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Digest No. 1620

Waste Minimisation (Solids) Bill 2006 (2008 No 43-2)

Date of Introduction:	04 May 2006
Member:	Nandor Tanczos
Select Committee:	Local Government and Environment.
Date report presented	07 April 2008
Published: 21 May 2008 Prepared by John McSoriley BA LL.B, Barrister Legislative Analyst P: (04) 471-9626 (Ext. 9626) F: (04) 471-1250	Caution: This Digest was prepared to assist consideration of the Bill by members of Parliament. It has no official status. Although every effort has been made to ensure accuracy, it should not be taken as a complete or authoritative guide to the Bill. Other sources should be consulted to determine the subsequent official status of the Bill.

Purpose

The Select Committee has recommended a new purpose clause for this Bill which is to " ... encourage waste minimisation and a decrease in waste disposal in order to:

- protect the environment from harm; and
- provide environmental, social, economic, and cultural benefits (*Part 1, Clause 3,(new "purpose" clause (as recommended by the Select Committee)).*

The Bill as introduced is described in [Bills Digest No 1371](#).

Supplementary Order Paper 2007 No 150 is described in [Bills Digest No 1567](#).

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Main Changes to the Bill

Name Change

The Select Committee has recommended the changing of the name of the Bill from Waste Minimisation (Solids) Bill to simply the Waste Minimisation Bill (*Title of the Bill*).

Significant redrafting

The Select Committee has recommended the removal of the following features of the Bill as it was introduced:

- organisational waste minimisation plans;
- the public procurement policy;
- public organisation reporting;
- the Waste Minimisation Authority;
- waste control authorities; and
- target dates for waste reduction goals from the mandatory measures

Comment

The Bill has been significantly redrafted and the following is a description of what is essentially a totally new Bill and is generally described below as such.

Purpose and interpretation

The Select Committee has recommended a new purpose clause (see purpose section of this Bills Digest above) (*Part 1, New Clause 3*). The term "waste" is defined as "...any thing that ... has been disposed of or discarded ... or ... is no longer required for its original purpose and, but for commercial or other waste minimisation activities, would be disposed of or discarded ... and ... includes a type of waste that is defined by its composition or source (for example, organic waste, electronic waste, or construction and demolition waste" (*Part 1, New Clause 5, definition of "waste"*). The term "disposal" is defined as "... the final (or more than short term) deposit of waste into or onto land set apart for that purpose ... and ... includes the incineration of waste" (*Part 1, New Clause 5 (definition of "disposal") and New Clause 5A*).

Product stewardship

The Bill provides that the Minister may, after considering public and other input, by notice in the *Gazette*, declare a product to be a priority product. A "product stewardship scheme" must be developed for a priority product and accreditation of that scheme by the Minister must be obtained. Accreditation will be granted if certain conditions are met such as the identification of the scheme manager and the setting of measurable waste minimisation, treatment, or disposal objectives for the priority product. Accredited schemes may be varied or revoked. They expire on the date so specified in the scheme or on the elapse of seven years from the date of the Minister's notice of accreditation, whichever is the earlier. Regulations may be made in respect of priority products, accredited schemes, products, materials, and waste. Regulations may include prohibitions on the sale of a priority product except in accordance with the accredited scheme. Regulations may also be made to cover products (whether or not they are priority products), materials or waste in relation to: the control or prohibition of their disposal; take-back services, fees, and refundable deposits; the labelling of a product; quality

standards; the collection and provision of certain information; and other matters (*Part 2, New Clauses 6-22*).

Waste disposal levy

The Bill provides that a levy may be imposed on waste disposed of at a "disposal facility" (unless that facility is exempted by regulations) in order to raise revenue for the promotion and achievement of waste minimisation and to "increase the cost of waste disposal to recognise that disposal imposes costs on the environment, society, and the economy". The rate of the levy is to be prescribed (by regulations under *New Clause 39(1)*) but if there is no levy so prescribed the rate (exclusive of Goods and Services Tax) is \$10 per tonne or \$10 per unit of volume that is prescribed (in regulations) to be equivalent to a tonne. The collector of the levy is the Secretary for the Environment (the Secretary) but a different levy collector may be appointed. The Secretary is responsible for the distribution and spending of the levy proceeds. Regulations may be made in respect of the waste disposal levy and related matters (*Part 3, New Clauses 23-39*).

What is a "disposal facility"?

The Bill defines the term "disposal facility" "unless the context requires another meaning" as "a facility, including a landfill, ... at which waste is disposed of ... and ... at which the waste disposed of includes household waste ... and ... that operates, at least in part, as a business to dispose of waste ... and ... any other facility or class of facility at which waste is disposed of that is prescribed as a disposal facility (*Part 2, New Clause 5B*).

Territorial authorities

The Bill provides for the adoption by territorial authorities of waste management and minimisation plans to promote effective and efficient waste management and minimisation within their districts. Such plans must provide objectives and policies for this purpose as well as the methods to be used. Provision is made for public consultation in preparing the plans. The Governor-General by order in Council may require plans to be altered in any way. The plans must be reviewed every six years. Territorial authorities are required to provide collection services (either themselves or by means of other persons). Appropriate by-laws may be made (*Part 4, New Clauses 40-62*).

Offences and enforcement

The Bill provides for a system of offences including strict liability offences. Some offences are infringement offences for which infringement notices may be issued. Enforcement officers may be appointed by the Secretary. These have powers to seize property where the property is materially involved in the commission of an offence and if it is reasonable in the circumstances to seize and impound it (*Part 5, New Clauses 63-83*).

Reporting and audits

The Bill enables regulations to be made to gather information from appropriate persons in relation to waste disposal. The Secretary is also given power to appoint auditors to audit, particularly, disposal facilities, their operators and levy collectors in respect of the payment of the levy and compliance with any prescribed requirement to keep or provide records or other information. Auditors are given powers of entry to carry out these functions (*Part 6, New Clauses 84-86*).

Waste Advisory Board

The Bill establishes the Waste Advisory Board. The function of the Board is to provide advice to the Minister upon request including advice on declaring priority products (see above), accrediting certain product stewardship schemes, advice on recommending the making of regulations in relation to prohibitions on the sale of priority products, other materials and waste, and on regulations in relation to the waste disposal levy. The membership of the Board is between four and eight persons. The members are appointed by the Minister, after a public consultation process, for terms of up to three years (*Part 7, New Clauses 87-96*).

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