

WASTE DISPOSAL ACT.

New South Wales



ANNO UNDEVICESIMO

ELIZABETHÆ II REGINÆ

Act No. 97, 1970.

An Act to provide for the constitution of a corporation to be called the "Metropolitan Waste Disposal Authority"; 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 for purposes connected therewith. [Assented to, 9th December, 1970.]

BE

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BE it enacted by the Queen's Most Excellent Majesty, by No. 97, 1970 and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

PART I.

PRELIMINARY.

1. (1) This Act may be cited as the "Waste Disposal Act, 1970". Short title and commencement.

(2) This Act, Part V excepted, shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

(3) Part V of this Act 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 two of this section.

2. This Act is divided as follows:—

Division of Act.

PART I.—PRELIMINARY—ss. 1–5.

PART II.—CONSTITUTION OF THE METROPOLITAN WASTE DISPOSAL REGION—s. 6.

PART III.—CONSTITUTION OF THE METROPOLITAN WASTE DISPOSAL AUTHORITY—ss. 7–16.

PART IV.—RESPONSIBILITIES, POWERS, AUTHORITIES, DUTIES AND FUNCTIONS OF THE METROPOLITAN WASTE DISPOSAL AUTHORITY—ss. 17–21.

PART V.—REGISTRATION AND LICENSING—ss. 22–28.

PART VI.—FINANCE—ss. 29–42.

PART VII.—GENERAL—ss. 43–58.

SCHEDULE.

3.

No. 97, 1970 3. This Act binds the Crown.

Act binds
the Crown.

Effect of
this Act
on other
Acts.

4. (1) 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 State Pollution Control Commission Act, 1970, the Clean Air Act, 1961, the Clean Waters Act, 1970, or the Prevention of Oil Pollution of Navigable Waters Act, 1960, or any regulations made under any of those Acts), the provisions of this Act shall prevail.

(2) 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 State Pollution Control Commission Act, 1970, the Clean Air Act, 1961, the Clean Waters Act, 1970, or the Prevention of Oil Pollution of Navigable Waters Act, 1960), the provisions of the regulation made under this Act shall prevail.

Interpreta-
tion.

5. 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;

“Authority” means the Metropolitan Waste Disposal Authority constituted by Part III of this Act;

“council” has the meaning ascribed thereto in the Local Government Act, 1919, and includes a county council constituted under that Act;

“depot” means any premises, other than a regional depot, to which waste is transported from any other premises for treatment, storage or disposal;

“Deputy Director” means the person appointed as the Deputy Director of the Authority;

“Director” means the person appointed as the Director of the Authority;

“effluent”

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- “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; No. 97, 1970
- “garbage” means all refuse other than trade waste and effluent;
- “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;
- “regional depot” means a regional depot established by the Authority under Part IV of this Act;
- “regulations” means regulations made 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” means effluent, garbage or trade waste.

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PART II.

CONSTITUTION OF THE METROPOLITAN WASTE DISPOSAL
REGION.

Constitution
of the
Metropoli-
tan 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 the Schedule to this Act 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, the Schedule to this Act shall be deemed to be amended accordingly and that Schedule, as deemed to be so amended, shall be the Schedule to this Act.

PART III.

CONSTITUTION OF THE METROPOLITAN WASTE DISPOSAL
AUTHORITY.

Constitution
of the
Metropoli-
tan Waste
Disposal
Authority.

7. (1) There is hereby constituted a corporation under the corporate name of the "Metropolitan Waste Disposal Authority" which—

- (a) shall have the responsibilities and may exercise and perform the powers, authorities, duties and functions conferred or imposed upon it by or under this or any other Act;

(b)

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-
- (b) shall, for the purposes of any Act, be deemed to be No. 97, 1970 a statutory body representing the Crown; and
- (c) shall, in the exercise and performance of its responsibilities, powers, authorities, duties and functions (except when it makes a recommendation or report to the Minister) be subject to the control and direction of the Minister.

(2) The Authority shall consist of—

- (a) six members (in this Part referred to as “appointed members”) appointed by the Governor, of whom—
- (i) one, being a person nominated by the Minister, shall, in and by the instrument of his appointment or by a subsequent instrument executed by the Governor, be appointed as the Director of the Authority;
 - (ii) one, being a person nominated by the Minister, shall, in and by the instrument of his appointment or by a subsequent instrument executed by the Governor, be appointed as the Deputy Director of the Authority;
 - (iii) two shall be persons, who shall be officers of councils and who shall be nominated by the Minister from a panel of six persons nominated by the Local Government Association of New South Wales within such period, as may, from time to time, be fixed by the Minister and notified by him to that association; and
 - (iv) two shall be persons who shall be nominated by the Minister and who shall have, in the opinion of the Minister, special knowledge and experience in industry; and

(b)

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(b) one other member who shall be the person for the time being holding the office of President of The Metropolitan Water Sewerage and Drainage Board.

(3) If within the period referred to in subparagraph (iii) of paragraph (a) of subsection two of this section a panel is not nominated as provided by that subparagraph, the Governor may appoint two officers of councils, nominated by the Minister, to be members of the Authority instead of the members required to be appointed from the panel referred to in that subparagraph.

(4) An appointed member shall, subject to this Act, hold office as such a member for such term not exceeding five years as may be specified in the instrument of his appointment and shall, if otherwise qualified, be eligible for re-appointment from time to time.

(5) Any such re-appointment shall be for such term not exceeding five years as may be specified in the instrument of re-appointment.

(6) The member of the Authority referred to in paragraph (b) of subsection two of this section may from time to time nominate in writing a person as his deputy to attend any meeting of the Authority that that member is unable for any reason to attend and the person so nominated—

(a) shall have and may exercise and perform the powers, authorities, duties or functions of that member; and

(b) if he is not otherwise a member of the Authority, shall be deemed to be such a member.

(7) On the occurrence of a vacancy in the office of an appointed member otherwise than by the expiration of the term for which he was appointed, the Governor may appoint a person to fill the vacant office so that the Authority is constituted as provided by subsection two of this section.

(8)

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(8) A person who is of or above the age— No. 97, 1970

(a) of sixty-five years shall not be appointed as the Director or Deputy Director; or

(b) of seventy years shall not be appointed as an appointed member.

(9) During the absence or illness of the Director, the Deputy Director shall act in his place, and whilst so acting shall have and may exercise and perform the powers, authorities, duties and functions of the Director.

(10) No person shall be concerned to inquire whether or not any occasion has arisen requiring or authorising the Deputy Director to act in the place of the Director, and all acts and things done or omitted by the Deputy Director while so acting shall be as valid and effectual and shall have the same consequences as if they had been done or omitted by the Director.

(11) The Director and the Deputy Director shall devote the whole of their time to the duties of their offices and shall receive such annual salaries and allowances as the Governor may from time to time determine.

(12) Each appointed member, other than the Director or Deputy Director, shall receive such remuneration and allowances as the Governor may from time to time determine in respect of that member.

(13) Where by or under any other Act provision is made requiring the holder of an office specified therein to devote the whole of his time to the duties of his office, or prohibiting him from engaging in employment outside the duties of his office, that provision shall not operate to disqualify him from holding that office and also the office of a member of the Authority, other than the office of Director or Deputy Director, or from accepting and retaining any remuneration or allowances payable to him under this section.

No. 97, 1970 — (14) The office of a member of the Authority, other than the Director or Deputy Director, shall not for the purposes of any Act be deemed to be an office or place of profit under the Crown.

(15) The provisions of the Public Service Act, 1902, shall not apply to or in respect of the appointment by the Governor of any appointed member and any such member shall not, in his capacity as such a member, be subject to the provisions of that Act during his term of office.

Casual
vacancy.

8. (1) An appointed member shall be deemed to have vacated his office—

- (a) if he dies;
- (b) if, being the Director or the Deputy Director, he engages during his term of office in any paid employment outside the duties of his office;
- (c) if, being the Director or the Deputy Director, he absents himself from duty for a period exceeding fourteen consecutive days, except on leave granted by the Minister (which leave the Minister is hereby authorised to grant) unless his absence is occasioned by illness or other unavoidable cause;
- (d) if, being a member other than the Director or the Deputy Director, he is absent from four consecutive ordinary meetings of the Authority of which reasonable notice has been given him either personally or in the ordinary course of post unless on leave granted by the Authority or unless he is, before the expiration of four weeks after the last of those meetings, excused by the Authority for his absence from those meetings;
- (e) if he becomes bankrupt, compounds with his creditors, or makes any assignment of his salary, remuneration, allowances or estate for their benefit;
- (f)

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- (f) if he becomes a mentally ill person, a protected person or an incapable person within the meaning of the Mental Health Act, 1958; No. 97, 1970
- (g) if he is convicted in New South Wales of a felony or of a misdemeanour which is punishable by imprisonment for twelve months or upwards, or if he is convicted elsewhere than in New South Wales of an offence which if committed in New South Wales would be a felony or a misdemeanour so punishable ;
- (h) if he resigns his office by writing under his hand addressed to the Governor, and the Governor accepts the resignation;
- (i) if he is removed from office by the Governor; or
- (j) where he is—
- (i) the Director or the Deputy Director, on the day on which he attains the age of sixty-five years; or
 - (ii) an appointed member, other than the Director or Deputy Director, on the day on which he attains the age of seventy years.

(2) The Governor may, for any cause which appears to him sufficient, remove any appointed member of the Authority from office.

9. Where the Director or Deputy Director was, immediately before his appointment as Director or Deputy Director, an officer of the Public Service and he ceases to be the Director or Deputy Director, otherwise than pursuant to subsection one (paragraph (h) excepted) or two of section eight of this Act, he shall, if he is under the age of sixty years, be appointed to some office in the Public Service not lower in classification and salary than that which he held immediately before that appointment.

Director or Deputy Director entitled to re-appointment to Public Service in certain cases.

No. 97, 1970 **10.** (1) The procedure for the calling of meetings of the Authority and for the conduct of business at those meetings shall, subject to this Act and the regulations, be as determined by the Authority.

Meetings
of the
Authority.

(2) The Director shall preside at all meetings of the Authority at which he is present and, if he is absent from any meeting, the Deputy Director shall preside at that meeting.

(3) Four members of the Authority, including the Director or Deputy Director, or both of them, shall form a quorum and any duly convened meeting of the Authority at which a quorum is present shall be competent to transact any business of the Authority and shall have and may exercise and discharge all the powers, authorities, duties and functions of the Authority.

(4) In the event of an equality of votes at any meeting of the Authority, the person presiding at the meeting shall have, in addition to a deliberative vote, a second or casting vote.

(5) A decision of a majority of the members present at a meeting of the Authority at which a quorum is present shall be the decision of the Authority.

(6) The Authority shall cause full and accurate minutes to be kept of the proceedings at its meetings and shall submit to the Minister a copy of the minutes of each meeting within fourteen days after the day on which it was held.

(7) No matter or thing done, and no contract entered into, by the Authority, and no matter or thing done by any member of the Authority or by any other person whomsoever acting under the direction of the Authority shall, if the matter or thing was done, or the contract was entered into, bona fide for the purpose of executing this Act, subject such a member or a person so acting personally to any action, liability, claim or demand whatsoever.

(8)

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(8) Nothing in subsection seven of this section shall exempt any member of the Authority from liability to be surcharged with the amount of any payment which is disallowed by the Auditor-General in the accounts of the Authority, and which the member authorised or joined in authorising. **No. 97, 1970**

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

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

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

12. The regulations may make provision for and with respect to— **Regulation of servants.**

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

13. (1) Where a servant of the Authority 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 Authority 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 **Payments in respect of long service leave on death of servant.**

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No. 97, 1970 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 one of this section, the payment to which those children are entitled may be made to that guardian for their maintenance, education and advancement.

(3) Where there is no person entitled under subsection one of this section 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 Authority for payment of any amount in respect of that leave.

**Amend-
ment of
Act No. 15,
1944.**

**Second
Schedule.**

**Preserva-
tion of
certain
rights of
Director,
Deputy
Director
and ser-
vants pre-
viously
public
servants
or council
servants,
etc.**

14. The Crown Employees Appeal Board Act, 1944, is amended by inserting at the end of the Second Schedule the words "Metropolitan Waste Disposal Authority".

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 the Director or Deputy Director or as a servant of the Authority 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 Authority, and for the purposes of this subsection his service as the Director or Deputy Director or 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.

(2)

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(2) The Director or Deputy Director or a servant **No. 97, 1970** of the Authority shall not, in respect of the same period of service, be entitled to claim a benefit under this Act and another Act.

(3) Where the Director or Deputy Director or a servant of the Authority contributes to a fund or account as referred to in subsection one of this section, the Authority 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 Director or Deputy Director or 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 the Director or Deputy Director or 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.

16. (1) For the purposes of exercising and performing the powers, authorities, duties and functions conferred or imposed on the Authority by this or any other Act, the Authority 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.

Authority may make use of facilities and employees of the Crown, etc.

(2) The Authority 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 Authority may appoint and employ on such terms and conditions as it thinks fit and for any particular purpose specified in a resolution of the Authority any person,

No. 97, 1970 body or organisation considered capable of providing services, information or advice required by the Authority in exercising and performing the powers, authorities, duties and functions conferred or imposed upon it by this or any other Act.

PART IV.

RESPONSIBILITIES, POWERS, AUTHORITIES, DUTIES AND
FUNCTIONS OF THE METROPOLITAN WASTE DISPOSAL
AUTHORITY.

Responsibilities, powers, authorities, duties and functions.

17. (1) Subject to this Act, the Authority is charged with the responsibility for the disposal of waste in the Metropolitan Waste Disposal Region.

(2) In addition to, and for the purpose of discharging, its responsibility under subsection one of this section, the Authority shall have and may exercise and perform the following powers, authorities, duties and functions—

- (a) to carry out or commission surveys and investigations into problems relating to the creation, transportation, collection, reception, treatment, storage or disposal of waste;
- (b) to confer with the State Pollution Control Commission on matters relating to the creation, transportation, collection, reception, treatment, storage or disposal of waste, and after so conferring, to recommend to the Minister any legislative or other action which the Authority considers necessary and practicable for the extension or alteration of the powers, authorities, duties and functions of the Authority or the constitution of further bodies to exercise and discharge responsibilities, powers, authorities, duties and functions in respect of the transportation, collection, reception, treatment, storage or disposal of waste in regions outside the Metropolitan Waste Disposal Region;

(c)

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- (c) to prepare and furnish reports, and to advise and make recommendations, to the Minister upon any matter relating to the creation, transportation, collection, reception, treatment, storage or disposal of waste that may be referred to it by the Minister; **No. 97, 1970**
- (d) to submit, of its own motion, reports and recommendations for consideration by the Minister on matters relating generally to the creation, transportation, collection, reception, treatment, storage or disposal of waste;
- (e) to exercise and perform such other powers, authorities, duties and functions as are conferred or imposed on it by or under this or any other Act;
- (f) to do such supplemental, incidental or consequential acts as may be necessary or expedient for the exercise and performance of its responsibilities, powers, authorities, duties and functions under this or any other Act.

(3) Nothing in subsection one of this section 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.

18. Subject to this Act and the provisions of Part XIIA of the Local Government Act, 1919, and any ordinance or interim development order made under that Part, the Authority may establish regional depots for the reception, treatment, storage or disposal of waste 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. **Establishment of regional depots.**

19.

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No. 97, 1970 **19.** (1) The Authority 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 Authority of its responsibilities, powers, authorities, duties and functions under this or any other Act.

Contracts.

(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 Authority 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 Authority 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 Authority may determine and the Minister approve.

Delegation. **21.** (1) The Authority may by instrument in writing under seal delegate—

- (a) to any member of the Authority;
- (b) to any servant of the Authority;
- (c) to the council of an area in which a depot is situated or a regional depot is established, or, with the consent of that council, to a servant of that council;

(d)

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- (d) to any officer, servant or employee of whose services the Authority makes use pursuant to this or any other Act; or
- (e) with the approval of the Minister, to any other person,

the exercise or performance of such of the powers (other than this power of delegation), authorities, duties or functions conferred or imposed on the Authority by or under this or any other Act as may be specified in the instrument of delegation.

(2) A power, authority, duty or function, the exercise or performance of which has been delegated under this section may, while the delegation remains unrevoked, be exercised or performed from time to time in accordance with the terms of the delegation by the delegate to whom the exercise or performance thereof has been delegated.

(3) A delegation under this section may be made subject to such conditions or such limitations as to the exercise or performance of any of the powers, authorities, duties or functions delegated, or as to time or circumstance as may be specified in the instrument of delegation.

(4) Notwithstanding any delegation made under this section, the Authority may continue to exercise or perform all or any of the powers, authorities, duties or functions delegated.

(5) Any act or thing done or suffered by a delegate while acting in the exercise of a delegation under this section shall have the same force and effect as if the act or thing done had been done or suffered by the Authority.

PART

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;

(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)

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(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. No. 97, 1970

(5) The regulations may prescribe different periods, not being less than six months, for the purpose of paragraphs (a), (b) and (c) of subsection four of this section.

(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 four of this section in all respects as if those certificates of registration or licences had been granted on application made under subsection one of section twenty-three of this Act.

(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.

No. 97, 1970 23. (1) Application for—

Certificates
of registra-
tion or
licences.

- (a) a certificate of registration in respect of a depot;
- (b) a licence to transport waste for fee or reward; or
- (c) a certificate of registration referred to in subsection three of section twenty-two of this Act,

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 one of this section 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 one of this section, 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

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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 subject to which the certificate or licence was granted; or
- (c) attach new conditions to the certificate or licence.

(5) Any conditions referred to in subsection three or four of this section 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 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 and the routes along which waste or any class or description of waste may be transported by that holder; and
- (c) in relation to a certificate of registration referred to in subsection three of section twenty-two of this Act, include conditions with respect to the storage

and

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and treatment of trade waste or any class or description of trade waste pending its removal from the premises,

and such other conditions as the Authority sees fit to impose.

(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 State Pollution Control Commission confirms the decision; or
- (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 refers a dispute arising out of the decision to the Premier in accordance with section twenty-seven of this Act, until the Premier confirms the decision.

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

24. For the purposes of sections twenty-two and twenty-three of this Act—

- (a) a public authority which transports waste; and

(b)

Waste Disposal.

-
- (b) the occupier of any premises referred to in subsection three of section twenty-two of this Act who transports trade waste, No. 97, 1970

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

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. Duration of certificates of registration and licences.

26. (1) Subject to subsection two of section twenty-seven of this Act, 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 twenty-three of this Act 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 State Pollution Control Commission. Appeals.

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

(3) The State Pollution Control Commission, 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 State Pollution Control Commission in respect of any such appeal shall be final and shall be deemed to be the decision of the Authority.

No. 97, 1970

Disputes
between
Authority
and a
public
authority.

27. (1) 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 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 and the decision of the Premier on the dispute shall be final and shall be deemed to be the decision of the Authority.

(2) A public authority is not entitled to appeal, under section twenty-six of this Act, against a decision of the Authority referred to in subsection one of this section.

(3) Where under any other Act a provision is made for the settlement of a dispute between a public authority constituted under that Act and any other public authority, that provision shall not apply to the settlement of a dispute referred to in subsection one of this section.

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 or Deputy Director 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

Waste Disposal.

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. No. 97, 1970

PART VI.

FINANCE.

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. Contributions to Authority.

(2) The regulations made for the purposes of subsection one of this section 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 three of this section, be a debt due to the Authority and shall be recoverable as a debt in any court of competent jurisdiction.

30. The Treasurer may, out of moneys provided by Parliament, from time to time make such contributions to the funds of the Authority as may be determined by the Treasurer. Contributions by Treasurer.

31.

Waste Disposal.

No. 97, 1970 **31.** (1) The Authority shall cause to be kept proper books of accounts in relation to all of its operations, and shall, as soon as practicable after the thirtieth day of June in each year, prepare and transmit to the Minister for presentation to Parliament a statement of accounts in a form approved by the Auditor-General exhibiting a true and correct view of the financial position and transactions of the Authority.

Accounts
to be kept
by the
Authority.

(2) The Minister shall cause the statement of accounts to be laid before both Houses of Parliament within fourteen sitting days after its receipt by him if Parliament is in session, and if not, then within fourteen sitting days after the commencement of the next session.

Audit of
accounts.

32. (1) The accounts of the Authority shall be audited by the Auditor-General who shall have, in respect thereof, all the powers conferred on him by any law now or hereafter in force relating to the audit of public accounts, and the Audit Act, 1902, shall apply to the members of the Authority and its servants in the same manner as it applies to accounting officers of Public Departments.

(2) The Auditor-General shall report to the Authority and the Minister—

(a) whether or not in his opinion—

- (i) due diligence and care have been shown in the collection and banking of moneys payable to the Authority;
- (ii) any expenditure incurred has been duly authorised, vouched and supervised; and
- (iii) any of the moneys or other property of the Authority have been misappropriated or improperly or irregularly dealt with; and

(b) as to any other matters which in his judgment call for special notice or which are prescribed.

(3)

Waste Disposal.

(3) Towards defraying the costs and expenses of any such audit the Authority shall pay to the Consolidated Revenue Fund such sums, at such times, as the Treasurer may decide. **No. 97, 1970**

33. The Authority may invest moneys held by it in Government securities of the Commonwealth or of the State of New South Wales, or in any securities guaranteed by the Government of that State, or on call or on fixed deposit, or partly on call and partly on fixed deposit, with the Treasurer or with any bank, or in such other securities as the Governor may approve or as may be prescribed. Investment of funds.

34. (1) For the temporary accommodation of the Authority it may obtain advances by overdraft of current account in any bank or banks upon the credit of the Authority's funds to such extent as may from time to time be approved by the Governor. Temporary accommodation.

(2) The Treasurer may advance such moneys to the Authority, upon such terms and conditions as to repayment and interest, as may be agreed upon.

35. The Authority may from time to time with the concurrence of the Treasurer and the approval of the Governor borrow money for— Purposes for which money may be borrowed.

- (a) the purpose of carrying out and performing any of its responsibilities, powers, authorities, duties and functions;
- (b) the renewal of loans;
- (c) the discharge or partial discharge of any loan or any indebtedness to the Treasurer or to any bank; or
- (d) any other purpose of this Act.

36.

No. 97, 1970
Reserves
for
repayments.

36. (1) The Authority shall establish a reserve for loan repayment fund in respect of each loan or renewal loan raised by the Authority.

(2) The Authority shall during each year transfer to each such fund from the revenue of the Authority a sum not less than the sum that the Authority in its application for approval of the loan specified that it proposed to transfer to that fund.

(3) Moneys held as a reserve for loan repayment may be invested in Government securities of the Commonwealth or of the State of New South Wales, or in debentures, bonds, inscribed stock or other prescribed securities in any loan of the Authority, or in any securities guaranteed by the Government of that State, or in such other securities as the Governor may approve or as may be prescribed, in each case at their current market price.

(4) Any interest or profits realised on such investments shall be added to and form part of the reserve for loan repayment fund from which the investments were made.

(5) All moneys paid into the reserve for loan repayment fund in respect of any loan or renewal loan may be applied in or towards repayment of any other loan or renewal loan but may not be applied for any other purpose until the loan or renewal loan in respect of which the fund has been established has been repaid.

(6) Where the Authority decides to cancel debentures, bonds, inscribed stock or other prescribed securities purchased from the reserve for repayment of the loan for which they were issued, the Authority shall, in addition to the sum otherwise payable to the reserve for repayment of that loan and subject to any agreement to which it is a party whereby it undertakes to pay interest at a higher rate to that reserve, pay to that reserve interest at the rate of four and one-half per centum per annum on the face value of the cancelled securities from the date of their cancellation until the maturity of the loan.

(7)

Waste Disposal.

(7) If, after a loan has been repaid, there remains No. 97, 1970 in the reserve for repayment of that loan any balance, that balance shall form part of the general funds of the Authority.

(8) A reserve for loan repayment fund shall not be subject to seizure in satisfaction of any debt other than the loan in respect of which the reserve was created.

(9) This section shall not apply to any loan to be repaid by instalments at intervals of one year or less.

37. (1) For securing the repayment of the principal and interest on any moneys borrowed, the Authority may as provided by the regulations issue debentures, bonds, inscribed stock or other prescribed securities. ^{Debentures, etc.}

(2) Every such debenture or bond and every coupon originally annexed to the debenture or bond and whether separated therefrom or not shall be transferable by simple delivery.

(3) Inscribed stock shall be transferable in the books of the Authority in accordance with the regulations.

(4) Debentures, bonds, inscribed stock or prescribed securities issued under this Act shall as regards both the issue and transfer thereof for full consideration or money or money's worth be deemed to be included in the general exemptions from stamp duty under Part III of the Stamp Duties Act, 1920, contained in the Second Schedule to that Act.

(5) The holder of a coupon originally annexed to a debenture or bond and whether separated therefrom or not shall be entitled to receive payment from the Authority of the interest specified in the coupon upon its presentation on or after the date when, and at the place where, the interest is payable.

(6)

No. 97, 1970

(6) The due repayment of any loan in respect of which debentures, bonds, stock or any other prescribed securities have been issued by the Authority, and the interest thereon, shall be a charge upon the income and revenue of the Authority from whatever source arising and is hereby guaranteed by the Government.

(7) Any liability arising under the guarantee given by subsection six of this section shall be discharged out of moneys provided by Parliament.

(8) The charge created by subsection six of this section shall not prejudice or affect any power of the Authority to sell, convey, lease or otherwise deal with, free of the charge, any property vested in it.

**Raising
loans
in any
country.**

38. (1) Notwithstanding anything contained in this Part any money which the Authority is authorised to borrow may be borrowed by a loan raised wholly or in part in such place outside New South Wales as the Governor on the recommendation of the Treasurer may approve, and may be negotiated and raised in any currency.

(2) Any such loan may be raised wholly or in part by the issue of debentures, bonds, stock or other securities in any form and containing any term, condition or provision permitted under the law of the place where the loan is raised, and the Authority may establish and conduct in that place registries relating to the securities issued in respect of that loan.

(3) The Authority may in respect of any such loan agree that a sinking fund shall be established and controlled at such place and in such manner as may be found necessary or expedient in the circumstances of the case and, where any sinking fund is so established, the provisions of section thirty-six of this Act shall apply with regard to that loan only in respect of the amount, if any, the repayment of which is not provided for by the sinking fund established under the agreement.

(4)

Waste Disposal.

(4) In connection with the raising of any loan under No. 97, 1970 this section, the Authority may enter into such agreements as it thinks fit with respect to the form of the debentures, bonds, stock or other securities referred to in subsection two of this section, or for the sale of those debentures, bonds, stock or other securities, or the granting of an option to purchase those debentures, bonds, stock or other securities, or for services to be performed by any person in Australia or in any other part of the world in connection with that loan or with the issue, management and redemption of or otherwise with respect to those debentures, bonds, stock or other securities, and any such agreement may be upon such terms and conditions and may contain such provisions for the giving or receipt of consideration as the Authority thinks fit. Copies of any such agreement shall be forwarded to the Minister who shall cause them to be laid before both Houses of Parliament as soon as possible after the loan is raised.

(5) The Governor may, upon the recommendation of the Authority, by notification published in the Gazette, appoint two or more persons to enter into for and on behalf of the Authority all such agreements as the Authority is by this section authorised to enter into and to sign, execute, or otherwise perfect all such agreements, debentures, bonds, stock or other securities as are by this section provided for and to do all such things as may be necessary or convenient to be done for the purpose of raising any loan under this Act and may, upon the like recommendation and by a like notification, revoke or vary any such appointment and make any fresh appointment.

The production of a copy of the Gazette containing a notification of any such appointment or revocation shall in favour of a lender or of any holder of a security be conclusive evidence of the appointment or revocation.

(6) All debentures, bonds, stock or other securities bearing the signatures of the persons so appointed in that behalf shall be deemed to be securities lawfully issued under seal by the Authority and the principal moneys and interest secured thereby shall be a charge upon the income and
revenue

Waste Disposal.

No. 97, 1970 revenue of the Authority from whatsoever source arising, and the due repayment of those principal moneys and that interest is hereby guaranteed by the Government, and all agreements and any instruments purporting to be made or issued under the authority of this section and bearing the signatures of those persons shall be deemed to have been lawfully made or issued by the Authority and, if they purport to have been sealed by those persons, to have been lawfully executed by the Authority under seal.

A holder of any such debenture, bond, stock or other security shall not be bound to inquire whether the issue of the debenture, bond, stock or security was in fact duly authorised.

(7) Subject to this section and the law in force in the place where any loan is raised under this section and applicable to that loan and the securities issued in connection therewith, the provisions of this Part (other than subsection one of section thirty-seven and subsections three and four of section forty) shall apply, *mutatis mutandis*, to and in respect of that loan and those securities.

Trustees. 39. (1) Any trustee, unless expressly forbidden by any instrument creating the trust, may invest any trust moneys in his hands in stock inscribed by the Authority, and the investment shall be deemed to be an investment authorised by the Trustee Act, 1925.

(2) Any debenture issued or stock inscribed by the Authority shall be a lawful investment for any moneys which any company, council or body corporate incorporated by any Act is authorised or directed to invest in addition to any other investment expressly provided for the investment of those moneys.

(3) No notice of any express, implied or constructive trust shall be received by the Authority or by any servant of the Authority in relation to any debenture or coupon issued or stock inscribed by the Authority.

Waste Disposal.

40. (1) If any debenture or bond issued by the Authority ^{No. 97, 1970} is lost, destroyed or defaced before it has been redeemed, the Authority may, subject to the provisions of this section, issue ^{Lost} a new debenture or bond in lieu thereof. _{debentures.}

(2) A new debenture or bond issued under subsection one of this section with interest coupon annexed shall bear the same date, number, principal sum, and rate of interest as the lost, destroyed or defaced debenture or bond.

(3) Where a debenture or bond is lost or destroyed, a new debenture or bond shall not be issued unless—

- (a) a judge of the Supreme Court has been satisfied by affidavit of the person entitled to the lost or destroyed debenture or bond, or of some other person approved by the judge, that it has been lost or destroyed before redemption;
- (b) such advertisements as the judge may direct have been published;
- (c) six months have elapsed since the publication of the last of those advertisements; and
- (d) sufficient security has been given to the Authority to indemnify it against any double payment if the missing debenture or bond is presented for redemption.

(4) Where a debenture or bond is defaced, a new debenture or bond shall not be issued unless and until the defaced debenture or bond is lodged with the Authority for cancellation.

(5) The provisions of this section shall, *mutatis mutandis*, extend to the case of a lost, destroyed, or defaced coupon.

(6) Notwithstanding any other provision of this section, in case of the loss, theft, destruction, mutilation or defacement of any debenture or bond issued under section

No. 97, 1970 thirty-eight of this Act, a duplicate or new debenture or bond may be issued upon proof to the satisfaction of the Authority of such loss, theft, or destruction, or upon surrender of the mutilated or defaced debenture or bond, as the case may be, and upon the Authority receiving security or indemnity satisfactory to it against double payment if the missing debenture or bond be at any time thereafter presented for payment.

Protection
of
investments.

41. (1) A person advancing money to the Authority shall not be bound to inquire into the application of the money advanced, or be in any way responsible for its non-application or misapplication.

(2) A notification in the Gazette of the approval of the Governor having been given to a borrowing by the Authority shall, in favour of a lender and of any holder of security given by the Authority, be conclusive evidence that all conditions precedent to the borrowing have been complied with and, where the approval notified is to the borrowing by the Authority in a place outside New South Wales and in a particular currency, shall also be conclusive evidence in favour of those persons of the approval of the Governor to the borrowing in the place and in the currency specified in the notification.

Debentures,
bonds, etc.,
to rank
pari passu.

42. All debentures, bonds, stock or other securities which are secured upon the income and revenue of the Authority shall rank pari passu without any preference one above another by reason of priority of date or otherwise.

PART VII.

GENERAL.

Acquisition
of land for
regional
depots.

43. (1) The Authority 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)

Waste Disposal.

(2) Where the Authority—

No. 97, 1970

- (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 V 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 two of this section of a notification under Division 1 of Part V of that Act, the land described or referred to in the notification shall vest in the Authority 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 two of section 536A and sections 536AA to 536DH, both inclusive, of the Local Government Act, 1919, shall, mutatis mutandis and subject to subsection five of this section, apply to and in respect of the appropriation or resumption of land pursuant to this section and matters incidental thereto.

(5)

Waste Disposal.

No. 97, 1970

(5) For the purposes only of subsection four of this section, 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 Authority; and

(b) (i) paragraphs (a), (c) and (d) of subsection two of section 536c had been omitted therefrom; and

(ii) the words “construction of any works” were omitted from paragraph (e) of the same subsection and the words “establishment of a regional depot” were inserted in lieu thereof.

(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 Authority 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 Authority 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.

45.

Waste Disposal.

45. (1) The Authority shall, as and when required by **No. 97, 1970** the Minister or the State Pollution Control Commission, and may, of its own motion but subject to subsection two of this section, hold an inquiry into and make a report and recommendation to the Minister or that Commission on any matter or thing relating to the creation, transportation, collection, reception, storage, treatment or disposal of waste or otherwise relating to waste. ^{Inquiries.}

(2) The Authority shall not commence to hold an inquiry, of its own motion, under subsection one of this section unless, at least seven days before doing so, it has notified the State Pollution Control Commission that it intends to do so and the Authority shall, if required to do so by that Commission, refrain from holding any such inquiry.

(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 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 thirteen 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)

No. 97, 1970 (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 three of this section 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 six of this section, 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—

- (a) receives waste at a regional depot;
- (b) makes any registration;
- (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 determines.

(2)

Waste Disposal.

(2) Where the Authority receives any waste at a regional depot it shall include in the charge or fee made or demanded for doing so an amount equal to the amount of the contribution that would be payable under section twenty-nine of this Act if the waste were received at a depot.

No. 97, 1970

47. (1) All waste received at any regional depot shall be the property of the Authority.

Property in, and sale of, waste.

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

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

Penalty : One thousand dollars.

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

Powers of authorised persons to enter premises and give directions.

(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 he considers necessary in connection with the administration of this Act.

(2)

No. 97, 1970

(2) A person shall not wilfully delay or obstruct a person authorised under subsection one of this section 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.

(3) A person authorised under subsection one of this section 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 three of this section 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 V of this Act.

Penalty : One thousand dollars.

(5) A person authorised under subsection one of this section shall not, except in circumstances that he considers to be an emergency, give a direction under subsection three of this section 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 V of this Act.

(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 three of this section.

(7) Every person authorised under subsection one of this section 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

Waste Disposal.

or on giving a direction under this section shall, if requested **No. 97, 1970** 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.

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. Occupier of premises may be required to furnish information.

(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 one of this section 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.

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— Disclosure of information.

- (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)

Waste Disposal.

- No. 97, 1970** (c) subject to the provisions of section forty-nine of this Act, 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.

Proof of certain matters not required. **51.** In any legal proceedings by or against the Authority no proof shall be required (until evidence is given to the contrary) of—

- (a) the constitution of the Authority;
- (b) any resolution of the Authority;
- (c) the appointment of any member or any servant of the Authority; or
- (d) the presence of a quorum at any meeting at which any determination is made or any act is done by the Authority.

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

Documents—how authenticated. **53.** Every summons, process, demand, order, notice, statement, direction or document requiring authentication by the Authority may be sufficiently authenticated without the seal of the Authority if signed by the Director or Deputy Director

Waste Disposal.

54. (1) A writ or other process in respect of any damage **No. 97, 1970**
or injury to a person or to property shall not be sued out or ^{Notice of}
served upon the Authority or any member of the Authority ^{action.}
or any servant of the Authority or any person acting in its or
his aid for anything done or intended to be done or omitted
to be done under this Act, until the expiration of one month
after notice in writing has been served on the Authority,
member, servant or person as provided in this section.

(2) The notice shall state—

- (a) the cause of action ;
- (b) the time and place at which the damage or injury was sustained ; and
- (c) the name and place of abode or business of the intended plaintiff and of his attorney, if any, in the case.

(3) In the case of damage to property, any person who produces on demand his authority from the Authority shall be permitted to inspect the property damaged, and all facilities and information necessary to ascertain fully the value of the property damaged, and the amount of money, if any, expended in repairing the damage shall be given to him.

(4) At the trial of any such action the plaintiff shall not be permitted to go into evidence of any cause of action that is not stated in the notice, and unless the notice has been served the plaintiff shall not be entitled to maintain the action, but at any stage of the proceedings the court or any judge of the court in which the action is pending may, if the court or judge deems it to be just or reasonable in the circumstances so to do—

- (a) amend any defect in the notice on such terms and conditions, if any, as the court or judge may fix ; or
- (b) direct that any non-compliance or insufficient compliance with this section shall not be a bar to the maintenance of the action.

(5)

No. 97, 1970

(5) Every such action shall be commenced within the period (in this section referred to as the "prescribed period") of twelve months next after the occurring of the cause of action but where an application is made to a judge of the Supreme Court in accordance with rules of court for an extension of the prescribed period the judge may, if he is satisfied that sufficient cause has been shown, or that having regard to all the circumstances of the case, it would be reasonable so to do, make an order for extension of the prescribed period for such further period and subject to such terms and conditions, if any, as may be set out in the order.

(6) Any such application for extension may be made either within the prescribed period or at any time within twelve months thereafter.

(7) Any person who is dissatisfied with the decision of the judge on any such application may, in accordance with rules of court, appeal to the Court of Appeal and that court may on the appeal make any order which it considers ought to have been made in the first instance.

(8) The Authority or any member, servant or person to whom any such notice of action is given, may tender amends to the plaintiff, his attorney or agent at any time within one month after service of notice of action, and if the tender is not accepted may plead the tender in bar.

(9) The defendant in every such action may plead the general issue and at the trial thereof give this Act and the special matter in evidence.

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 Supreme Court in its summary jurisdiction.

(2)

Waste Disposal.

(2) A prosecution for an offence against this Act, **No. 97, 1970** section fifty excepted, or the regulations shall not be commenced without the written consent of the Director or of such officer of the Authority as may be authorised in writing by the Authority for the purposes of this subsection.

(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 Supreme Court in its summary jurisdiction, the Supreme Court may impose a penalty not exceeding the maximum penalty provided by this Act or the regulations in respect of the offence.

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

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

57. (1) The Authority shall as soon as practicable after the thirtieth day of June, but not later than the thirtieth day of September, in each year forward to the Minister a report of its work and activities for the year ended on the thirtieth day of June then last past. Annual report.

(2) The Minister shall lay that report, or cause it to be laid, before both Houses of Parliament as soon as practicable after the receipt by him of the report.

58.

Waste Disposal.

No. 97, 1970 **58.** (1) The Governor may make regulations for or with
Regulations. respect to—

- (a) the operation of depots and regional depots ;
- (b) the treatment, storage or disposal of waste at depots and regional depots and at premises which are, under subsection three of section twenty-two of this Act, required to be the subject of certificates of registration, and at approved premises referred to in that subsection ;
- (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 one of this section—

- (a) may be so made as to have a different application according to such factors as may be specified in the regulations ;
- (b) shall, except in so far as they relate to regional depots, be made so as to apply for or with respect to matters referred to in that subsection occurring in or in relation to the Metropolitan Waste Disposal Region ; and
- (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.

SCHEDULE.

Waste Disposal.

SCHEDULE.

No. 97, 1970

Sec. 6.

AREAS AND PARTS OF AREAS WHICH CONSTITUTE THE METROPOLITAN WASTE DISPOSAL REGION.

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.