of Schedule.

6. The Schedule is amended as follows — Amendment and addition to Schedule.

(a) In paragraph 1(1) —

repeal item (a) and substitute the following—

“(b) a chairman and a Deputy Chairman to be appointed by the Minister;

(b) In paragraph 2, repeal subparagraph (1) and substitute the following —

“(1) The chairman or deputy chairman and three other members shall form a quorum.”

(c) Renumber the Schedule as “First Schedule” and add following new Schedules —

SECOND SCHEDULE

SECOND SCHEDULE Section 2

ANNEX 1
Waste Streams

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

Y17 Waste resulting from surface treatment of metals and plastics.

Y18 Residues arising from industrial waste disposal operations

Waste having as constituents

Y19 Metal carbonyls

Y20 Beryllium; beryllium compounds

Y21 Hexavalent chromium compounds

Y22 Copper compounds

Y23 Zinc compounds

Y24 Arsenic; arsenic compounds

Y25 Selenium; selenium compounds

Y26 Cadmium; cadmium compounds

Y27 Antimony; antimony compounds

Y28 Tellurium; tellurium compounds

Y29 Mercury; mercury compounds

Y30 Thallium; thallium compounds

Y31 Lead; lead compounds

Y32 Inorganic fluorine compounds excluding calcium fluoride

Y33 Inorganic cyanides

Y34 Acidic solutions or acids in solid form

Y35 Basic solutions or bases in solid form

Y36 Asbestos (dust and fibres)

Y37 Organic phosphorous compounds

Y38 Organic cyanides

Y39 Phenols; phenol compounds including chlorophenols

Y40 Ethers

Y41 Halogenated organic solvents

Y42 Organize solvents excluding halogenated solvents

Y43 Any congener of polychlorinated dibenzo-furan

Y44 Any congener of polychlorinated dibenzo-p-dioxin

Y45 Organohalogen compounds other than substances referred to in this Annex (e.g Y39, Y41, Y42, Y43, Y44)

Y46 Wastes collected from households

Y47 Residues arising from the incineration of household wastes

Other

ANNEX II
LIST OF HAZARDOUS CHARACTERISTICS

UNCLASS CODE CHARACTERISTICS

1 HI Explosive

An explosive substance or waste is a solid or liquid substance or waste (or mixture of substances or wastes) which is in itself capable by chemical reaction of producing gas at such a temperature and pressure and at such speed as to cause damage to the solution.

3 H3 Flammable liquids

The word “flammable” has the same meaning as “inflammable”. Flammable liquids are liquids, or mixtures of liquids, or liquids containing solids in solution or suspension (for example, paints, varnishes, lacquers, etc., but not including substances or wastes otherwise classified on account of their dangerous characteristic) which give off a flammable vapor at temperatures of not more than 60.5 degrees C. closed-cup test, or not more than 65.6 degree C. open-cup test. (Since the results of open-cup tests and of closed-cup tests are not strictly comparable and even individual results by the same test are often variable regulations varying from the above figures to make allowance for such differences would be within the spirit of this definition.

4.1 H4.1 Flammable solids

Solids or waste solids, other than those classed as explosives, which under conditions encountered in transport are readily combustible, or may cause or contribute to fire though fiction.

4.2 H4.2 Substances or wastes liable to spontaneous combustion

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

4.3 H4.3 Substances or wastes which, in contact with water, emit flammable gases

Substances or wastes which by interaction with water, are liable to become spontaneously flammable or give off flammable gases in dangerous quantities.

5.1. H5.1 Oxidising

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

5.2 H5.2 Organic Peroxides

Organic substances or wastes which contain the bivalent O-O structure are thermally unstable substances which may undergo exothermic self-accelerating decomposition spontaneous heating under normal conditions encountered in transport, or to heating up on contact with air, and being then liable to catch fire.

6.1 H6.1 Poisonous (Acute)

Substances or wastes liable either to cause death or serious injury or to harm human health if swallowed or inhaled or by skin contact which by interaction with water, are liable to become spontaneously flammable or give off flammable gases in dangerous quantities.

6.2 Infectious substances

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

7 Radioactive materials

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

8 H8 Corrosives

Substances or wastes which, by chemical action, will cause severe damage when in contact with living tissue, or in the case of leakage, will materially

damage, or even destroy, other goods or the means of transport; they may also cause other hazards.

10 H10 Liberation of toxic gases in contact with air or water

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

11 H11 Toxic (Delayed or chronic)

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

12 H12 Ecotoxic

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

13 H13

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

THIRD SCHEDULE

Sections 2 and 14

WASTE MANAGEMENT POLICY STAKEHOLDERS

Ministries responsible for

- Agriculture and Fisheries
- Tourism & Environment
- Legal Affairs
- Planning
- Trade
- Education
- Health

The Environmental Awareness Group

St. John's Development Corporation

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Department of Marine Affairs

Antigua Port Authority

Central Board of Health

Coast Guard

Development Control Authority

National Parks Authority

Royal Antigua Police

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Passed the House of Representatives

Passed the Senate

this day of
2005

this day of 2005

Speaker

President

Clerk to the House of Representatives

Clerk to the Senate

EXPLANATORY MEMORANDUM

This Bill seeks to amend the National Waste Management Authority Act with a view to improving the scheme of waste management in a developing society.

The amendment in clause 2 would introduce new definitions of the terms and re-define some of the existing terms used in the principal Act.

Section 3 of the principal Act is replaced by a new section which expands the scope of the functions of the Authority. The Authority would be authorised to prepare a twenty year strategic plan to identify facility and equipment needs and the capital cost requirement for the period. The Authority would also be required to prepare a five year operational plan to identify staffing and training requirement of the Authority and to prepare a recurrent cost and a financial and cost recovery plan to meet the capital and recurrent cost projections identified.

The amendment proposes for an annual update and revision of the Strategic plan which would be submitted to the Cabinet for approval.

Clause 4 of the Bill repeals and replaces section 14 of the principal Act. The new provision would authorise the Minister to make regulations recommended by the Authority. Such regulations would make provisions for the carrying out of the purposes of the Act and for prescribing fees to be charged for services rendered by the Authority. Under this clause, the Minister would be authorised to amend the regulations after consultation with the Authority and the Waste Management stakeholders specified in the Third Schedule.

Clause 5 seeks to add five new provisions to the principal Act, namely sections 15, 16, 17, 18, 19 and 20. The proposed section 15 would prescribe the powers of authorised officers and would empower such authorised officers to stop any vehicle believed to be transporting waste and verify whether the condition of a waste haulage permit granted under the Act is being complied with. An authorised officer

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would be appointed by the Minister.

Paragraph 2 of the Schedule would also make provision for the constitution of a quorum. A quorum would be constituted under the proposed amendment by the presence of either the chairman or deputy chairman and three other members of the Authority.

For the proper implementation of the management of solid waste under the Act, the category and characteristics of waste deemed to be hazardous are described and specified in the Second Schedule.

The Third Schedule specifies the institutions and organizations which are referred to in clauses 2 and 4 as waste management policy stakeholders.

**Attorney General and
Minister of Legal Affairs**

ANTIGUA AND BARBUDA

**THE NATIONAL SOLID WASTE MANAGEMENT AUTHORITY
(AMENDMENT) ACT 2005**

ARRANGEMENT OF SECTIONS

Section

1. Short title.
2. Amendment of section 2.
3. Amendment of Schedule to Principal Act.
4. Section 5 repealed and replaced.
5. Amendment of Section 14.
6. Section 15 repealed and sections 15, 16, 17, 18, 19, 20, 21 and 22 added.
7. Amendment of Schedule and the addition of Second and Third Schedules.