



Secretariat Unit

Bill Essentials

The Waste Recycling Bill, 2015

An Act to provide for the establishment of a Waste Recycling Management Authority and a Resource Recovery Fund to facilitate the efficient coordination of the implementation of a waste recycling system that would protect human health and the environment.

Bill No: HOR Bill 9 of 2015

Introduced in: The House of Representatives

Introduced on: May 20, 2015

Introduced by: Sen. Hon. Ganga Singh [Minister of the Environment and Water Resources]



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Background

The Waste Recycling Bill, 2015 will be introduced and read for a first time in the House of Representatives on Wednesday May 20, 2015 by Senator Ganga Singh, Minister of the Environment and Water Resources.

Purpose of the Bill

The Bill seeks to establish a Waste Recycling Management Authority and a Resource Recovery Fund to facilitate the efficient coordination of the implementation of a waste recycling system that would protect human health and the environment. The Bill is comprised of thirty nine (39) clauses.

Legislation mentioned in the Bill

Environmental Management Act Chap. 35:05¹

Guarantee of Loans (Statutory Authorities) Act Chap. 71:81²

Key Features of proposed Legislation

Part I-Preliminary

1. Clause 1 would set out the short title of the Bill.
2. Clause 2 would provide for the Act to come into force on Proclamation.
3. Clause 3 would provide the definition of certain words and phrases used in the Act.
4. Clause 4 would prescribe the objects of the Act.
5. Clause 5 would empower the Minister to give the Authority specific and general directions with respect to the performance of its functions.
6. Clause 6 would provide for the Act to bind the State.

Part II-Establishment and Organization of the Waste Recycling Management Authority

7. Clause 7 would establish a body corporate to be known as “the Waste Recycling Management Authority”, and would provide for the Authority to be governed by a Board of Directors. The clause would also provide for the President to appoint members to the Board including a Chairman of the Board, and for the Board to appoint a Managing Director who shall be an ex officio member of the Board. Further, the clause would provide for the remuneration of members of the Board.
8. Clause 8 would provide for the custody and use of the Seal of the Authority.
9. Clause 9 would detail the procedure to be followed at meetings of the Authority.
10. Clause 10 would give the Authority the power to delegate its functions to the Managing Director or to any governmental entity, as it thinks fit.
11. Clause 11 would prescribe the functions and remuneration of the Managing Director.

¹ <http://rgd.legalaffairs.gov.tt/Laws2/Alphabetical List/lawspdfs/35.05.pdf>

² <http://rgd.legalaffairs.gov.tt/Laws2/Alphabetical List/lawspdfs/71.81.pdf>

12. Clause 12 would give the Board the power to appoint a Corporate Secretary, and the Authority the power to appoint other personnel, as it considers necessary.
13. Clause 13 would provide for Board members and personnel of the Authority to be exempt from personal liability for any act or omission of the Authority, or for anything done, permitted to be done or omitted in good faith in the course of operations of the Authority.
14. Clause 14 would give the Board the power to appoint committees, working groups or advisory councils as it thinks fit to assist in the performance of its functions and in achieving the objects of the Act.
15. Clause 15 would provide for the Chairman of the Board to submit an annual report of the operations of the Authority during that financial year to the Minister, and for the Minister to cause a copy of the report to be laid in Parliament.

Part III-Functions and Powers of the Authority

16. Clause 16 would prescribe the functions of the Authority.
17. Clause 17 would prescribe the powers of the Authority.
18. Clause 18 would provide for the Minister to cause the National Waste Recycling Policy to be laid in the Parliament within six months of the commencement of the Act. It would also provide for the Board to review the Policy and to produce a Draft Revised Policy which shall be submitted for public comment.

Part IV-Finances of the Authority

19. Clause 19 would prescribe the funds and resources of the Authority.
20. Clause 20 would provide for the Authority to be exempt from the payment of certain duties and taxes.
21. Clause 21 would prescribe the borrowing powers of the Authority.
22. Clause 22 would provide for the Authority to be a Statutory Authority for the purposes of the Guarantee of Loans (Statutory Authorities) Act, Chap. 71:81.
23. Clause 23 would provide for the funds of the Authority which are not immediately required to be expended in meeting any obligations or commitments to be invested in a manner approved by the Minister of Finance.
24. Clause 24 would provide for the Authority to cause proper accounts and records of its transactions to be kept in accordance with accounting standards established by the Institute of Chartered Accountants of Trinidad and Tobago.
25. Clause 25 would provide of the accounts of the Authority to be public accounts for the purposes of section 116 of the Constitution.
26. Clause 26 would provide for the Authority to submit estimates of its revenue and expenditure for the next financial year to the Minister of Finance, not later than the date specified by the Minister of Finance.

Part V-Resource Recovery Fund

27. Clause 27 would provide for the establishment of a Fund to be known as the “Resource Recovery Fund”, and for the Fund to be used for the purposes of operating the deposit refund system and other incentives to encourage recycling.
28. Clause 28 would provide for the President to designate five members of the Board, other than the Managing Director, to act as Trustees for the Fund.
29. Clause 29 would prescribe the resources of the Fund.
30. Clause 30 would provide for the monies of the Fund which are not immediately required to be expended in meeting any obligations to be invested in a manner as the Trustees consider appropriate, with the object of preserving the principal and achieving a reasonable rate of return on the investment, and shall be approved by the Board and the Minister of Finance. It would also provide for the Trustees to have the power to buy and sell securities or other obligations as the Board deems appropriate.
31. Clause 31 would provide for the Authority to cause proper accounts and records of its transactions and affairs to be kept in accordance with accounting standards established by the Institute of Chartered Accountants of Trinidad and Tobago. It would also provide for the accounts of the Fund to be public accounts for the purposes of section 116 of the Constitution, and for the Trustees to submit a report of the proceedings and policies of the Fund during the preceding financial year and other specified information to the Board, not later than three months after the end of each financial year.

Part VI-Compliance and Enforcement

32. Clause 32 would provide for the Authority to designate suitably qualified persons as authorised officers for the proper administration of the Act.
33. Clause 33 would provide for an authorised officer to enter and search any premises with the consent of the owner or occupier or under a warrant issued by a Magistrate, after producing evidence of his authority. It would also prescribe the powers of the authorised officer upon entry into the premises.

Part VII-Regulations

34. Clause 34 would empower the Minister on the recommendation of the Authority, to make Regulations to give effect to the provisions of the Act, subject to negative resolution of Parliament. It would also provide a penalty on summary conviction to a fine of five million dollars and imprisonment for two years, for contravention of the Regulations.

Part VIII-Miscellaneous

35. Clause 35 would provide for documents to be served on the Authority to be addressed to the Managing Director and for service of the documents to be effected by delivery of the documents or by sending the documents by registered post, to the office of the Authority.

36. Clause 36 would make it an offence for a person involved in the administration of the Act to disclose confidential facts, information and records obtained or furnished under this Act, except in so far as public duty requires, or any other written law permits the disclosure or requires that official action be taken.
37. Clause 37 would provide for a person aggrieved by a decision of the Authority to appeal to the Environmental Commission.
38. Clause 38 would give the Attorney General the power to intervene in any proceeding before the Environmental Commission as the official representative of the Government of Trinidad and Tobago.
39. Clause 39 would provide for an employee of the Authority, member of the Board, Trustee or authorised officer who has any actual or reasonably perceived interest in a matter which would otherwise come before the individual as part of the consideration or other action to be taken by the authority, to declare the nature of the interest at the first practicable opportunity. It would also provide for any action taken by the Board or the Authority before the interest has been declared to be subject to reconsideration by the Board or the Authority.

Considerations

- The Bill provides that no personal liability shall attach to Board Members or employees of the Authority for anything done in good faith in the course of the operations of the Authority.
- The Bill gives the Authority power to accept gifts, devises and bequeaths.
- In clause 39, the Bill does not define 'immediate family relationship'.
- Regulations may provide that contravention thereof shall be punishable by a maximum fine of five million dollars (\$5,000,000.00) and maximum imprisonment of two years.
- Clause 39(4) provides that any Member of the Board, Trustee, employee or authorized officer who knowingly violates the conflict of interest provisions is liable to a maximum fine of two hundred thousand dollars (\$200,000.00) and maximum imprisonment of two years.

Comparative Legislation in other Jurisdictions

Country	Legislation	Remarks
Australia (Queensland)	Waste Reduction and Recycling Act 2011 ³	An Act to encourage the proper use of resources by improving was of reducing and dealing with waste and to repeal the Environmental Protection (Waste Management) Policy 2000
United Kingdom	Waste Minimisation Act 1998	An Act to enable certain local authorities to make arrangements to minimise the generation of waste in their area; and for related purposes.
New Zealand	Waste Minimisation Act 2008 ⁴	The purpose of the Act is to encourage waste minimisation and a decrease in waste disposal in order to (a) Protect the environment from harm; and (b) Provide environmental, social, economic and cultural benefits
South Africa	National Environmental Management: Waste Act, 2008 ⁵	To reform the law regulating waste management in order to protect health and the environment by providing reasonable measures for the prevention of pollution and ecological degradation and for securing ecologically sustainable development; to provide for institutional arrangements and planning matters; to provide for national norms and standards for regulating the management of waste by all spheres of government; to provide for specific waste management measures; to provide for the licensing and control of waste management activities; to provide for the remediation of contaminated land; to provide for the national waste information system; to provide for compliance and enforcement; and to provide for matters connected therewith.
Canada (Manitoba)	Waste Reduction and Prevention Act ⁶	The purpose of this Act is to reduce and prevent the production and disposal of waste in the province consistent with the principles of sustainable development and to this end (a) to encourage consumers, manufacturers, distributors, retailers, governments, government agencies and other persons to develop and adopt practices and programs for the reduction and prevention of waste;

³ <https://www.legislation.qld.gov.au/LEGISLTN/CURRENT/W/WasteRedRecA11.pdf>

⁴ <http://www.legislation.govt.nz/act/public/2008/0089/latest/DLM999802.html>

⁵ <http://sawic.environment.gov.za/documents/384.pdf>

⁶ <http://web2.gov.mb.ca/laws/statutes/ccsm/w040e.php>

		<p>(b) to enhance public awareness of the detrimental effect of waste on the environment and the natural resources of the province; and</p> <p>(c) to ensure the use of resources and the environment today meet the needs of the present without compromising the ability of future generations to meet their own needs.</p>
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