

Waste Minimisation (Solids) Bill

Member's Bill

Explanatory note

General policy statement

This Bill seeks to put in place provisions and institutions which will enable and require New Zealand businesses, public organisations and households to dramatically decrease their disposal of waste. This will have not only environmental benefits but also social, cultural and economic ones.

It sets in place:

- targets for the reduction in the amount of waste disposed of in landfills, cleanfills and incinerators along with dates for achievement of these targets;
- prohibitions on the disposal of certain classes of material;
- a levy on residual waste;
- requirements for extended producer responsibility programmes and organisational waste minimisation plans; and
- a requirement for public procurement policies to spur the development of markets for products and services which result in waste reduction.

The Bill establishes a centralised agency, the Waste Minimisation Authority, similar in purpose to the Energy Efficiency and Conservation Authority, dedicated to facilitating the move to a minimal waste society. This would have a co-ordinating educational and promotional role as well as being tasked with providing advice to the Minister. It would also be responsible for approving and monitoring extended producer responsibility programmes which form a key component of the Bill.

The Bill also more clearly specifies the roles of territorial authorities with respect to waste minimisation and management. These would constitute, either individually or jointly with other territorial authorities, Waste Control Authorities. The Waste Control Authorities would adopt and implement waste minimisation and management plans and be responsible for ensuring that all parts of society, including the waste minimisation and disposal sectors, implement measures that will result in greatly decreased waste disposal. The Waste Control Authorities would have a major role in facilitating the move to a minimal waste society at the local level but are also empowered to enforce requirements of this Bill through bylaw making and licensing provisions.

Prohibitions are imposed on the disposal of those materials for which there currently exists systems for diverting them from waste disposal facilities and using them more productively. Provision is made for addition of more materials to the list of those which must not be burned or buried.

The Bill creates a levy on waste which is sent for disposal. This is intended to both send an economic signal to deter wasteful behaviour and also to provide funding for the implementation of the measures contained within this Bill by businesses, organisations, households and the institutions the Bill creates.

The Bill provides for extended producer responsibility programmes to be required for certain products. These require the producer of the product to take responsibility for the product throughout its lifecycle which will encourage producers to design products with the environment in mind. Producers may jointly organise systems to collect and reutilise the products or otherwise appropriately process the materials of which they are made. Failure to develop, adopt and implement a required extended producer responsibility programme will result in one being imposed upon the producer.

All organisations are required to adopt and implement plans that will lead to decreases in the amount of waste they produce. This requirement is phased in over a 10-year period, starting with the largest organisations and ending with the smallest. These organisational waste minimisation plans would have to be consistent with the Waste Control Authority's waste minimisation and management plan.

The Bill will require all public organisations to implement policies which give priority to purchasing products and services which either decrease the generation of waste or which provide markets for recycled materials. Furthermore, public organisations must report on their resource use, waste generation and what happens to the waste they produce each year.

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Contents (generated from text)

The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Waste Minimisation (Solids) Act **2005**.

Part 1

Preliminary provisions

2 Commencement

This Act comes into force 12 months after the date on which it receives the Royal assent.

3 Purpose

The purpose of this Act is to protect the environment by minimising the amount of material resources used and the amount of solid waste disposed of in landfills, cleanfills, and incinerators, in line with targets and dates to be set, through instituting measures to give full effect to the principles of the New Zealand Waste Strategy.

4 Act binds the Crown

This Act binds the Crown.

5 Interpretation

In this Act, unless the context otherwise requires,—

Authority means the Waste Minimisation Authority established under **section 7**

brand-owner means a person or organisation who manufactures or imports into New Zealand a product intended for sale or other distribution to another person or organisation in New Zealand, or for re-export

buyer means the person or organisation who pays money to assume ownership of a product

collector means any person who removes from the site of generation any domestic, commercial, agricultural, or industrial waste whether for disposal or other purposes

construction and demolition waste includes, but is not limited to material such as timber, plasterboard, concrete, bricks, stones, metals, glass, carpets, tiles, wire, PVC and other plastics left over during construction, renovation, demolition, or dismantling of buildings, structures, roads, and other paved surfaces

consumer means a person or organisation who purchases or otherwise obtains a product for his, her or its own use or for the use of family members and friends or members or employees of the organisation

Crown organisation has the same meaning as in section 4 of the Crown Organisations (Criminal Liability) Act 2002

Director means the chief executive of the Waste Minimisation Authority

disposal means the burying or burning of waste without any associated energy recovery

disposal facility means a landfill, cleanfill or incinerator

energy recovery means the processing of waste materials, by biological means only, for the purpose of obtaining energy from them

full costs means costs calculated using full cost accounting practices for disposal of waste in a disposal facility

Inland Revenue Acts means the Inland Revenue Acts specified in the Schedule of the Tax Administration Act 1994

landfill levy means an amount of money payable per tonne of waste disposed under **section 40** and used for the purposes specified in **section 44**

material recovery means extraction of materials from waste for further use for purposes for which they were not originally produced:

medical waste means waste from medical facilities such as hospitals and clinics at which medical treatment or consultation is conducted

metals means iron, copper, tin, lead, aluminium, brass, and steel.

Minister means the Minister of the Crown who, with the authority of the Prime Minister, is for the time being responsible for the administration of this Act

occupier means, in relation to any property, the inhabitant of the property or the person who conducts business in the property

organic waste means grass clippings, tree trimmings, tree trunks and branches, and other vegetation or material from parks, gardens, streets, commercial and industrial properties, water bodies, and farms as well as putrescible material

organisational waste minimisation plan means a plan under Part 7

paper and cardboard means materials made of cellulose or other plant fibres and not bonded to any other material such as metals or plastics

plastics of types 1 and 2 means polyethylene terephthalate and high density polyethylene respectively

point of display means an area where a seller displays the products in question

point of sale means an area where the transaction for the transfer of the ownership of the product to the buyer from the seller takes place

product stewardship organisation means a person or organisation contracted to operate an approved product stewardship programme on behalf of a brand-owner

product stewardship programme means a programme in which the brand-owner of a product assumes responsibility for the environmental impact of the product throughout its life, including after it is no longer wanted by, or no longer fulfils the purpose of, the consumer

public organisation means any Crown organisation and every territorial authority, local government organisation, council-controlled organisation, council-controlled trading organisation, and council organisation (as those terms are defined in section 5 of the Local Government Act 2002)

putrescible means having a high nitrogen to carbon ratio so that aerobic microbial degradation is likely to produce foul odours and includes things such as kitchen food scraps and animal and vegetable wastes from other facilities where vegetables, fruits, and animals are processed

recycling means the reprocessing of materials recovered from waste to supply feedstock with which to produce new products

reduction means lessening waste generation

residual means material that cannot be composted, reused, recycled, or subject to material or energy recovery

reuse means the further using of products in their existing form for their original purpose or a similar purpose

seller means the person or organisation who receives payment for transferring the ownership of the product to the buyer

Solid Waste Analysis Protocol means the protocol for the collection of consistent and reliable data on solid waste in New Zealand published at <http://www.mfe.govt.nz/publications/waste/solid-waste-analysis-mar02/index.html> in March 2002 under reference ME430 and any revisions of that protocol

Strategy means the New Zealand Waste Strategy (2002) or the most recent update of this document

territory means the territory or territories of the territorial authority or authorities that constitute a Waste Control Authority

transfer station means a facility used for sorting, combining and/or compacting waste collected from different sources and from which waste is sent to a disposal facility

transporter means any person who transports waste to a disposal facility whether the person is acting privately or commercially

treatment means, in relation to waste, subjecting the waste to any physical, biological, or chemical process to change the volume or character of that waste so that it may be disposed of with no, or with reduced, significant adverse effect on the environment

untreated timber means sawn wood which has not been treated with preservatives including, but not limited to boric acid and copper chromium arsenic

waste minimisation and management plan means, in relation to a Waste Control Authority, a plan under **section 21(b)**.

waste minimisation plan means, in relation to an organisation, any plan for the minimisation of waste by the organisation, being a plan developed after consideration, in the following order of priority, of the following methods (which methods are listed in order of their importance):

- (a) reduction:
- (b) reuse:
- (c) material recovery:
- (d) recycling including composting:
- (e) energy recovery:
- (f) treatment:
- (g) disposal.

Part 2

Waste Minimisation Authority

6 Purpose

The purpose of this Part is to establish and define the role of the Waste Minimisation Authority.

7 Waste Minimisation Authority

- (1) This section establishes the Waste Minimisation Authority.
- (2) The Authority is a body corporate with perpetual succession.
- (3) The Authority is a Crown entity for the purposes of the Public Finance Act 1989.

8 Functions

- (1) The function of the Authority is to encourage, promote, facilitate, and support the achievement of the minimisation of material resource use and waste production by—
 - (a) advising the Minister on any matter relating to or affecting—
 - (i) the use of material resources:

- (ii) the generation, processing, disposal, and cost of waste, including the setting of the level of the waste levy under **section 41**;
 - (iii) the functions of the Authority;
 - (iv) the prohibiting of certain materials from being delivered to or accepted at a disposal facility:
- (b) monitoring and reviewing the state of waste generation and resource use in New Zealand:
 - (c) monitoring progress in minimising waste, including comparing performance with minimisation targets:
 - (d) administering, facilitating, and supporting the implementation of the New Zealand Waste Strategy
 - (e) updating the New Zealand Waste Strategy at intervals not exceeding 5 years:
 - (f) setting percentage and time targets for the reduction of waste disposal:
 - (g) developing criteria for assessing the effectiveness of the waste disposal levy:
 - (h) administering the waste levy:
 - (i) increasing public awareness in New Zealand of how persons and organisations can minimise waste and resource use:
 - (j) arranging for the conduct of research, assessments, demonstrations, and studies:
 - (k) promoting practices and technologies to enable waste minimisation and resource use reduction:
 - (l) reviewing, approving, and monitoring product stewardship programmes:
 - (m) publishing relevant information, research, and other material:
 - (n) working with and supporting government departments and entities, local government, business, the community sector, and other relevant organisations to minimise resource use and waste:
 - (o) assisting in the development of markets for products made from materials recovered from the waste stream and for products or services that reduce resource use or waste:
 - (p) carrying out such other functions and duties as are conferred or imposed on it by any enactment.
- (2) The Authority must perform its functions to achieve the purpose of this Act, and in accordance with the Strategy for the time being in force.

9 Powers

- (1) Except as provided in this Act, the Authority has—
- (a) the rights, powers, and privileges of a natural person; and
 - (b) the power to do anything it is authorised to do by or under—
 - (i) this Act; or
 - (ii) any other enactment; or
 - (iii) any rule of law.
- (2) Without limiting the generality of **subsection (1)**, the Authority has the power—
- (a) to receive money paid to the Authority by the Crown or by any other person or agency; and
 - (b) to make grants, awards, or loans of money; and
 - (c) to enter into agreements for the administration of grants, awards and loans; and
 - (d) to acquire, hold, lease, dispose of, or occupy any land, buildings, or real or personal property as the Authority considers necessary.
- (3) The Authority may exercise its rights, powers, or privileges only for the purpose of performing its functions.

10 Authority to comply with Government policy and Minister's directions

- (1) In the performance and exercise of its functions, duties, and powers, the Authority must—
 - (a) give effect to the policy of the Government as it affects the functions of the Authority; and
 - (b) comply with any directions relating to the policy of the Government that are given by the Minister to the Authority in writing, provided that these instructions are not contrary to this or any Act.
- (2) Where a direction is given to the Authority under this section, the Minister must, as soon as practicable after giving the direction,—
 - (a) publish a copy of it in the *Gazette*; and
 - (b) present a copy of it to the House of Representatives.

11 Membership of Authority

- (1) The Authority consists of no fewer than 8 and no more than 10 members appointed by the Minister.
- (2) Before appointing a member of the Authority, the Minister must publicly invite nominations of persons who wish to be appointed as members of the Authority.
- (3) The members of the Authority hold office during the pleasure of the Minister.
- (4) The powers of the Authority are not affected by any vacancy in its membership.

12 Eligibility for appointment as member of Authority

- (1) The Minister must, in appointing a member of the Authority, have regard to the need for—
 - (a) members to have between them a balanced mix of knowledge and experience in matters relevant to the functions of the Authority, and
 - (b) an even representation of the public, private, and community sectors
- (2) Knowledge and experience that is relevant includes knowledge of and experience in—
 - (a) the private waste minimisation sector:
 - (b) the public waste minimisation sector:
 - (c) the community organisation waste minimisation sector:
 - (d) the environment:
 - (e) industrial design, product design, process technology, and similar disciplines:
 - (f) commerce:
 - (g) public education:
 - (h) marketing and communications:
 - (i) governance and public sector management.

13 Resignation from office

A member of the Authority may at any time resign from office by written notice to the Minister.

14 Appointment of chairperson and deputy chairperson

- (1) The Minister must appoint 1 of the members of the Authority as the chairperson and another member as the deputy chairperson, after consultation with the Authority.
- (2) A member appointed to the office of chairperson or deputy chairperson, unless that person sooner ceases to be a member of the Authority, holds office as chairperson or deputy chairperson during the pleasure of the Minister.
- (3) If the chairperson or deputy chairperson vacates office as a member or is removed by the Minister from the office of chairperson or deputy chairperson, the Minister may appoint any existing member or any new member as chairperson or deputy chairperson after consultation with the Authority

- (4) Any person who is appointed as chairperson or deputy chairperson may resign that office by writing to the Minister without resigning as a member of the Authority.
- (5) If the deputy chairperson is appointed as chairperson, he or she must vacate office as deputy chairperson.

15 Exercise of chairperson's functions, powers, and duties by deputy chairperson

- (1) During every vacancy in the office of chairperson, or while the chairperson is for any reason unable to perform the functions, powers, and duties of the chairperson, the deputy chairperson has and may exercise all of the functions, powers, and duties of the chairperson.
- (2) No acts done by the deputy chairperson acting as the chairperson may in any proceedings be questioned on the grounds that the occasion for the deputy chairperson so acting had not arisen or had ceased.

16 Authority deemed to be public authority

The Authority is deemed to be a public authority for the purposes of the Inland Revenue Acts.

17 Annual report on performance

- (1) The Authority must, within 3 months of the end of each financial year, provide to the Minister an annual report on its operations during that financial year.
- (2) The Minister must present a copy of the Authority's annual report to the House of Representatives under section 44A of the Public Finance Act 1989.

18 Further provisions applying to Authority

The provisions in **Schedule 1** apply in relation to the Authority.

Part 3 Waste Control Authorities

19 Purpose

The purpose of this Part is to revise the role and powers of territorial authorities in relation to waste minimisation and management.

20 Territorial authorities to be Waste Control Authorities

- (1) Every territorial authority is the Waste Control Authority in its territory.
- (2) Territorial authorities may form joint Waste Control Authorities with other territorial authorities to exercise waste minimisation and management functions over the joint territory of the co-operating territorial authorities.

21 Duties of Waste Control Authorities

Every Waste Control Authority has responsibility for overseeing and regulating waste minimisation and management in its territory and must—

- (a) promote effective and efficient waste minimisation and management in its territory in accordance with the principles outlined in the New Zealand Waste Strategy:
- (b) by 30 June 2005 adopt and implement a waste minimisation and management plan that is consistent with the New Zealand Waste Strategy:
- (c) in adopting and implementing a waste minimisation and management plan under **paragraph (b)**—
 - (i) have regard for the environmental, social, cultural and economic costs and benefits associated with the plan for its territory, New Zealand, and the Earth:

- (ii) ensure no danger is posed to public health and no nuisance is created:
- (d) review its waste minimisation and management plan at intervals not exceeding 3 years and—
 - (i) amend the plan to maintain consistency with the New Zealand Waste Strategy:
 - (ii) amend its plan if it is proving ineffective as assessed using criteria to be specified within the plan.
- (e) in adopting and implementing a plan under **paragraph (b)** or amending its plan under **paragraph (d)(i) or (ii)**, use the special consultative procedure specified in Part 6 of the Local Government Act 2002.

22 Waste minimisation and management plans

Every waste minimisation and management plan must—

- (a) make provision for the minimisation of waste disposal through—
 - (i) public education:
 - (ii) supporting organisations striving to reduce waste through product, process, or system design or redesign:
 - (iii) development of systems for reduction, reuse, recycling and composting, material recovery, and energy recovery:
- (b) make provision for the collection of waste:
- (c) require the licensing of every collector, transporter, transfer station operator, and disposal facility operator:
- (d) require the separation at source of the—
 - (i) organic fraction:
 - (ii) reusable, recoverable, or recyclable fraction:
 - (iii) residual fraction:
- (e) require that the separate fractions be kept separate by collectors and delivered to appropriate facilities:
- (f) make provision for the appropriate processing of the organic fraction, recovery of the reusable, recoverable, and recyclable fraction and treatment and disposal of the residual fraction:
- (g) incorporate provisions to give effect to prohibitions on disposal of materials to waste disposal facilities:
- (h) provide for the payment and collection of any levy on waste disposal:
- (i) provide for the effective and efficient implementation of the plan, or for activities considered appropriate by the Waste Control Authority for that purpose to be undertaken by, or under contract to, the Waste Control Authority:
- (j) provide for the Waste Control Authority to monitor compliance with requirements for the separation and appropriate handling of different types of wastes, and prohibitions on disposal of materials:
- (k) provide for the sale or supply of receptacles for waste containment and collection:
- (l) specify the charging policy of the authority for implementing its waste minimisation and management plan subject to **section 28**:
- (m) cover all sources of waste including roads, berms and footpaths:
- (n) provide for the estimation of the life expectancy of all current waste disposal facilities to which the residual fraction is sent and provide plans on where the residual fraction will be disposed of in the next 5, 10, and 25 years:
- (o) provide a description and costing for post-closure management of the facilities used for disposal of the residual waste collected in the Waste Control Authority's territory.

23 Powers in respect of waste minimisation and management

- 1) Every Waste Control Authority may—
 - (a) undertake or contract for any activity or provision of facility it considers appropriate for the efficient and effective minimisation and management of solid waste in its territory:
 - (b) make bylaws for the purposes stated in **section 24**:
 - (c) sell, and retain the proceeds from any sale of, any marketable product that results from any activity directly carried out by the Waste Control Authority.
- (2) Every Waste Control Authority must operate a system of licences that requires all commercial collectors and transporters of waste and all operators of transfer stations and disposal facilities to be licensed.
- (3) Every Waste Control Authority must allocate, in accordance with the policy stated in its waste minimisation and management plan, the costs incurred in implementing that plan.
- (4) Every Waste Control Authority must collect the disposal levy from the operator of every disposal facility.
- (5) Every Waste Control Authority must, after assessing an organisational waste minimisation plan under **section 26**, approve or reject the plan.

24 Bylaws

Every Waste Control Authority making bylaws under **section 23(1)(b)** may do so for any or all of the following purposes:

- (a) prohibiting or regulating the generation or deposit of waste of any specified kind:
- (b) requiring that wastes of specified kinds be separated at source from other wastes:
- (c) regulating the collection, transportation, and allocation of waste of any specified kind:
- (d) regulating operations concerned with the reuse, material recovery, recycling, energy recovery, treatment, or disposal of waste:
- (e) monitoring compliance with bans on disposing of materials to disposal facilities:
- (f) monitoring compliance with requirements for separation of wastes of different materials:
- (g) recording the quantities and types of waste collected, transported, processed, or disposed of:
- (h) recording the source and the destination of the waste collected and transported:
- (i) regulating the mode of disposal of dead animals:
- (j) prescribing charges to be paid in respect of the use of waste minimisation and management facilities provided, owned, or operated by the Waste Control Authority:
- (k) controlling public access to waste minimisation and management facilities provided, owned, or operated by the Waste Control Authority:
- (l) prohibiting the removal of waste intended for reuse, recovery, or recycling from receptacles provided by the Waste Control Authority by anyone other than the occupier of the property from which the waste in the receptacle has come or a person authorised by the Waste Control Authority to remove such waste.

25 Licences

In issuing licences under **section 23(2)**, every Waste Control Authority must—

- (a) make the requirements and prohibitions specified in bylaws made under **section 24** as conditions of the licences issued:
- (b) require a suitable works performance bond or security for the performance of the work licensed or both:

- (c) require the licensee to provide to the Waste Control Authority, at times or periods and in the form specified, in the bylaws, reports setting out,—
 - (i) in accordance with criteria specified in the bylaws, the quantities and types of waste collected, transported, processed, or disposed of under the licence:
 - (ii) both the source and the destination of the waste collected and transported under the licence.

26 Assessment of organisational waste minimisation plans

In assessing an organisational waste minimisation plan forwarded to it under **section 65(5)**, a Waste Control Authority must—

- (a) do so only on the basis of whether or not the plan conforms with the Waste Control Authority's waste minimisation and management plan:
- (b) accept or reject the plan within 20 working days of receiving it:
- (c) if it rejects the plan, provide reasons for rejecting the plan and specify what is required for the Waste Control Authority to be able to approve the plan.

27 Collection of waste

- (1) The collection of waste, for any of the purposes listed in the waste minimisation and management plan, must be executed promptly, efficiently, and at regular and prescribed intervals to the satisfaction of the Medical Officer of Health having jurisdiction in the territory.
- (2) If, in respect of any premises, the collection of waste is not executed efficiently or at the prescribed intervals, the occupier or a Health Protection Officer may serve notice on the Waste Control Authority.
- (3) If the Waste Control Authority receives a notice under **subsection (2)**, the Waste Control Authority must,—
 - (a) if the collection service for the premise in question is carried out by the Waste Control Authority itself, remove the waste within 24 hours of receiving the notice:
 - (b) if the collection service for the premise in question is carried out under contract to the Waste Control Authority, inform the contractor within 12 hours of the notice being received by the Waste Control Authority and require the contractor to remove the waste within 12 hours of being so informed:
 - (c) if the collection service for the premise in question is carried out under a licence issued by the Waste Control Authority but not under contract to it, inform the licensee within 12 hours of the notice being received by the Waste Control Authority and require the licensee to remove the waste within 12 hours of being so informed.
- (4) If the waste that is the subject of a notice issued under **subsection (2)** is not removed within the period specified under **subsection 3(a), (b) or (c)**, as the case may be, then the Waste Control Authority, contractor, or licensee respectively commits an offence against this Act.

28 Allocation of costs

- (1) Every Waste Control Authority must allocate the costs incurred in the implementation of its waste minimisation and management plan so that the full costs of treatment and disposal of residual waste, including long-term post-closure management of the disposal facility, fall on the producers of residual waste.
- (2) Where the waste minimisation and management plan so provides, the costs of dealing with non-residual waste and of meeting other objectives of the plan may be met from specific rates imposed for this purpose or by further charges on producers of residual waste or a combination of both.

- 29 Waste Control Authority to establish dedicated waste minimisation unit**
Every Waste Control Authority must establish a dedicated waste minimisation unit the functions of which include—
- (a) facilitating and overseeing the implementation of the Waste Control Authority’s waste minimisation and management plans:
 - (b) providing support to organisations in its area to develop and implement organisational waste minimisation plans:
 - (c) facilitating, as far as possible, the local reuse, recovery, recycling, composting where appropriate, and reduction in use of materials:
 - (d) carrying out the data gathering and reporting responsibilities of the Waste Control Authority.
- 30 Requirement for Waste Control Authorities to report to the Waste Minimisation Authority**
Every Waste Control Authority must report annually to the Waste Minimisation Authority, in a form to be specified by the Waste Minimisation Authority, on the quantity and types of materials being reused, recovered, recycled, treated, and disposed of in its territory and on any other relevant matters, as requested by the Authority.
- 31 Grants**
Where a waste minimisation and management plan adopted under **section 21(b)** and in force in respect of a territory so provides, the Waste Control Authority for that area may make grants of money, or make advances on such terms and conditions as it thinks fit, (including, if the Waste Control Authority thinks fit, a condition that the advance is to be free of interest), to any organisation, group or person, for the purpose of the promotion of, or providing assistance to achieve, waste reduction, reuse, material recovery, recycling, or energy recovery from waste.
- 32 Offences and penalties**
- (1) Every Waste Control Authority that contravenes **section 21(b)** commits an offence and is liable on conviction to a fine of \$10,000 and a further fine of \$10,000 for each month that the offence continues.
 - (2) Every Waste Control Authority that contravenes **section 27(3)(b) or (c)** commits an offence and is liable on conviction to a fine of \$10,000 and a further fine of \$10,000 for each day that the offence continues.
 - (3) Every Waste Control Authority, contractor, or licensee who commits an offence under **section 27(4)** is liable on conviction to a fine of \$10,000 and a further fine of \$10,000 for each day it fails to collect the waste.

Part 4

Prohibition on disposal of materials

- 33 Purpose**
The purpose of this Part is to prevent materials which can be reused, or recycled, or composted, or from which materials can be recovered, or from which energy can be biologically recovered, using existing systems or systems which could be readily developed, from being disposed of in waste disposal facilities.

34 Prohibition on disposal

- (1) A prohibition may be placed on the disposal of an item or material.
- (2) No item or material prohibited from disposal under **subsection 1** may be—
 - (a) delivered to a disposal facility by a transporter:
 - (b) accepted by a disposal facility operator for the purpose of disposal.
- (3) A prohibition established under **subsection 1** may only be imposed by Order in Council made under **section 73**.
- (4) The Director may recommend to the Minister the making of an Order in Council in respect of any item or material which the Director considers should be prohibited from disposal.
- (5) Waste prohibited from delivery and disposal under **subsection (2)** is permitted to be transported to, and disposed of in, a landfill if the waste has been declared a biosecurity risk under the Biosecurity Act 1993 or if it is medical waste and has been subject to procedures, other than incineration, rendering it innocuous.

35 Power to inspect waste transported or accepted

- (1) The Waste Control Authority in whose territory a disposal facility is located has the power to make announced and unannounced inspections of waste transported to the facility or accepted by the operators of the facility.
- (2) Inspections must be carried out in accordance with regulations.
- (3) **Section 34** is deemed to be complied with if, in the samples of waste inspected, no item or material which is prohibited from disposal under **section 34** constitutes more than the percentage, by weight, permitted by regulations.

36 Offences and penalties

- (1) Where a transporter or an operator of a disposal facility fails to comply with **section 34**, the transporter or operator commits an offence and is,—
 - (a) on the first occasion, liable on summary conviction to a fine of \$1,000:
 - (b) on the second occasion, liable on summary conviction to a fine of \$10,000:
 - (c) on the third and subsequent occasions, liable on summary conviction to a fine of \$100,000 and loss of licence to operate.
- (2) It is a defence against conviction under **subsection (1)** that the transporter or the operator of the disposal facility took all reasonable measures to exclude material that is prohibited from disposal under **section 34**, but cost to exclude material is not a basis for determining whether a measure is reasonable.

Part 5 Waste disposal levy

37 Purpose

The purpose of this Part is to impose a levy on the disposal of residual waste so as to discourage its generation and to provide funding to support processes, systems, and products that minimise resource use and waste production, including the operation of the Waste Minimisation Authority and the waste minimisation activities of local authorities.

38 Disposal facilities to have weighbridges

- (1) Every disposal facility must operate a weighbridge to weigh the material received by it for disposal.
- (2) Weighbridges operated under **subsection (1)** must be certified at 12-monthly intervals by an accredited certifier.

39 Returns of waste received

Every operator of a disposal facility must—

- (a) keep a full and accurate record of the weight of waste received by the facility for disposal:
- (b) provide the relevant Waste Control Authority with a summary report of this record, in a form specified in regulations, on a monthly basis.

40 Imposition of levy

- (1) A levy must be charged by the operator of a disposal facility at a rate to be specified under **section 41** on all material received for the purpose of disposal.
- (2) A levy under **subsection (1)** may be set at different rates for different types of waste.

41 Amount of levy

- (1) Subject to **subsection (2)** the amount of levy under **section 40(1) or (2)** must be established on an annual basis by the Governor-General by Order in Council on the recommendation of the Minister, following an evaluation of the effectiveness of the levy in accordance with **section 45**.
- (2) The levy is initially to be set at a rate of \$25 per tonne.

42 Itemisation of levy

- (1) A levy under **section 40** must be listed as a separate item, indicated by the words “Disposal levy”, immediately above the cash due line on any receipt issued by the operator of the disposal facility to—
 - (a) the person who delivers the material to the operator; or
 - (b) any company that has contracted with the operator for the disposal facility to receive waste from the company.
- (2) If a levy is charged at different rates under **section 40(2)**, then it must be listed separately for each type of waste.

43 Payment and apportionment of levy

- (1) A levy collected by the operator of the waste disposal facility must be paid monthly, at the same time as the return of the amount of waste received is submitted, to the relevant Waste Control Authority.
- (2) Every Waste Control Authority must transfer to the Authority, on a monthly basis, 50% of the amount of levies it receives.

44 Use of levy

- (1) The portion of levies transferred to the Authority must be used, in order of priority,—
 - (a) to fund the establishment, on-going operation, and fulfilment of functions of the Authority:
 - (b) in the first 2 years after this Act comes into force, to subsidise businesses, and public and community organisations having 20 or more full-time equivalent workers to develop organisation waste minimisation plans and initiatives and to otherwise comply with this Act:
 - (c) in the third to fifth years after this Act comes into force, to subsidise businesses, and public and community organisations having 5 or more full-time equivalent workers to develop organisation waste minimisation plans and initiatives and to otherwise comply with this Act:
 - (d) in the sixth to tenth years after this Act comes into force, to subsidise businesses, and public and community organisations having fewer than 5 full-time equivalent

- workers to develop organisation waste minimisation plans and initiatives and to otherwise comply with this Act:
- (e) at any time, to support initiatives consistent with the functions of the Authority.
- (2) If in any year the Authority is unable to utilise the full amount of levies it receives from the Waste Control Authorities, it must divide the excess into 4 equal amounts and—
- (a) carry over a quarter of the excess for its use in the subsequent year:
 - (b) transfer a quarter of the excess back to the Waste Control Authorities:
 - (c) transfer a quarter of the excess to the Energy Efficiency and Conservation Authority for use in achieving its energy waste minimisation and resource conservation purposes:
 - (d) transfer a quarter of the excess to the Ministry for the Environment for use in contaminated site remediation and other pollution prevention and environmental protection work.
- (3) The portion of the levy retained by Waste Control Authorities, or obtained as a transfer back from the Authority, must be used to support —
- (a) the establishment and on-going operation of the Waste Control Authorities' waste minimisation units:
 - (b) regional and local initiatives aimed at reducing waste and resource use in ways suited to the regional and local situation.

45 Evaluation of effectiveness of levy

- (1) The Minister must assess annually the effectiveness of the levy in decreasing the disposal of waste and use of resources compared with the level in the previous year using criteria to be determined by the Authority.
- (2) If the levy is proving effective in decreasing the amount of waste being received by disposal facilities for disposal, the Minister must recommend its continuation at a level equal to the existing amount adjusted for inflation.
- (3) If the levy is not proving effective in decreasing the amount of waste being received by disposal facilities for disposal, the Minister must recommend,—
 - (a) an increase in the levy by at least 50%; and
 - (b) an investigation into why the levy has not been effective.
- (4) Despite **subsection (3)**, if the levy has proved ineffective for at least three years, the Minister may recommend discontinuing the levy.

46 Estimation in case of non-payment

If an operator of a disposal facility fails to pay the levy, in accordance with **section 43(1)**, the Waste Control Authority may, if necessary, estimate an amount and serve notice on the defaulting operator of the estimated amount along with a penalty amount of 10% of the estimated amount for each month the levy is not paid and the time allowed for payment.

47 Offences and penalties

- (1) Every operator of a disposal facility commits an offence and is liable on summary conviction—
 - (a) to a fine of \$10,000 who fails, without reasonable excuse, to operate according to **section 38**: or
 - (b) to a fine of \$100,000, loss of licence or 6 months' imprisonment or any combination of these penalties who refuses or knowingly fails, without reasonable excuse, to keep a full and accurate record as required under **section 39(a)**; or

- (c) to a fine of \$100,000, loss of licence or 6 months' imprisonment or any combination of these penalties who refuses to submit, without reasonable excuse, a return under **section 39(b)**; or
 - (d) to a fine of \$100,000, loss of licence or 6 months' imprisonment or any combination of these penalties who deliberately submits an inaccurate or false return; or
 - (e) to a fine of \$100,000, loss of licence or 6 months' imprisonment or any combination of these penalties who refuses or fails, without reasonable excuse, to comply with **section 43(1)**.
- (2) Every Waste Control Authority that fails to transfer levy funds received by it to the Authority under **section 43(2)** commits an offence and is liable to a fine of \$100,000.
 - (3) Any offence against this Act committed by an employee of the operator of a disposal facility or Waste Control Authority in the course of employment is deemed to be committed by the operator or Waste Control Authority if it is proved that the act or omission constituting the offence occurred with the employer's principal authority, permission, or consent.

Part 6

Extended producer responsibility

48 Purpose

The purpose of this Part is to require producers of goods to take responsibility for their products throughout the lifecycle of the products including the responsibility to avoid disposal of the products when they become non-functional, out-dated, or unwanted.

49 Brand-owners to take responsibility for products

A brand-owner must not sell, offer for sale, or otherwise distribute a product, for which a product stewardship programme is required, in New Zealand, unless—

- (a) the brand-owner operates a product stewardship programme, with respect to the product, approved in accordance with **section 53**; or
- (b) the brand-owner contracts with a product stewardship organisation for the purpose of operating a product stewardship programme, with respect to the product, approved in accordance with **section 53**.

50 Brand-owner and product stewardship organisation to confirm chain of responsibility for product

- (1) Before a brand-owner may sell, offer for sale, or otherwise distribute a product in New Zealand,—
 - (a) the brand-owner must notify the Director in writing which duties prescribed in the product stewardship programme it will carry out and which duties it will contract to a named product stewardship organisation:
 - (b) the product stewardship organisation named by the brand-owner must confirm in writing to the Director which duties of a product stewardship programme it will carry out on behalf of a brand-owner in relation to a product.
- (2) Overall responsibility for meeting the duties of the product stewardship programme remains with the brand-owner and any penalties imposed by the Director for failure to fulfil the duties of the product stewardship programme will be taken against the brand-owner.

51 Notice to be given of consideration of need for a product stewardship programme

- (1) The Director must give notice, in accordance with **subsections (2) and (3)**, of the Director's intention to consider whether there should be a product stewardship programme for a product.
- (2) A notice under **subsection (1)** must be given by simultaneously placing a public notice in New Zealand Herald, The Waikato Times, The Dominion Post, The Christchurch Press and the Otago Daily Times.
- (3) A notice under **subsection (1)** must be published on at least 4 consecutive Saturdays immediately prior to the Director beginning consideration of the need for a product stewardship programme.
- (4) A notice under **subsection (1)** must invite persons or organisations wishing to be part of a product advisory group for the product being considered to nominate people for this role within 2 weeks of the final public notice for a product being published.

52 Product stewardship programmes required

- (1) A product stewardship programme is required for every product in respect of which an Order in Council has been made under **section 73**.
- (2) The Director may recommend to the Minister the making of an Order in Council in respect of a product for which the Director considers a product stewardship programme is required, or the revocation of an Order in Council if the Director considers a product stewardship programme is no longer required for a product.
- (3) The Director must, unless the product advisory group, constituted under **subsection (4)**, gives reasons the Director thinks are adequate for not recommending a product stewardship programme, recommend a product stewardship programme for a product if—
 - (a) the product contains toxic or hazardous constituents:
 - (b) toxic or hazardous substances are used in the manufacture of the product or its packaging:
 - (c) the product poses a threat to the safe or efficient operation of the solid waste system or facilities within it:
 - (d) the product or material it is made of, in part or wholly, is prohibited from disposal in disposal facilities:
 - (e) the product places a significant economic burden on local authorities for end-of-life management because there is a significant amount of the product in the waste stream or because the nature of the product makes it difficult to manage in the existing solid waste system:
 - (f) there is significant potential for increased reuse, recovery and recycling of the product and the components or materials of which it is comprised.
- (4) Product advisory groups for all products for which the Director is considering recommending a product stewardship programme must be—
 - (a) formed within 60 days of notice last being given under **section 51(1)** that the Director is considering making a recommendation to the Minister for a product stewardship programme:
 - (b) comprised of, but not limited to, representatives of manufacturers, distributors, retailers, consumers, non-profit non-government organisations, local government, recycling, and solid waste minimisation and management service providers.
- (5) Product advisory groups advising the director on the desirability of a product stewardship programme under **subsection (3)** must do so within 30 days of being formed.
- (6) The Director must decide whether or not to make a recommendation to the Minister under **subsection (2)** within 60 days of receiving advice from the product advisory group.

53 Approval of product stewardship programmes

- (1) For the purposes of **section 50**, a brand-owner must submit a product stewardship programme to the Director for review and approval within 270 days of the making of an Order in Council in respect of a product for which a product stewardship programme is required.
- (2) The Director must seek advice on a proposed product stewardship programme from the relevant product advisory group within 30 days of receiving a proposed product stewardship programme.
- (3) The product advisory group must provide advice to the Director on a proposed product stewardship programme within 60 days of the advice being requested by the Director.
- (4) The Director may—
 - (a) approve the product stewardship programme:
 - (b) decline to approve product stewardship programme:
 - (c) seek further information from the brand-owner.
- (5) The Director must provide a brand-owner with reasons if the Director declines to approve a programme under **subsection(4)(b)**.
- (6) The Director must approve or decline to approve a product stewardship programme under **subsection (4)(a) or (b)** within 90 days of receiving advice on it from the product advisory group including any time spent obtaining additional information from the brand-owner.
- (7) The Director may approve a product stewardship programme under **subsection(4)(a)** provided the Director is satisfied that the programme adequately provides for—
 - (a) consumer awareness of the proper use and storage of the product:
 - (b) consumer awareness of the product stewardship programme for the product:
 - (c) the collection of the product at the end of its life, and any packaging associated with the product, whether or not the product was sold, offered or otherwise distributed in New Zealand before or after the product stewardship programme was approved:
 - (d) the reduction in the use of materials in the product's manufacture:
 - (e) the reduction in waste created during the manufacture or use of the product or at the end of its life:
 - (f) reporting to the Director concerning compliance with the product stewardship programme:
 - (g) the term of the product stewardship programme:
 - (h) the manner in which the term of the product stewardship programme may be extended or amended.
- (8) In deciding whether to approve a product stewardship programme, or the amendment or extension of a product stewardship programme, the Director may consider—
 - (a) the timelines and effectiveness of the product stewardship programme in respect of the matters in **subsection (7)(a) to (h)**:
 - (b) the population and geographical area of the markets in which the product is sold, offered for sale or otherwise distributed:
 - (c) the manner in which the product is marketed and retailed by the brand-owner:
 - (d) the nature of the product and its packaging:
 - (e) the amount of the product expected to be sold annually:
 - (f) the amount of the product reaching the end of its life annually:
 - (g) the accessibility and location of collection facilities:
 - (h) the manner and degree to which consumers are informed of the collection facilities for the product:
 - (i) the methods of product and packaging collection, storage, transport and management:

- (j) the existence of product stewardship programmes operated by other brand-owners for the product:
 - (k) the structure of financial and operational co-operation with other brand-owners:
 - (l) the degree of adherence to the preferred order of activity in the waste minimisation hierarchy:
 - (m) the extent and frequency of reporting:
 - (n) the extent to which the product stewardship programme has been complied with up to the time the amendment or extension is sought and the reasons for any non-compliance:
 - (o) the advice of the product advisory group.
- (9) For the purposes of **subsection (8)(1)**, the waste minimisation hierarchy is—
- (a) avoid, eliminate or substitute products:
 - (b) reduce the use of the products:
 - (c) eliminate or reduce the generation of waste from the manufacture and use of the product:
 - (d) reuse the product:
 - (e) recover material from the product for other uses:
 - (f) recycle material from the product for use in making the same product again:
 - (g) recycle material from the product for use in making other products:
 - (h) recover material from the product for energy production:
 - (i) treat material from the product to reduce the hazard it poses:
 - (j) contain the material from the product in a place and way that poses least environmental and health risk.
- (10) To be valid, any amendment or extension of a product stewardship programme must be approved by the Director.

54 Product stewardship programmes may include deposits or fees

- (1) As part of their product stewardship programmes, brand-owners may impose a fully- or partially-refundable deposit or a non-refundable fee on the purchase price of their products.
- (2) If a partially-refundable deposit is imposed under **subsection (1)**, a non-refundable fee must not also be imposed.
- (3) If a refundable deposit or a fee is imposed on the purchase price of a product, this must be itemised separately on any receipt issued to the buyer of the product, being shown immediately above the cash due line using the words “Refundable No-Waste Deposit” and “Non-Refundable No-Waste Fee” respectively.
- (4) If more than one product for which a refundable deposit or non-refundable fee is charged is included on one receipt, the deposits or fees or both must be itemised separately for each product.

55 Targets

- (1) The Director may set targets for the reduction in waste generated in association with the manufacture, distribution, use and end-of-life of a product.
- (2) If the Director sets targets under **subsection (1)**, the Director must—
 - (a) set dates by which the targets must be met:
 - (b) do so at the time that the Director make a recommendation to the Minister in respect of the requirement for a proposed product stewardship programme
- (3) If targets are set under **subsection (1)**, these targets must be incorporated into the product stewardship programme for the product.

56 Timelines

Brand-owners must implement and comply with a product stewardship programme approved by the Director for a product within 90 days of the approval of the programme by the Director.

57 Reporting on product stewardship programmes

- (1) Every brand-owner must, by 28 February each year, provide to the director an annual report detailing the effectiveness of the brand-owner's product stewardship programme during the previous calendar year including, but not limited to, the following:
 - (a) the total amount of the product sold or otherwise distributed in New Zealand:
 - (b) the total amount of product collected from buyers:
 - (c) the total amount of collected product in storage:
 - (d) the total amount and percentage of collected product that was—
 - (i) reused:
 - (ii) recovered for use for other purposes:
 - (iii) recycled:
 - (iv) recovered for energy production:
 - (v) treated to make it less hazardous or voluminous:
 - (vi) disposed of.
 - (e) a list of the uses to which the collected products or the materials recovered from them were put:
 - (f) a description of the processes used to recover for materials, recycle, recover for energy production, treat and dispose of the collected products:
 - (g) the methods of collection of end-of-life products:
 - (h) the location of return collection facilities :
 - (i) the location of any facility where the collected product was stored, treated or disposed of:
 - (j) the types of consumer information, educational materials and strategies adopted under the product stewardship programme:
 - (k) the annual financial statements, as prepared by independent audit, of the revenues received and expenditure incurred by the brand-owner in implementing its product stewardship programme:
 - (l) the process of internal accountability used to monitor the environmental effectiveness of the product stewardship programme.
- (2) On receipt of a report under **subsection (1)**, the Director may require that a brand-owner—
 - (a) make amendments to the product stewardship programme:
 - (b) submit a new product stewardship programme to the Director for recommendation to the Minister.
- (3) If the Director requires that a product stewardship programme be amended, the brand-owner must implement such changes within 90 days of the Director notifying the brand-owner of the changes required.

58 Product stewardship programme to be imposed

- (1) If a brand-owner fails to obtain approval for its proposed product stewardship programme for a product within the time required, it may accept a product stewardship programme imposed by the Director.
- (2) An imposed product stewardship programme must comply with **sections 59 to 62**.
- (3) Acceptance of an imposed product stewardship programme enables the brand-owner to sell, offer for sale or otherwise distribute the product in New Zealand.

- (4) A brand-owner must comply with the requirements of an imposed product stewardship programme within 180 days of being notified of the Director's decision to impose the product stewardship programme.

59 Provision of consumer information

- (1) A brand-owner must provide to each seller of the brand-owner's product, free of charge, consumer information in the forms specified in **subsections (2) and (3)** on—
- (a) safe use and storage of the products:
 - (b) safe storage and handling of the products at the end of their lives:
 - (c) the location of and access to facilities where end-of-life products can be taken:
 - (d) any refundable deposit or fee charged by the brand-owner to facilitate it taking responsibility for the end-of-life collection and processing of the products.
- (2) The consumer information provided under **subsection (1)** must be posted by the seller in the form of at least one clearly visible sign with minimum dimensions of 41 cm by 29 cm and a minimum print font size of 24 points that is in contrasting colour to the background colour of the sign at each point of display of the product.
- (3) The consumer information provided under **subsection (1)** must also be distributed by the seller as a printed hand-out to each buyer of the product at the point of sale.
- (4) In addition to the information supplied under **subsection (1)(c)**, a brand-owner must notify the public of the location and hours of operation of its collection facilities in an area for the first 52 weeks after the collection facility is opened by inserting an advertisement in a newspaper serving the consumers' area.
- (5) An advertisement under **subsection (4)** must have minimum dimensions of 14 cm width by 10 cm height and be published once every week.

60 Collection of end-of-life products

- (1) A brand-owner must operate a collection facility for end-of-life units for the product to which a product stewardship programme relates.
- (2) The collection facility must be either—
- (a) at the premises of the sellers of the product in question: or
 - (b) within 5 kilometres by road from the each seller's premises.
- (3) A brand-owner must—
- (a) make its collection facility available to any consumer who wishes to return the brand-owner's end-of-life products, or packaging associated with the new products, to the brand-owner:
 - (b) operate its collection facility during the hours of 7am to 7pm at least 5 days a week, one day of which must be Saturday or Sunday.
- (4) A brand-owner may seek from the Director a waiver from the requirement specified in **subsection (3)(b)**.
- (5) The Director may grant a waiver to the requirement specified in **subsection (3)(b)** if the Director believes the requirement is unreasonable considering—
- (a) the geographical area the collection facility would serve:
 - (b) the population of the area:
 - (c) the total amount of end-of-life product, and packaging associated with new products, expected to be received by the collection facility:
 - (d) any other factor that the Director believes is relevant.

61 Brand-owner to observe waste minimisation hierarchy

- (1) A brand-owner, in implementing an imposed product stewardship programme, must handle all end-of-life products and packaging associated with new products, collected at a collection facility provided by that brand-owner, to maximise reuse, material

recovery, and recycling of material and minimise recovery for energy production, treatment and disposal.

- (2) In no case may the percentage of end-of-life products being reused, recovered for materials or recycled be less than 75% of the amount received by the collection facility.

62 Brand-owner to report on imposed product stewardship programme

A brand-owner on whom a product stewardship programme is imposed by the Director must report to the director on the performance and effectiveness of the Product Stewardship Programme in accordance with **section 57**.

63 Offences and penalties

- (1) A brand-owner who contravenes **sections 49(a), 49(b), 50(1), 53(1), 53(10), 54(3), 54(4), 55(3), 56, 57(1), 57(3), 58(4), 59, 60, 61, and 62** commits an offence.

- (2) A person convicted of an offence under **subsection (1)** is liable to a penalty of all or any of the following:

(a) a fine not exceeding \$100,000:

(b) imprisonment for a term not exceeding 6 months:

(c) a prohibition on selling the product to which the product stewardship programme relates.

- (3) A separate offence is committed for each day that the brand-owner is in contravention of the sections specified in **subsection (1)** and in this case separate fines, each up to the maximum fine, may be imposed for each day the offence continues.

Part 7

Organisational waste minimisation plans

64 Purpose

The purpose of this Part is to encourage all organisations to actively endeavour to minimise their waste production through implementing a plan with this aim.

65 Organisational waste minimisation plans

- (1) Every business or public organisation existing on the date on which this Act comes into force must develop, adopt, and implement an organisational waste minimisation plan that is consistent with the New Zealand Waste Strategy by—

(a) 1 January 2008, if the organisation employs more than 19 full-time equivalent people:

(b) 1 January 2011, if the organisation employs from 5 to 19 full-time equivalent people:

(c) 1 January 2016, if the organisation employs fewer than 5 full-time equivalent people.

- (2) Every business or public organisation established after the date on which this Act comes into force must adopt and implement an organisational waste minimisation plan before commencing operation.

- (3) Every business or public organisation may from time to time---

(a) amend its organisational waste minimisation plan; or

(b) revoke its organisational waste minimisation plan, and substitute a new organisational waste minimisation plan.

- (4) Every organisational waste minimisation plan must provide for—

- (a) the minimisation of waste generated by the organisation using methods in accordance with the waste hierarchy as outlined in the New Zealand Waste Strategy:
 - (b) the separation at source, and the separate collection, of the organic fraction, the reusable, recoverable or recyclable fraction, and the residual fraction of the waste produced by the organisation:
 - (c) measures to ensure that materials which are prohibited from disposal are not included in any of the residual waste collected from the organisation:
 - (d) the keeping of a full and accurate record of the amount of each fraction of waste produced by the organisation:
 - (e) the relevant Waste Control Authority to monitor the organisation's compliance with requirements for the separation of different types of wastes and prohibitions on disposal of waste:
- (5) Every business and public organisation must provide its waste minimisation plan to the Waste Control Authority of the location in which the organisation operates if requested to do so by that Waste Control Authority within 20 working days of being so requested.
 - (6) Every organisational waste minimisation plan requires the approval of the Waste Control Authority in the location in which the organisation operates.

66 Public event organisers to have waste minimisation plans

- (1) Every organiser of a public event must have in place a waste minimisation plan that gives effect to the principles of the New Zealand Waste Strategy and provides for—
 - (a) minimisation of the waste generated at the event:
 - (b) separation of wastes which are generated and appropriate handling after the event.
- (2) No territorial authority may issue a consent or permit for any public event unless—
 - (a) it has received from the event organiser a waste minimisation plan for the event:
 - and
 - (b) is satisfied that adequate measures will be taken to minimise the generation of waste at the event: and
 - (c) is satisfied that any waste produced will be separated by and dealt with according to its type.
- (3) A territorial authority may—
 - (a) require a waste minimisation bond as a condition of issuing a consent or permit for any event:
 - (b) retain the bond if the event organiser fails to act in accordance with the measures indicated in its waste minimisation plan.
- (4) For the purpose of this section, public event means any event held in a public space and for which any form of permit or consent is required by the territorial authority.

67 Offences and penalties

- (1) Every business or public organisation commits an offence and is, on summary conviction, liable to a fine not exceeding \$10,000 that fails to—
 - (a) develop, adopt and implement a waste minimisation plan in accordance with **section 65(1)(a), (b), or (c) or section 65(2)**; or
 - (b) make available its waste minimisation and management plan in accordance with **section 65(5)**.
- (2) Every public event organiser and local authority that fails to act in accordance with **section 66(1) or (2)** commits an offence and is liable on summary conviction to a fine not exceeding \$10,000.

Part 8

Public procurement policy

68 Purpose

The purposes of this Part are to decrease waste generation by supporting the development of markets for goods which either function in ways that decrease waste production or that are unlikely to become waste, and for the public sector to lead by example in making purchasing decisions that minimise waste.

69 Public organisations to support markets for goods and services that reduce waste

- (1) Every public organisation must have a procurement policy that explicitly demonstrates its commitment to the principles of the New Zealand Waste Strategy by —
- (a) requiring any purchasing of goods and services to give preference to those goods and services that in themselves facilitate a decrease in waste generation:
 - (b) requiring any purchase of goods to also give preference to those goods that ---
 - (i) are able to be repaired should they cease to function as intended:
 - (ii) are able to be reused, recovered for material or energy, or recycled once they are considered no longer suitable for their intended use:
 - (iii) are made from recovered or recycled materials:
 - (c) requiring contracted service providers to conform with the procurement procedures specified in the policy.
- (2) In deciding which products to purchase on the basis of **subsection (1)**, any consideration of the difference in cost of the products must—
- (a) be made on the basis of their capital and operating costs over the period of the full lifetime of the most durable product:
 - (b) not influence the decision unless it amounts to more than 33% of the least cost option.

Part 9

Public reporting

70 Purpose

The purpose of this Part is for public organisations to provide the public with information about the organisations' performances in terms of decreasing their waste generation and resource use.

71 Public organisations to report on waste generation and resource use

- (1) Every public organisation must include in its annual report information concerning the amounts of—
- (a) material it has used:
 - (b) waste it has generated which has been effectively reused, recovered or recycled:
 - (c) waste it has disposed of—
- in providing the services it provides either directly or through contracts.
- (2) Every public organisation must include in its annual report an assessment of its performance in minimising its waste and resource use judged against criteria to be specified in the organisation's waste minimisation plan.

72 Information and assessment to be provided to the Authority

The information specified in **section 71(1)** and the assessment made under **section 71(2)** must be forwarded to the Authority, in a form specified by the Authority, within 3 months of the issue of the organisation's annual report.

Part 10 Regulations

73 Regulations

- (1) The Governor-General may from time to time, by Order in Council made on the recommendation of the Minister, make regulations for all or any of the following purposes:
 - (a) prescribing products for which product stewardship programmes must be implemented:
 - (b) prescribing requirements in relation to the labelling of products and packaging in terms of their composition, ability to be recycled and recycled material content:
 - (c) prescribing requirements in relation to the materials of which products are made:
 - (d) prohibiting items and materials from being transported to or accepted by operators of disposal facilities for burial or burning:
 - (e) prohibiting materials from being used in the manufacture of, being part of, or being used in products sold, offered for sale or otherwise distributed in New Zealand:
 - (f) imposing levies aimed at reducing the generation of waste:
 - (g) requiring specified classes of persons to supply prescribed information to the relevant Waste Control Authority or the Authority in a form specified by the Authority for the purpose of compiling statistics on waste generation and resource use:
 - (h) specifying the procedures to be used in inspecting waste transported to or accepted by operators of waste disposal facilities:
 - (i) specifying the percentages of items and materials present in a sample of waste which must not be exceeded for the sample to comply with any bans on disposal:
 - (j) prescribing offences in respect of the contravention of, or non-compliance with, any provision of any regulations made under this section:
 - (k) prescribing the amount of the fines that may be imposed in respect of any offences against any regulation made under this section, which fines must be an amount not exceeding \$100,000.
- (2) Before recommending the making of regulations under this section, the Minister must—
 - (a) publicly notify the proposal to make the regulations; and
 - (b) give interested persons a reasonable time, which must be specified in the notice published under **paragraph (a)** and be not be less than 40 working days, to make submissions on the proposed regulations; and
 - (c) consult with such persons as the Minister in each case considers appropriate.

74 Incorporation of material by reference

- (1) Regulations made under **section 73** may incorporate the following information by reference:
 - (a) standards, requirements, or recommended practices of international or national organisations:
 - (b) any other written material or document that, in the opinion of the Minister, is too large or impractical to be printed as part of the regulations.
- (2) Material incorporated into regulations by reference under **subsection (1)** forms part of the regulations for all purposes.

- (3) Unless otherwise provided in the regulations, every amendment to material incorporated by reference that is made by the person or organisation originating the material is, subject to **subsection (4)**, part of the regulations.
- (4) The Minister must, by notice in the *Gazette*, specify the date on which an amendment to material incorporated by reference takes effect.

75 Confidentiality of information

- (1) This section applies to information supplied to Waste Control Authorities and to the Authority in accordance with regulations made under **section 73(1)(g)**.
- (2) The information may be used only for statistical purposes.
- (3) Subject to **subsection (5)**, no person, other than an employee of the relevant Waste Control Authority or the Authority, may be permitted to see information that relates to a particular person, except for the purposes of a prosecution or proposed prosecution against regulations made under **section 73**.
- (4) Except for the purposes of a prosecution or proposed prosecution against regulations made under **section 73**, information that is not particular to any 1 person—
 - (a) may be disclosed only to—
 - (i) an employee of the relevant Waste Control Authority or the Authority; or
 - (ii) a person to whom the information relates; and
 - (b) may be published only in accordance with **subsection (5)**.
- (5) Waste Control Authorities and the Authority may publish statistical information only if it is arranged in such a manner as to prevent any information published from being identifiable by any person, other than the person who supplied the information, as information relating to a particular person, unless—
 - (a) that person has consented to the publication of the information in that manner, or has already permitted its publication in that manner; or
 - (b) the publication of the information in that manner could not reasonably have been foreseen by the Waste Control Authority or the Authority or any employee of the Waste Control Authority or the Authority.

76 Offences and penalties

Every person commits an offence and is liable on summary conviction to a fine not exceeding \$10,000 who, without lawful excuse, publishes or discloses, otherwise than in accordance with **section 75**, any information to which that section applies.

77 Amendment to Ombudsmen Act 1975

The Ombudsmen Act 1975 is amended by inserting in Part II of the First Schedule, in its appropriate alphabetical order, the following item:
 “Waste Minimisation Authority.”

78 Amendment to Official Information Act 1982

The Official Information Act 1982 is amended by inserting in the First Schedule, in its appropriate alphabetical order, the following item:
 “Waste Minimisation Authority”.

79 Amendment to Public Finance Act 1989

The Public Finance Act 1989 is amended by inserting in the Fourth, Fifth, Sixth, and Seventh Schedules, in its appropriate alphabetical order, the following item:
 “Waste Minimisation Authority.”

Schedule 1 Provisions relating to Authority

Remuneration and expenses

1 Remuneration and expenses of members

The members of the Authority are to be paid, out of the funds of the Authority, such remuneration by way of fees, salary, or allowances, and such travelling allowances and travelling expenses, as are from time to time determined by the Minister.

Meetings

2 Time and place of meetings

- (1) Meetings of the Authority are to be held at such times and places as the Authority or the chairperson from time to time appoints.
- (2) At all meetings of the Authority, the chairperson presides if he or she is present.
- (3) If the chairperson is not present, or if there is no chairperson, the deputy chairperson, if present, must preside.
- (4) If neither the chairperson nor the deputy chairperson is present, or if there is no chairperson and no deputy chairperson, the members present must appoint 1 of their number to be the chairperson for the meeting.

3 Special meetings

- (1) The chairperson, or any 2 members, may at any time call a special meeting of the Authority by giving not less than 7 days' notice of the special meeting, and of the business to be transacted at the meeting, to each member of the Authority for the time being in New Zealand.
- (2) No business other than that specified in a notice of special meeting may be transacted at that meeting.

4 Quorum

At all meetings of the Authority, the quorum necessary for the transaction of business is—

- (a) 5 members; or
- (b) if the number of members of the Authority exceeds 8, 6 members.

5 Consensus

- (1) At all meetings of the Authority, members must make every effort to reach a consensus on all questions arising at the meetings.
- (2) If a consensus cannot be reached on a question, the question must be decided by a majority of at least 75% of the valid votes cast by members present at the meeting and voting.

6 Resolutions

- (1) A resolution in writing signed or assented to by letter, telegram, telex, fax message, or electronic message by all members of the Authority is as valid and effectual as if it had been passed at a meeting of the Authority duly called and constituted.
- (2) Any such resolution may consist of several documents in like form, each signed or purporting to have been despatched by 1 or more members.

7 Teleconference meeting

A resolution is as valid and effectual as if it had been passed at a meeting of the Authority duly called and constituted if—

- (a) a telephone or video conference of the Authority is held provided a quorum of members participates; and
- (b) all reasonable efforts have been made to enable every member to participate in the conference; and
- (c) each member who participates in the conference is able to individually express his or her consensus with, or vote on, any question arising during the meeting; and
- (d) the resolution is assented to by consensus or, if **clause 5(2)** applies, by a majority of at least 75% of the members participating in the conference.

8 Procedure

Subject to this Act, the Authority may regulate its procedure in such manner as it thinks fit.

Disclosure of interest

9 Obligation to disclose pecuniary interest

A member who, otherwise than as a member, has, directly or indirectly, a pecuniary interest in—

- (a) the Authority's performance of a function or exercise of a power; or
- (b) an arrangement, agreement, or contract, made or entered into, or proposed to be made or entered into, by the Authority,—

must, as soon as practicable after the relevant facts have come to the member's notice, disclose the nature of the interest in accordance with **clause 11**.

10 Pecuniary interest

A member has a pecuniary interest if that pecuniary interest is one to which section 6 of the Local Authorities (Members' Interests) Act 1968 would apply if he or she were a member of a local authority.

11 Disclosure to Minister or chairperson

(1) A member required by **clause 9** to disclose the nature of an interest must disclose it—

- (a) to the Minister if—
 - (i) the person is the chairperson of the Authority; or
 - (ii) the positions of chairperson and deputy chairperson of the Authority are vacant; or
- (b) to the chairperson of the Authority in any other case.

(2) The chairperson of the Authority must inform the Minister of any interest disclosed to the chairperson under **subclause (1)(b)**.

12 Disclosure to meeting

After becoming required to disclose the nature of an interest under **clause 9**, the member—

- (a) must, at a meeting of the Authority at which any deliberation or decision relating to the matter occurs or is made, disclose to the members present that he or she has an interest in the matter; and
- (b) may not take part in the deliberation or decision.

13 Quorum

A member required by **clause 9** to disclose the nature of an interest in a matter is to be disregarded in determining whether or not there is a quorum present for part of a meeting of the Authority during which a deliberation or decision relating to the matter occurs or is made.

14 Power of Minister to waive or modify

The Minister may, by written notice to the Authority, waive or modify any of the provisions of **clauses 9 to 13** in respect of a particular member or matter or class of matters that, in the Minister's opinion, does not constitute a direct or indirect material interest.

15 Obligation to notify House of Representatives if power to waive or modify is exercised

The Minister must present to the House of Representatives a copy of a notice issued under **clause 14** within 12 sitting days after the date on which the Minister issues the notice.

Provision of services by the Crown

16 Crown may provide services for Authority

The Crown, acting through a Government department, may from time to time at the request of the Authority, execute any work or enter into any arrangements for the execution or provision by the Government department for the Authority of any work or service, or for the supply to the Authority of any goods, stores, or equipment, on and subject to such terms and conditions as may be agreed.

Committees and delegation

17 Committees

- (1) The Authority may from time to time, by resolution, appoint, alter, discharge, continue, or reconstitute any committee to advise the Authority on any matters relating to the Authority's functions and powers that are referred to the committee by the Authority.
- (2) Every committee is to consist of such number of persons as the Authority thinks fit to enable the committee to carry out such of the functions and powers as may be delegated to the committee under **clause 18**.
- (3) Any person may be appointed to be a member of a committee, whether or not that person is a member of the Authority.
- (4) Subject to this Act, and to any direction given by the Authority, every committee may regulate its own procedure.

18 Delegation of functions and powers

- (1) Subject to **subclause (2)**, the Authority may from time to time, either generally or specifically, delegate any of the Authority's functions and powers to any of its committees, members, or employees.
- (2) The Authority must not delegate the following powers:
 - (a) the power of delegation conferred by **subclause (1)**; or
 - (b) the power to borrow money conferred by **clause 31**.
- (3) Every delegation must be in writing.
- (4) A delegation may be made to—
 - (a) a specified person; or
 - (b) a person belonging to a specified class of persons; or

- (c) the holder for the time being of a specified office or appointment; or
- (d) the holder for the time being of an office or appointment of a specified class.
- (5) Every delegation under this clause is revocable at will, but the revocation does not take effect until it is communicated to the delegate.
- (6) A delegation continues in force according to its terms until it is revoked, despite any change in the membership of the Authority or of any committee.
- (7) No delegation under this clause prevents the performance or exercise of a function or power by the Authority.

19 Exercise of functions and powers under delegation

- (1) The committee or person to whom a delegation is made under **clause 18** may exercise or perform the delegated functions or powers in the same manner and with the same effect as if they had been conferred directly by this Act and not by delegation.
- (2) **Subclause (1)** is subject to any general or special directions given or conditions imposed by the Authority.
- (3) Every committee or person purporting to act pursuant to a delegation under **clause 18** is presumed, in the absence of proof to the contrary, to be acting in accordance with the terms of the delegation.

Documents

20 Execution of documents

- (1) The Authority may from time to time, in writing, authorise any 1 or more members or employees of the Authority to execute any deeds, instruments, contracts, or other documents on behalf of the Authority, and may at any time in the same manner revoke the authority.
- (2) An authority given under **subclause (1)** to an employee of the Authority may be given to—
 - (a) the Director; or
 - (b) a specified employee; or
 - (c) an employee of a specified class; or
 - (d) the holder for the time being of a specified office or of an office of a specified class.
- (3) Every person purporting to execute a document on behalf of the Authority under any such authority is, in the absence of evidence to the contrary, presumed to be acting in accordance with that authority.

Employment

21 Director

- (1) The Authority must appoint a chief executive (the **Director**) to be responsible for the efficient and effective administration of the affairs of the Authority.
- (2) The Director must not be a member of the Authority.
- (3) The Director is to be appointed on such terms and conditions as are determined by the Authority.
- (4) The Authority must not determine any terms and conditions of employment for the Director without—
 - (a) consulting the State Services Commissioner; and
 - (b) having regard to all recommendations made by the State Services Commissioner about those terms and conditions within a reasonable time of being consulted.

22 Appointment of employees

- (1) The Authority may appoint such employees, including employees on secondment from other organisations, as it thinks necessary for the efficient performance of its functions.
- (2) Subject to the terms and conditions of employment, the Authority may at any time terminate or suspend the employment of any of the Authority's employees.
- (3) Before entering into negotiations for a collective employment agreement under the Employment Relations Act 2000, the Authority must consult with the State Services Commissioner about the conditions of employment to be included in the collective employment agreement.

23 Liability of members and employees

No member or employee of the Authority is personally liable for any liability of the Authority, or for any act done or omitted by the Authority, or by the Director or any employee of the Authority in good faith in pursuance or intended pursuance of the functions or powers of the Authority or of the Director.

24 Personnel policy

- (1) The Authority must operate a personnel policy that complies with the principle of being a good employer.
- (2) For the purposes of this clause, a good employer is an employer who operates a personnel policy containing provisions generally accepted as necessary for the fair and proper treatment of employees in all aspects of their employment, including provisions requiring—
 - (a) good and safe working conditions; and
 - (b) an equal employment opportunities programme; and
 - (c) the impartial selection of suitably qualified people for appointment; and
 - (d) recognition of—
 - (i) the aims and aspirations of Maori; and
 - (ii) the employment requirements of Maori; and
 - (iii) the need for involvement of Maori as employees of the Authority; and
 - (e) opportunities for the enhancement of the abilities of individual employees; and
 - (f) recognition of the aims and aspirations, and the cultural differences, of ethnic and minority groups; and
 - (g) recognition of the employment requirements of women; and
 - (h) recognition of the employment requirements of persons with disabilities.

25 Equal employment opportunities programme

- (1) In each year, the Authority must—
 - (a) develop and publish an equal employment opportunities programme for the Authority; and
 - (b) ensure that the programme for that year is complied with.
- (2) For the purposes of this clause and **clause 24**, an equal employment opportunities programme is a programme aimed at identifying and eliminating all aspects of policies, procedures, and other institutional barriers that cause or perpetuate, or tend to cause or perpetuate, inequality in respect of the employment of any persons or group of persons.

26 Superannuation or retiring allowances

- (1) The Authority may from time to time establish superannuation schemes in accordance with sections 84A to 84D of the State Sector Act 1988.

- (2) Despite anything in this Act, a person who, immediately before becoming an employee of the Authority, was a contributor to the Government Superannuation Fund under Part 2 or Part 2A of the Government Superannuation Fund Act 1956 is, for the purposes of that Act, deemed to be employed in the Government service so long as that person continues to be an employee of the Authority; and that Act applies to that person in all respects as if that person's service as an employee of the Authority were Government service.
- (3) Nothing in **subclause (2)** entitles a person to become a contributor to the Government Superannuation Fund after that person has once ceased to be a contributor.
- (4) For the purposes of applying the Government Superannuation Fund Act 1956 in accordance with **subclause (2)**, the term **controlling authority**, in relation to that employee, means the Authority.

27 Employees not in service of the Crown

Subject to **clause 26(2)**, no person is deemed to be employed in the service of the Crown for the purposes of the State Sector Act 1988 or the Government Superannuation Fund Act 1956 by reason only of that person's appointment as an employee of the Authority.

28 Consultants, agents, etc

The Authority or the Director may from time to time appoint consultants, agents, specialists, and advisory committees, to provide advice in relation to the exercise of the Authority's or the Director 's functions and powers, and to exercise such functions and powers as may be delegated under this Act to those persons or committees.

Financial provisions

29 Funds of Authority

The funds of the Authority consist of—

- (a) all money appropriated by Parliament and paid to the Authority; and
- (b) all money lawfully contributed, donated, or bequeathed to the Authority or otherwise lawfully payable to it; and
- (c) all money received by the Authority by way of levies, rent, or otherwise in respect of—
 - (i) any real or personal property vested in or controlled by the Authority; or
 - (ii) the performance or exercise of any of the functions or powers of the Authority; and
- (d) all money received by the Authority from the sale or other disposal of any of its real or personal property; and
- (e) all accumulations of income derived from any such money.

30 Bank accounts

- (1) The Authority must open at any registered bank or registered banks (within the meaning of the Reserve Bank of New Zealand Act 1989) such accounts as are necessary for the exercise of its functions and powers.
- (2) All money received by the Authority, or by any member or employee of the Authority for the purposes of the Authority must, as soon as practicable after it has been received, be paid into such bank accounts of the Authority as the Authority from time to time determines.

- 31 Power to borrow**
The Authority may borrow money subject to the approval of the Minister of Finance.
- 32 Investment of money**
Subject to the terms of any trust or endowment, money held on behalf of the Authority and that is not immediately required for expenditure may be invested—
- (a) in accordance with section 25 of the Public Finance Act 1989; or
 - (b) in such other manner as the Authority, with the prior approval of the Minister, may determine.
- 33 Expenditure not otherwise authorised**
The Authority may, in any financial year, expend for lawful purposes not otherwise authorised by this Act or any other enactment, any sum or sums not amounting in the aggregate to more than \$5,000.
- 34 Auditor-General to be auditor of Authority**
The Authority is a public entity as defined in section 4 of the Public Audit Act 2001 and, in accordance with that Act, the Auditor-General is its auditor.

Application of Archives Act 1957

- 35 Archives Act 1957 to apply**
The Authority is a Government office for the purposes of the Archives Act 1957.

