

**THE SOLID WASTE REGULATION AND
MANAGEMENT ACT, 2018**

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GOVERNMENT OF ZAMBIA

ACT

No. 20 of 2018

Date of Assent: 23rd December, 2018

An Act to provide for the sustainable regulation and management of solid waste; general and self-service solid waste services; the incorporation of solid waste management companies and define their statutory functions; the licensing and functions of solid waste service providers, operators and self-service solid waste providers and provide for their functions; the regulation, operation, maintenance and construction of landfills and other disposal facilities; the setting and approval of tariffs for management of solid waste and provision of solid waste services; and matters connected with, or incidental to, the foregoing.

[26th December, 2018

ENACTED by the Parliament of Zambia.

Enactment

PART I
PRELIMINARY PROVISIONS

1. This Act may be cited as the Solid Waste Regulation and Management Act, 2018, and shall come into operation on the date that the local Government Act, 2019 comes into operation.

Short title and commencement Act No. of 2019

2. (1) In this Act, unless the context otherwise requires—

Interpretation

“ agricultural waste ” means waste generated from agricultural activities, including bird and animal carcasses;

“ appropriate authority ” means the Minister responsible for, or public body, statutory body or person, having powers or regulatory functions under any other written law or executive instrument over, impacting on, or relating to,

local government, socio-economic policies, solid waste, disaster management, water resources management or development, the environment, land management, agriculture, railways, markets and bus stations, public health services, ionising radiation, medicines and drugs, water supply and sanitation, construction, buildings, roads, urban and regional planning, surveys, occupational safety, factories, infrastructure development, manufacturing, commerce, trade, competition and consumer protection, standards, public- private partnerships or aviation;

“ authorised officer ” means an employee or agent of the Department, a local authority, solid waste management company, an officer of the Zambia Environmental Management Agency or any other officer authorised, in writing, to enforce this Act;

“ billing ” means the imposition of a tariff for solid waste management or solid waste services, and the word “bill” shall be construed accordingly;

“ Board ” means a Board of directors of a solid waste management company;

“ Civil Service Commission ” means the Civil Service Commission established by the Constitution;

Cap. 1

“ company ” has the meaning assigned to the word in the Companies Act, 2017;

Act No. 10
of 2017

“ commercial waste ” means solid waste generated from commercial or trade activities, including handling, processing, packing, packaging and retailing, but excludes hazardous waste;

“ community ” means a group of at least ten urban, peri-urban or village households who receive, as a group, solid waste services from a solid waste service provider or who provide their own solid waste services or management;

“ construction waste ” means waste generated from a construction or demolition site, but excludes hazardous waste from construction activities;

“ consumer ” includes a person, institution or organisation—

(a) supplied or applying to be supplied with, or using or receiving, solid waste services; or

(b) liable for payment of a tariff for the supply or use of solid waste services;

“ Department ” means the department in the Ministry responsible for regulating solid waste under this Act;

“ development ” means the area in which a gated community, housing estate or similar property is situated or located;

“ Director ” means the civil servant appointed by the Civil Service Commission as the head of the Department;

“ disposal ” means the final placement of solid waste in landfills or other disposal facilities, without intention of retrieval, and includes the disposal of raw or intermediary handled inert or otherwise unwanted residues, and the word “dispose” shall be construed accordingly;

“ disposal facility ” means a prescribed place or facility where solid waste is disposed of;

“ domestic waste ” means solid waste generated from dwellings, residential areas, municipal areas, streets or drainage, and includes agricultural waste;

“ e-waste ” means various forms of electric and electronic equipment that has ceased to be of value to their users or no longer satisfies their original purpose;

“ facility ” means a structure, system, appurtenance, plant or equipment that is necessary for the provision of solid waste services to a consumer;

“ hazardous waste ” has the meaning assigned to the words in the Environmental Management Act, 2011;

“ healthcare waste ” means waste generated from pathological and pharmaceutical activities or matter and other solid waste generated by healthcare establishments, healthcare research facilities and healthcare laboratories, including waste generated in the course of healthcare undertaken in the home, and presents hazardous characteristics as defined in the Basel Convention on the Control of Trans-boundary Movement of Hazardous Waste and Their Disposal;

Act No. 12
of 2011

360 No. 20 of 2018] *Solid Waste Regulation and Management*

- Act No. of 2019
- Cap. 1
- Act No. 1 of 2018
- “ industrial waste ” means solid waste generated from manufacturing, fabrication, including construction waste but excludes hazardous waste and waste from mining activities;
 - “ inspector ” has the meaning assigned to the word in the Local Government Act, 2019;
 - “ landfill ” means a prescribed area that is used for the disposal of solid waste;
 - “ licence ” means a licence issued in accordance with this Act;
 - “ licenced solid waste service provider ” means a solid waste service provider that holds a licence issued in accordance with section 40;
 - “ local authority ” has the meaning assigned to the words in the Constitution;
 - “ member ” means a person appointed as a member of the Board of directors of a solid waste management company in accordance with the articles of association of that company;
 - “ occupier ” means a person that is in actual occupation of, or responsible for managing, a property or premises;
 - “ owner ” means the owner of a property or premise, or a person for the time being receiving the rent in respect of the property or premise;
 - “ permit ” means a permit issued under this Act;
 - “ permit holder ” means a person that holds a permit issued under section 46;
 - “ premise ” includes a passage, building or segment in a tenure including land;
 - “ private body ” means an organisation, company, partnership, proprietorship or other person or institution which is not a public body, and includes a research and training institution, non-governmental organisation or development partner;
 - “ public body ” has the meaning assigned to the words in the Public Finance Management Act, 2018;
 - “ recycle ” means to separate and process material from solid waste for further use as a new product or resource;
 - “ registered operator ” means a person that holds a permit to construct, operate, manage or maintain a landfill or other disposal facility, in accordance with section 47;

- “ re-use ” means to use articles from the solid waste stream for a similar or different purpose without changing the form or properties of the articles;
- “ self-service solid waste provider ” means a licenced solid waste service provider that provides one or more components of solid waste services;
- “ service level agreement ” means an agreement entered into between a local authority or solid waste management company and a licenced solid waste service provider or registered operator in accordance with section 63;
- “ service level guarantee ” means the minimum service level guarantee issued by a Board to a solid waste management company in accordance with section 12;
- “ service zone ” means the area in which a local authority or licenced solid waste service provider provides solid waste services;
- “ solid waste ” means garbage, domestic waste, municipal waste, household refuse, junk, agriculture waste, healthcare waste, construction waste, commercial waste or industrial waste, but does not include hazardous waste or human waste, that is not in the form of treated sludge or other form intended for final disposal as waste;
- “ solid waste management ” means a direction, measure, strategy, an administrative, a supervisory or an operational activity used for the management or control of solid waste;
- “ solid waste management area ” means the area in which a local authority or solid waste management company provides solid waste management services;
- “ solid waste management company ” means a company incorporated, under the Companies Act, 2017, by a local authority in accordance with section 9;
- “ solid waste services ” means the handling, collection, transportation, recycling, disposal or treatment of solid waste, and includes the prevention, reduction, re-use, recovery or composting of solid waste or generation of energy, in accordance with this Act or any other written law;
- “ solid waste service provider ” means a person that provides solid waste services, or any component of solid waste services;

	<p>“ tariff ” includes fees, charges and levies;</p> <p>“ waste generator ” means a person that generates solid waste or is in possession or control of solid waste; and</p> <p>“ Zambia Environmental Management Agency ” means the Agency established in accordance with the Environmental Management Act, 2011.</p>
Act No. 12 of 2011	
Application Act No. 12 of 2011	<p>3. This Act does not apply to hazardous waste, e-waste and healthcare waste or waste regulated under the Environmental Management Act, 2011.</p>
Relations and cooperation with appropriate authorities	<p>4. (1) The Ministry shall, for purposes of solid waste management and regulation, collaborate with appropriate authorities and may, for such purposes—</p> <p>(a) have joint programmes, plans, strategies and policies, taking into account the socio-economic policies of the Government; and</p> <p>(b) enter into memoranda of understanding.</p> <p>(2) A local authority, solid waste management company, licenced solid waste service provider, registered operator and self-service solid waste provider shall abide by the regulatory standards and directions relating to the environment, construction, land use, aviation, radiation control, water resources management and development, disaster management and protection of public health, as specified in this Act or any other written law.</p> <p>(3) An appropriate authority shall consult with the Department when setting standards, or granting a licence, permit or other authorisation for an activity that may have an impact on solid waste regulation and management.</p> <p>(4) The Department may, after consultations with an appropriate authority under subsection (3), attach conditions for the carrying out of an activity that are necessary for the sound management of solid waste in accordance with this Act or any other written law.</p>
Key concepts and principles of solid waste management and regulation	<p>5. The following key concepts and principles apply to the management and regulation of solid waste:</p> <p>(a) solid waste is a resource;</p> <p>(b) promotion of a solid waste hierarchy for recovery of solid waste, where prevention, reduction, re-use, recycling and composting is of primary consideration followed by other means of recovery such as energy recovery and lastly disposal;</p>

- (c) restriction of landfills and other disposal facilities near airdromes, wetlands, flood plains and ecologically sensitive areas;
- (d) development and promotion of public health by observing solid waste management safeguards that uphold key social and health determinants;
- (e) categorisation of solid waste depending on its physical or chemical characteristics;
- (f) protection of the interests of consumers through effective participation of consumers in the management and decision-making processes for solid waste management;
- (g) provision of universal access to basic solid waste services; and
- (h) ensuring prudential financing mechanism for solid waste management are in place.

PART II

MANAGEMENT OF SOLID WASTE

6. (1) A local authority shall, in accordance with the Constitution, the Local Government Act, 2019 and this Act, manage solid waste and may undertake solid waste management in partnership or association with another local authority, public body or private body.

Management
of solid
waste by
local
authorities
Cap. 1
Act No. of
2019

(2) Where a local authority undertakes solid waste management, sections 13 and 14 apply to that local authority as if for a reference to “solid waste management company” there were substituted a reference to “local authority”.

(3) Where a local authority undertakes solid waste management in partnership or association with another local authority, public body or private body that local authority shall do so in accordance with sections 8 and 9.

(4) Subject to the other provisions of this Act, a local authority shall, in consultation with the Zambia Environmental Management Agency, construct, operate and maintain landfills and other prescribed disposal facilities.

(5) Despite the generality of subsections (1), (3) and (4), the functions of a local authority, with respect to solid waste, are to—

- (a) facilitate and manage activities that promote the key concepts and principles of solid waste management as specified in section 5;
- (b) determine the location of landfills and other disposal facilities in accordance with international best practice, in consultation with the Zambia Environmental Management Agency;
- (c) sensitise the public on solid waste disposal;
- (d) create an enabling environment and appropriate incentives for the delivery of reliable, sustainable and affordable solid waste services; and
- (e) provide for the systematic collection, transportation and disposal of solid waste in service zones falling under its jurisdiction.

Solid waste services by local authorities Act No. of 2019 Cap. 1

7. A local authority shall, in accordance with the Local Government Act, 2019, and this Act, provide solid waste services and may, in accordance with the Constitution, provide solid waste services in partnership or association with another local authority, public body or private body.

Resolution to establish solid waste management company

8. (1) A local authority may resolve to—

- (a) establish a solid waste management company for the management of solid waste in its area of jurisdiction; or
- (b) enter into an agreement with another local authority, two or more local authorities or a public or private body to establish a joint solid waste management company for the management of solid waste; and
- (c) delegate the provision of solid waste services to private bodies to be undertaken in accordance with this Act.

(2) Where a local authority establishes a company to provide solid waste management or delegates its functions to a private body, the local authority shall not—

- (a) undertake solid waste management in a solid waste management area that is being managed by a solid waste management company; and
- (b) provide solid waste services in the service zone covered by a licensed service provider.

(3) Despite subsection (2), a local authority may provide solid waste management services during an emergency and where a solid waste management company fails or neglects to provide solid waste services.

9. (1) An entity to manage solid waste shall be incorporated under the Companies Act, 2017, as a private or public company.

Incorporation of solid waste management company, shareholders and members Act No. 10 of 2017

(2) The articles of association of a solid waste management company, incorporated in accordance with subsection (1), shall state the primary objective of the company as the management of solid waste.

(3) The shareholders of a solid waste management company shall be—

(a) the local authority and the Minister responsible for finance, where the local authority is not in partnership with any other local authority or private or public body;

(b) the local authorities incorporating the company and the Minister responsible for finance, who shall each hold the number of shares that may be stipulated in a shareholder's agreement; or

(c) the local authority, private or public body and Minister responsible for finance, who shall each hold the number of shares that may be stipulated in a shareholder's agreement.

(4) The shareholders of a solid waste management company shall appoint not more than eleven members of the Board of the company of which the majority of members shall be from the public sector and at least two members shall be from the private sector.

(5) The Minister shall appoint the chairperson of the Board.

(6) The members shall elect a vice-chairperson from among themselves.

(7) The tenure of office and removal from office of a member shall be as stated in the articles of association of the solid waste management company.

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Name of solid waste management company

10. (1) The name of a solid waste management company shall incorporate the words “ solid waste management ”.

(2) Nothing in subsection (1) prohibits the use of an abbreviation indicative of a name of a district or Province.

Functions of Board

11. (1) The Board is responsible for carrying out the functions of, and managing the business and affairs of, a solid waste management company.

(2) Despite the generality of subsection (1) and the articles of association of a solid waste management company, the Board shall—

- (a) provide strategic direction, to the solid waste management company, in the performance of its functions;
- (b) approve strategic plans for solid waste management and provision of solid waste services;
- (c) approve the budget, annual report and audited accounts of the solid waste management company;
- (d) ensure the efficient and economical provision of solid waste services by licenced solid waste service providers; and
- (e) perform functions and do other things that a body corporate may by law do in relation to the company.

Board charter and minimum service level guarantees

12. (1) The Board shall develop and approve a Board Charter for the solid waste management company.

(2) The Board shall issue minimum service level guarantees to a solid waste management company for the performance of solid waste management services.

Functions of solid waste management company

13. (1) The functions of a solid waste management company relating to solid waste or in its solid waste management area, are to—

- (a) advise the local authority on solid waste management;
- (b) ensure that solid waste management services are accessible, sufficient, affordable, safe and acceptable on a non-discriminatory basis;
- (c) facilitate private sector participation in the development and provision of solid waste services in a service zone;

- (d) provide general oversight over the provision and standards of solid waste services;
- (e) assess solid waste service providers operators and self-service solid waste providers applying for licences to provide solid waste services or permits to construct, maintain, operate or manage landfills and other disposal facilities, respectively, before the Department issues the licences or permits;
- (f) hold public inquiries on proposed tariffs;
- (g) recommend, to the Director, tariffs for solid waste management services and solid waste services;
- (h) monitor and evaluate the performance of licensed solid waste service providers registered operators and self-service solid waste providers in relation to –
 - (i) levels of investment;
 - (ii) availability, quantity and standard of solid waste services;
 - (iii) the cost of solid waste services;
 - (iv) the efficiency and distribution of solid waste services; and
 - (v) any other matter relevant to solid waste services;
- (j) in collaboration with the appropriate authority, ensure that adequate solid waste services are provided to aircrafts and that managers of, and service providers at, airports and pilots observe the requirements and regulations pertaining to handling and disposal of solid waste;
- (k) observe and uphold the key concepts and principles of solid waste management specified under section 5;
- (l) enhance cooperation with all appropriate authorities in the management of solid waste;
- (m) prepare, adopt and enforce rules, operating manuals, codes of practice and standards for activities associated with the provision of solid waste services;
- (n) in collaboration with appropriate authorities, establish solid waste control measures;
- (o) prepare reports and compile statistics relevant to the management of solid waste and provision of solid waste services and regularly report such matters to the board and Department;

- (p) in liaison with local authorities and other appropriate authorities, raise public awareness of matters concerning solid waste;
- (q) formulate, implement and enforce programs, initiatives and requirements for the management of solid waste;
- (r) in collaboration with the Zambia Environmental Management Agency, formulate appropriate arrangements and procedures for the management of landfills and other disposal facilities falling under its jurisdiction; and
- (s) perform any other functions or as directed by the Department.

(2) A solid waste management company may enter into contractual arrangements, with any person or appropriate authority, for the provision of services necessary to discharge its functions and to perform its waste management activities, including activities related to—

- (a) the management and operation of landfills and other disposal facilities and treatment facilities falling within its mandate;
- (b) any aspect of its solid waste management services; and
- (c) other solid waste management related activities, including the dissemination of information and the raising of public awareness.

(3) Subject to subsection (4), a contractor engaged by a solid waste management company, in accordance with this section, may be authorised to—

- (a) collect tariffs on behalf of the solid waste management company and account to the solid waste management company;
- (b) give direction or impose operational requirements, consistent with this Act, operating procedure or code of practice made under this Act; and
- (c) take any other action in accordance with the contract made with the solid waste management company.

(4) Subject to subsection (5), a solid waste management company shall not in the performance of its functions under this Act or any other written law, be subject to the direction and control of any person or authority.

(5) The Department may, in writing, give to the solid waste management company directions as the Department considers necessary in the public interest and the solid waste management company shall give effect to those directions to the extent that they are not inconsistent with this Act.

(6) A solid waste management company shall adhere to the service level guarantees, including the service indicators, rules and guidelines, issued by the board or prescribed by the Minister.

14. Despite the generality of section 13, a solid waste management company in the solid waste management area, shall—

General powers of solid waste management company

- (a) ensure the provision of technical and corporate assistance to local authorities and licenced solid waste service providers;
- (b) take action that may be necessary or expedient to enable the Government to comply with any international agreements relating to solid waste;
- (c) monitor the management of risks by licenced solid waste service providers, registered operators and self-service solid waste providers;
- (d) ensure that solid waste service providers, operators and self-service solid waste providers are sourced by way of public tender, on a competitive basis;
- (e) enter into service level agreements with licenced solid waste service providers, registered operators and self-service solid waste providers and any other person, regarding solid waste services;
- (f) publish in the *Gazette* and a newspaper of general circulation for a period of three days, the tariffs to be charged for various solid waste services and solid waste management;
- (g) inspect service zones so as to evaluate and monitor solid waste services provided by licenced solid waste service providers;
- (h) collect prescribed tariffs from licenced solid waste service providers and other persons disposing of solid waste at landfills and other disposal facilities under its jurisdiction;
- (i) charge and collect prescribed tariffs for inspections and other services provided by the solid waste management company;

- (j) develop measures and strategies to ensure the effective implementation of prescribed standards, statutory rules and guidelines;
- (k) enforce prescribed standards relating to—
 - (i) solid waste services; and
 - (ii) landfills and other disposal facilities;
- (l) advise licenced solid waste service providers on procedures for handling complaints from consumers;
- (m) in liaison with relevant appropriate authorities, educate and provide information to persons on public health aspects of solid waste management;
- (n) provide information to the public on rights and obligations of consumers with respect to solid waste;
- (o) keep custody, acquire, including through compulsory purchase, construct and operate solid waste facilities;
- (p) provide or cause to be provided amenities or facilities which the solid waste management company considers necessary or desirable for consumers;
- (q) do all things that are necessary for the provision of effective and sustainable solid waste management services and access to the services;
- (r) enter into solid waste agreements on terms and conditions that may be agreed, subject to the Environmental Management Act, 2011, the Water Resources Management Act, 2011, and Local Government Act, 2019;
- (s) enter into the property of licenced solid waste service providers or registered operators for a purpose related to the provision of solid waste services; and
- (t) carry out any other activities relating to the management of solid waste, in liaison with other appropriate authorities.

Act No. 12
of 2011
Act No. 21
of 2011
Act No. of
2019

Management
and
operating
plans

15. (1) A local authority and solid waste management company shall prepare a three year management and operating plan with financial projections forming the basis of each year's annual plan and annual estimates relating to management of solid waste.

(2) The Minister shall submit a copy of the approved plan to the Minister responsible for finance.

16. (1) For purposes relating to solid waste management, a local authority or solid waste management company may make, display and impose operating procedures, guidelines, signs and codes of practice.

Operating procedures and codes of practice

(2) A person who fails or refuses to comply with any operating procedure, guideline, sign or code of practice, made or displayed in accordance with subsection (1), commits an offence.

17. (1) A local authority and solid waste management company shall, in respect of their solid waste management area—

Reports on solid waste management

(a) prepare and submit reports relating to solid waste management to the Ministers responsible for health, environment or water;

(b) ensure that the department, Ministries responsible for health, environment or water are immediately notified of any matter related to solid waste management which may adversely affect human health and the environment; and

(c) ensure that the Department and the Zambia Environmental Management Agency are immediately notified of any matter related to solid waste which may adversely affect or pollute the environment.

(2) In this section, “pollute” has the meaning assigned to the word in the Environmental Management Act, 2011.

Act No. 12 of 2011

18. (1) The Ministry shall, at the national level —

Responsibility of Ministry on solid waste management

(a) formulate a national policy and strategy on solid waste, solid waste management and solid waste services that also safeguards the interests of waste generators, other consumers, vulnerable persons and the environment;

(b) coordinate cross-sectoral interactions;

(c) support private investment and involvement in the provision of solid waste services;

(d) promote public-private partnerships in infrastructure development and other facilities for solid waste;

(e) provide technical and other support for the construction of landfills and other disposal facilities; and

(f) give directions to a local authority or solid waste management company in accordance with this Act and the Environmental Management Act, 2011.

Act No. 12 of 2011

Community
solid waste
management
services

19. (1) A local authority or a solid waste management company in a solid waste management area shall involve communities in solid waste management and consult with village and community representatives and traditional leaders, in matters relating to the management of solid waste and enforcement of the requirements of this Act.

(2) A local authority may, in consultation with other appropriate authorities and a solid waste management company in the solid waste management area, devise, approve, implement or participate in programs relating to the management of solid waste in communities.

(3) For the purposes of this section, a local authority may collaborate with any other person or body, whether incorporated or not, for any purpose associated with the management of solid waste in communities.

PART III

REGULATION OF SOLID WASTE

Environmental
and public
health
standards
Act No. 3 of
2017
Act No. 4 of
2017

20. (1) Subject to the Compulsory Standards Act, 2017, and the Standards Act, 2017, the Minister shall, in consultation with the—

(a) Minister responsible for environment, prescribe environmental standards relating to solid waste, landfills, disposal facilities and other facilities and the Zambia Environmental Management Agency and Department shall be responsible for the monitoring and enforcing the prescribed standards; and

(b) Minister responsible for health shall prescribe public health standards relating to solid waste management, solid waste services and disposal of solid waste and the Ministry responsible for health, the Department and a solid waste management company shall be responsible for monitoring and enforcing the prescribed standards.

(2) A person who fails or refuses to comply with a standard prescribed in accordance with this section commits an offence and is liable, on conviction, to a fine not exceeding three hundred thousand penalty units or to imprisonment for a period not exceeding three years, or to both.

(3) In addition to the penalties specified in subsection (2), the failure to observe or comply with a prescribed standard is a ground for—

- (a) suspending or revoking a licence or permit issued in accordance with this Act;
- (b) refusing any subsequent application for a licence or permit by the person; and
- (c) terminating any contract for a provision of solid waste services.

21. (1) The Civil Service Commission shall appoint a civil servant as Director responsible for the regulation of solid waste, solid waste management and solid waste services, and who shall ensure the requirements of this Act are complied with, subject to the general or special directions of the Permanent Secretary in the Ministry.

Director
and other
staff of
Department

(2) The Director shall be the head of the Department responsible for solid waste in the Ministry.

(3) The Director may, subject to the other provisions of this Act and to the general or special directions of the Permanent Secretary, delegate any of the Director's functions to an officer of the Department.

(4) The Civil Service Commission shall appoint other officers for the Department that may be necessary for the efficacious regulation of solid waste, solid waste management, and solid waste services, in accordance with this Act.

(5) The Director may, in order to ensure effective and efficient regulation of solid waste—

- (a) consider and grant licences and permits under this Act;
- (b) exercise any of the powers conferred on the Director or Department by this Act or any other written law, relating to the regulation of solid waste, with other appropriate authorities;
- (c) ensure that a local authority, solid waste management company, licenced solid waste service provider, self-service solid waste provider and registered operator undertake activities in accordance with this Act and any other written law relating to the protection of the

environment, water resources management and development, urban and regional planning, aviation control, prevention of diseases and protection of public health, in liaison with the appropriate authorities; and

(d) impose requirements for, and ensure that a local authority or solid waste management company make arrangements for the proper restoration and management of areas after decommissioning of a landfill or disposal facility, in consultation with the Zambia Environmental Management Agency.

Designation of solid waste, service zones and solid waste management areas

22. (1) The Minister may, by statutory instrument designate an object, substance, matter, or thing, as solid waste for the purposes of this Act.

(2) A designation made under subsection (1) may apply to a class or type of object, substance or thing.

(3) The Minister shall, by statutory instrument—

(a) designate service zones and solid waste management areas for purposes of this Act;

(b) publish, in a newspaper of general circulation, the names of the service zones and solid waste management areas; and

(c) specify under whose jurisdiction a particular service zone or solid waste management area falls.

Solid waste categorisation and handling

23. (1) The Minister shall, by statutory instrument, divide or sub-divide solid waste into various categories having regard to its physical or chemical characteristics and provide for the necessary manner of handling of that solid waste.

(2) The categories of solid waste to be prescribed, under subsection (1), shall include—

(a) domestic waste;

(b) healthcare waste;

(c) construction waste;

(d) commercial waste;

(e) industrial waste; and

(f) agricultural waste.

24. (1) An occupier or owner shall clean or cause to be cleaned the area around the owner's or occupier's property or other premise within the owner's or occupier's control.

Responsibilities
of owner or
occupier
regarding
solid waste

(2) A person shall not place or dump, cause or permit to be placed or dumped on, at the frontage of a property or any other premises, solid waste, other than for purposes of enabling the convenient collection of the solid waste by a local authority and a solid waste management company, licenced solid waste service provider or self-service solid waste provider.

(3) Where solid waste is abandoned on private property or premise, an authorised officer shall notify the owner or occupier of the legal consequences of keeping the solid waste at the property or premise and the owner or occupier shall cause the solid waste to be disposed of, within seven days from the date of the notice, in a manner that may be directed by the authorised officer.

(4) Where solid waste is found abandoned in a public place, an authorised officer shall take immediate steps to remove the solid waste and dispose of it in an appropriate manner.

(5) A waste generator shall register with a licenced solid waste service provider, in the service zone nearest to the property or premise of the waste generator, for purposes of accessing a solid waste service as prescribed.

(6) Any person who contravenes this section commits an offence.

25. (1) A public and private body and association of persons shall dedicate a specified number of operating hours, every month, to cleaning their premises, as prescribed.

Public and
community
cleaning

(2) A person shall participate in community cleaning of public areas, as prescribed.

(3) A private body may, as part of its corporate governance responsibilities, participate in community cleaning and provide prescribed containers, cleaning tools and chemicals for cleaning of public areas and community areas.

26. (1) A local authority or a licenced solid waste provider shall, in the service zone under the local authority's or a licensed solid waste provider's jurisdiction, provide appropriate solid waste containers, for the disposal of solid waste, of a size and pattern, and clearly colour coded or marked, for different categories or sub-divisions of solid waste, as may be prescribed by the Minister.

Prescribed
containers

(2) A person who disposes, or causes or permits to be disposed, any solid waste contrary to subsection (1) commits an offence.

(3) A person who places or allows usage of a container for disposal of solid waste which is not of a design, size, shape and quality, or colour coded or marked, as prescribed under this Act, commits an offence.

(4) A local authority or a licenced solid waste service provider may hire out, to an owner or occupier, a prescribed solid waste container at a prescribed charge and in accordance with conditions that the local authority or licenced service provider may impose.

(5) The provision of prescribed containers for disposal of solid waste shall be a condition of a licence granted to a solid waste service provider.

Placement of
solid waste
containers
and
prevention
of leakage,
scatter or
litter

27. (1) An owner or occupier shall place a prescribed container for disposal of solid waste on or at an owner's or occupier's property or premise, as directed by a local authority or licenced solid waste service provider.

(2) An owner or occupier shall keep covered, or cause to be continuously covered, and in good state of repair, all containers for disposal of solid waste.

(3) An owner or occupier shall keep or cause to be kept prescribed containers for disposal of solid waste reasonably clean and maintained in good condition.

(4) An owner or occupier shall ensure safe and sanitary disposal of solid waste in prescribed containers, failure to which the owner or occupier commits an offence.

(5) A person who places, causes or permits to be placed in a solid waste container, solid waste, which in the opinion of an authorised officer is infectious or has been exposed to infection or contamination, commits an offence.

(6) An owner or occupier shall show evidence of safe disposal of solid waste in prescribed containers, if required to do so by an authorised officer.

Sorting of
solid waste

28. A waste generator shall sort, or cause to be sorted, various categories of solid waste into different groups or clusters, such as—

- (a) organic waste;
- (b) plastic waste;
- (c) paper waste;

- (d) glass waste;
- (e) metal waste; or
- (f) any other group or cluster that may be specified in regulations issued by the Minister.

29. (1) A local authority or a licenced solid waste service provider shall collect solid waste from its district or service zone, in accordance with a service plan. Collection of solid waste

(2) Subject to the other provisions of this Act, nothing in this Act shall prevent or prohibit a local authority from, directly or indirectly, collecting solid waste from a street, main road or other public area.

(3) A service plan shall be a condition for a licence issued to a solid waste service provider.

(4) In this section, “service plan” means a document showing the arrangement, structure, diagram and time-line for the collection of solid waste in, or from, a service zone and disposal of solid waste by a local authority or licensed solid waste service provider.

30. (1) A vehicle or other means of conveyance used for transportation of solid waste shall be of a prescribed specification and labeled in a prescribed manner. Transportation of solid waste

(2) A person who provides transportation for solid waste shall comply with requirements and conditions for the transportation of solid waste that the Minister may prescribe.

(3) A person who contravenes this section commits an offence.

31. (1) A local authority or licenced solid waste service provider shall dispose of solid waste in a landfill or other disposal facility, or recycle, treat, or compost or incinerate the solid waste or use any other prescribed disposal method, depending on the type, quality and quantity of the solid waste. Disposal of solid waste in landfill or other disposal facility

(2) A person shall not enter, use, cause or allow the use or entry into a landfill or other disposal facility without written permission from a local authority or a solid waste management company, under whose jurisdiction the landfill or other disposal facility falls.

(3) A person shall not light a fire, or cause a fire to be lit, in a landfill or other disposal facility, except in accordance with guidelines issued by a local authority, solid waste management company or an appropriate authority.

(4) A person who contravenes this section commits an offence.

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Control of animals in landfill or other disposal facility

32. A local authority, solid waste management company or a person in control of a landfill or other disposal facility shall restrict the entry of animals in the landfill or other disposal facility, and remove an animal found in that landfill or facility in a manner determined by the local authority or solid waste management company.

Burning of solid waste

33. (1) A person commits an offence if that person intentionally burns solid waste otherwise than as prescribed.

(2) A person convicted of an offence under subsection (1) is liable to a fine not exceeding —

(a) five hundred thousand penalty units, for an individual; or

(b) one million penalty units, for a corporation, or an individual who has committed a subsequent or further offence.

Burying of non-organic waste

34. (1) A person shall not intentionally bury non-organic waste.

(2) A person who contravenes this section commits an offence.

Site restoration orders

35. (1) The Director may, where solid waste is disposed of in any place in contravention of this Act or any condition of a licence or permit, issue an order for the removal of the solid waste and restoration of the site to a condition satisfactory to the Director and the Zambia Environmental Management Agency.

(2) An order to remove solid waste and restore a site, made under subsection (1), may be served on—

(a) a person whom the Director has reason to believe disposed of the solid waste;

(b) a person whom the Director has reason to believe ordered or permitted the solid waste to be disposed of in that place; or

(c) an owner or occupier of the place.

(3) A person, on whom an order to remove solid waste or restore a site is served on, shall immediately take reasonable measures to comply with the order.

(4) A person who contravenes subsection (3) commits an offence and is liable, on conviction, to a fine not exceeding one hundred thousand penalty units or to imprisonment for a period not exceeding one year, or to both.

(5) A person, on whom an order to remove solid waste or restore a site is served, may apply to the Minister for the review of the decision stated in the order or against any requirement or condition in the order.

(6) The Minister may revoke an order to remove solid waste or restore a site if, after considering the representations made by an aggrieved person, a person who is not the owner, occupier or person having the charge, management or control of the place or premise or a person who did not deposit the solid waste, order or permit the solid waste to be disposed of by an authorised officer.

PART IV

LICENCES, PERMITS AND REGISTRATION

36. (1) Except for a local authority, a person shall not provide a solid waste service, or any component of that service, unless that person holds a licence or permit granted under this Part, as prescribed by the Minister.

Prohibition from providing solid waste services without licence or permit

(2) A person who contravenes subsection (1), commits an offence and is liable, on conviction, to a fine not exceeding three hundred thousand penalty units or to imprisonment for a term not exceeding three years, or to both.

37. (1) A solid waste service provider may apply for a licence with the Department, for the provision of solid waste services, or any component of that service in a service zone, across service zones or nationally in a prescribed manner and form on payment of a prescribed fee.

Application for solid waste service provider's licence

(2) The Director shall consider and determine the application within sixty days of receipt of the application, which period shall include the assessment period specified in section 53.

(3) Where an application lodged in accordance with subsection (1) is not considered and determined within sixty days of lodging of that application, the solid waste service provider's licence is deemed to have been granted, and the Director shall, immediately, issue the licence.

Submission for assessment of solid waste service provider

38. (1) The Director shall, within three days of receipt of an application lodged under section 37, submit electronically or by other media, the application and the accompanying information to the local authority or appropriate solid waste management company for an assessment to be undertaken in accordance with section 53.

Refusal to issue solid waste service provider licence

39. (1) The Director shall refuse to issue a licence if—

- (a) an application for the licence is not made in accordance with this Part and in a form or manner prescribed by the Minister;
- (b) the solid waste service provider fails to provide and show technical and financial capability to the satisfaction of a local authority or solid waste management company doing an assessment as specified in section 53;
- (c) the activity or business to be carried out contravenes or is likely to contravene any other written law; or
- (d) the applicant submits materially fraudulent information in relation to the application.

(2) The Director shall, where the Director refuses to grant a licence, as specified in subsection (1), notify the applicant, within seven days of the date of the decision, in writing, giving reasons for the refusal.

- 40.** (1) The Director shall, on the recommendation of a local authority or solid waste management company within thirty days of receipt of a report submitted in accordance with section 53, grant a solid waste service provider's licence to the applicant.
- (2) A solid waste service provider's licence is valid for a period of five years and may be renewed for a further five years in the prescribed manner and form on payment of the prescribed fee.
- (3) Subject to the Business Regulatory Act, 2014, a licence granted under this section may provide for the payment of annual or other periodic fees that may be prescribed.
- 41.** (1) Where a licenced solid waste service provider fails to commence operations within three months from the date of the grant of a licence, the licenced solid waste service provider shall notify the Department of the failure, giving reasons for that failure, and the Director shall, if satisfied with the reasons, specify the period within which the licenced solid waste service provider shall commence under the licence.
- (2) Where a licenced solid waste service provider fails to commence operations within the period specified in subsection (1), or is unable for whatever reason to provide solid waste services, under the licence and this Act, the licenced solid waste service provider shall notify the Department, in writing, and surrender the licence to the Department.
- (3) Where a licenced solid waste service provider fails to notify the Department, as specified in subsection (1), the licence shall lapse and the Director shall cancel the licence and publish the information in a newspaper of general circulation.
- 42.** (1) A solid waste service provider's licence shall not be transferred to a third party without the prior approval of the Director.
- (2) An application to transfer a licensed solid waste service provider's licence shall be made to the Department, and the Director may, within thirty days of the application, approve the application, subject to conditions that the Director may impose and that may be prescribed by the Minister.
- (3) A licensed solid waste service provider who contravenes subsection (1) commits an offence and is liable, on conviction, to a fine not exceeding three hundred thousand penalty units or to imprisonment for a term not exceeding three years, or to both.

Grant of
service
provider's
licence,
validity and
renewal of
licence

Act No. 3 of
2014

Failure to
commence
operations

Transfer of
solid waste
service
provider's
licence

Variation of
solid waste
service
provider's
licence

43. The Director may vary a solid waste service provider's licence, on the Director's own motion or on an application by the licensed solid waste service provider, where—

- (a) there has been a change in the shareholding or other beneficial interest in the licenced solid waste service provider;
- (b) the name of the licenced solid waste service provider has changed;
- (c) there has been a change in the service zone; or
- (d) the licenced solid waste service provider gives to the Director reasons evidencing the need to improve solid waste services, and the Director is satisfied with those reasons.

Cancellation
of licence

44. (1) Subject to this Act, the Director may cancel a solid waste service provider's licence if the licensed solid waste service provider—

- (a) obtained the licence through fraud, misrepresentation or concealment of a material fact;
- (b) has been convicted of an offence relating to corrupt practice or fraud in undertaking solid waste services or any other offence;
- (c) transfers or otherwise assigns the solid waste service provider's licence without the prior approval of the Director;
- (d) contravenes this Act, or any condition of the licence; or
- (e) fails, without reasonable cause, to comply with an enforcement notice issued under this Act.

(2) The Director shall, before cancelling a solid waste service provider's licence, under subsection (1), give the licenced solid waste service provider thirty days written notice of the Director's intention to cancel the licence and require the licenced solid waste service provider to—

- (a) put in place measures, within a period of not more than thirty days, that will ensure compliance with this Act, the solid waste service provider's licence or any enforcement notice served on the licenced solid waste service provider; or
- (b) give reasons why the solid waste service provider's licence should not be cancelled.

(3) The Director shall not cancel a licence, if remedial measures are taken, to the satisfaction of the Director, that ensure compliance with this Act, within the period of thirty days referred to in subsection (2).

(4) The Director may, after giving the licensee an opportunity to be heard, in person or in writing, cancel the solid waste service provider's licence, if the licensee —

(a) fails to give reasons, to the satisfaction of the Director, why the licence should not be cancelled; or

(b) does not take remedial measures, to the satisfaction of the Director, within the time specified in subsection (2).

(5) If the Director cancels a solid waste service provider's licence, the Director shall publish the cancellation in a *Gazette* and a newspaper of general circulation.

(6) In this section, "licensee" means a holder of a licence.

45. (1) A person who intends to provide a self-service to a gated community or housing estate shall apply to the Department for a licence in a prescribed manner and form on payment of a prescribed fee.

Self-service
solid waste
providers

(2) A person shall not provide solid waste services as a self-service provider to a gated community or housing estate without a licence.

(3) A person who contravenes this section commits an offence.

(4) Sections 38 to 44 apply to a self-service solid waste provider's licence as if for a reference to "service providers licence" there were substituted a reference to self-service solid waste provider's licence".

46. (1) A person shall not construct, operate, manage or maintain a landfill or other disposal facility without a permit issued under this Act.

Permits to
construct,
operate or
maintain
landfills and
other
disposal
facilities

(2) A person may apply, to the Department, for a permit to construct, operate, manage or maintain a landfill or other disposal facility.

(3) An application for a permit shall comply with the Environmental Management Act, 2011, and be made in the prescribed manner and form on payment of a prescribed fee.

Act No. 12
of 2011

(4) A permit holder shall comply with all written laws governing urban and regional planning, environment management and the health and safety of workers in the landfill, other disposal facility and workplace.

(5) A person who operates a landfill or other disposal facility without a permit or in breach of any condition of a permit commits an offence and is liable, on conviction, to a fine not exceeding five hundred thousand penalty units or to imprisonment for a term not exceeding five years, or to both.

(6) This section and section 38 apply to permits to construct, operate, manage or maintain a landfill and other disposal facility, with the necessary modifications.

Registration
of solid
waste
management
company
and small
scale
enterprises
or
proprietors

47. (1) The Director shall register a solid waste management company and issue a certificate of registration to the company.

(2) Despite any other provision of this Act, the Director shall, on an application by a small scale enterprise or a proprietor, intending to provide a component of solid waste services, including, cleaning, handling, collection and disposal of solid waste, register the small scale enterprise or proprietor without requiring the enterprise or proprietor to undergo an assessment by a local authority or solid waste management company and meeting the requirements specified in section 53.

(3) The Director shall issue a certificate of registration to a small scale enterprise or proprietor, referred to in subsection (1), if the small scale enterprise or proprietor meets the requirements prescribed by the Minister.

(4) The Minister may issue regulations providing for the provision of solid waste services by small scale enterprises or proprietors, including specifying the value levels of small scale enterprises.

Register of
solid waste
management
companies,
licence
holders,
permit
holders and
certificate
holders

48. (1) The Department shall establish and maintain a Register of all solid waste management companies, licence holders, permit holders and certificate holders in the prescribed manner and form.

(2) The Register, referred to under subsection (1), shall be available for public inspection during business hours.

(3) The Department shall ensure that, the register referred to in subsection (1), is accessible to the public electronically.

49. (1) Despite the other provisions this Act, where a licence has been cancelled, the Minister may, in the national interest, direct a solid waste service provider to continue to operate under the management and control of a statutory manager appointed in accordance with this section and as prescribed.

Appointment
of statutory
manager

(2) The Minister shall appoint a statutory manager for a period and on terms and conditions that the Minister considers necessary to ensure the continued provision of solid waste services or until a time that—

- (a) a local authority is in a position to provide solid waste services to the affected service zone;
- (b) the solid waste service provider is ready to comply with this Act and is licenced by the Director; or
- (c) another solid waste service provider is authorised to provide solid waste services in the affected service zone.

(3) A statutory manager shall, during the statutory manager's term of appointment, keep the Department and the relevant solid waste management company informed on all matters relating to the provision of solid waste services in the affected service zone.

(4) All expenses, connected with the appointment of a statutory manager's provision of solid waste services in the affected service zone, shall be a charge on the revenues of the solid waste service provider whose licence was cancelled.

(5) Despite subsections (1), (2), (3) and (4), the cancellation of a solid waste service provider's licence and the appointment of a statutory manager, under this section, shall not prejudice or affect the security of any debenture holder, mortgage or right of enforcement of such security.

PART V

SOLID WASTE SERVICES PROVISION

50. (1) A local authority or solid waste management company shall facilitate provision of solid waste services under this Act, and shall ensure, in liaison with other appropriate authorities, that—

Solid waste
services

- (a) the interest of consumers are protected and investment in solid waste and solid waste services are optimally provided;
- (b) solid waste services are efficient, economical and profitable;

- (c) proposed tariffs for solid waste services by licenced solid waste service providers and required operators are competitive;
- (d) licenced solid waste service providers and registered operators develop a diverse and competitive industry within the general and specific national policies established by the Government; and
- (e) consumers get their money's worth from the use of solid waste services.

(2) Except as provided in subsection (3) and section 53, the number of licenced solid waste service providers, registered operators or self-service solid waste providers shall not be limited for any component of solid waste services.

(3) The number of licenced solid waste service providers may be limited for each service zone, but waste generators shall not be prevented from having the choice between at least two licenced solid waste service providers with respect to any component of solid waste service, subject to restrictions or conditions specified in this Act.

Provision of
solid waste
services

Act No. 24
of 2010

51. (1) Subject to this Act, a licenced solid waste service provider, registered operator and self-service solid waste provider shall offer competitive solid waste services in accordance with the Competition and Consumer Protection Act, 2010.

(2) A local authority may, in liaison with an appropriate authority, impose on a licenced solid waste service provider, registered operator or self-service solid waste provider operating under its jurisdiction, conditions that it considers desirable in the interest of the environment, public health, consumer protection, safety, security and landfill operations or to prevent uneconomic competition.

(3) A licenced solid waste service provider, registered operator or self-service solid waste providers shall, where there is an imminent emergency or disaster event, notify the local authority, Disaster Management and Mitigation Unit and the solid waste management company in whose jurisdiction the licensed solid waste service provider, registered operator or self-service solid waste provider operates.

52. A local authority or solid waste management company may limit the number of licenced solid waste service providers, registered operators or self-service solid waste providers to provide the following components of solid waste services in a service zone or solid waste management area:

Limiting number of licenced solid waste service providers and registered operators for certain services

- (a) construction, operation or maintenance of landfills and other disposal facilities;
- (b) energy recovery and generation; and
- (c) other solid waste services that the Director may determine.

53. (1) A local authority or solid waste management company shall, within ten days of receipt of a submission made in accordance with section 38, consider the application for a licence or permit, make an assessment of the solid waste service provider, operator or self-service solid waste provider in accordance with the requirements specified in this section, and submit a report to the Director, indicating the solid waste service provider's, operator's or self-service solid waste provider's capacity to provide solid waste services and making a recommendation on whether a licence or permit, as the case may be, should or should not be granted to the solid waste service provider, operator or self-service solid waste provider.

Assessment of solid waste service providers and operators

(2) Subject to subsections (3) and (4), a local authority or solid waste management company shall establish and implement procedures and requirements for assessing solid waste service providers, operators and self-service solid waste providers.

(3) Assessment procedures and requirements established under subsection (2), shall be relevant, objective, transparent and non-discriminatory and comply with—

- (a) appropriate prescribed standards, conditions and technical specifications specified in any other written law; and
- (b) prescribed standards, conditions and technical specifications relating to solid waste and solid waste services prescribed by the Minister or established by the Director, in liaison with an appropriate authority.

(4) A local authority or solid waste management company, when assessing a solid waste service provider or operator, shall request, and take into account—

- (a) evidence of the incorporation or registration of a company, firm or proprietorship for purposes of providing solid waste services;

- (b) the financial capacity of the solid waste service provider or operator to provide solid waste services;
- (c) the availability of equipment appropriate to the provision of the solid waste services in question;
- (d) a statement on the intended service levels to be offered to waste generators in the service zone;
- (e) the technical competence of the solid waste service provider or operator; and
- (f) whether there is evidence of sufficient insurance cover for the security and safety of vehicles, installations, plant, equipment and persons.

Feasibility study and business plan

54. (1) A solid waste service provider, operator or self-service solid waste provider shall demonstrate to the satisfaction of a local authority or solid waste management company making an assessment, that the solid waste service provider or operator shall meet its—

- (a) actual and potential obligations, established under realistic assumptions, for a period of three years from the start of operations; and
- (b) fixed and operational costs incurred from the operations, according to its business plan, established under realistic assumptions, for a period of six months from the start of operations without taking into account any income from its operations.

(2) For the purpose of subsection (1), a solid waste service provider, operator or self-service solid waste provider shall submit a feasibility study showing the viability of the project for provision of solid waste services and a business plan for the first three years of operation which shall include the solid waste service provider's, operator's or self-service solid waste provider's financial links with other commercial activities in which the solid waste service provider, operator or self-service solid waste provider is engaged, either directly or through related undertakings.

Monitoring performance of licenced solid waste service providers, registered operators and self-service solid waste providers

55. A local authority or solid waste management company shall monitor the performance of solid waste service providers, registered operators and self-service solid waste providers to ensure compliance with this Act, the terms and conditions of a licence or permit and any other written law.

56. (1) A local authority or solid waste management company shall have power to obtain information from a person or an appropriate authority that may assist the local authority or solid waste management company perform its functions under this Act.

Power to obtain information and expert advice

(2) Despite subsection (1), a local authority or solid waste management company may obtain expert advice from any person that may assist the solid waste management company in the performance of its functions, as specified in this Act.

57. (1) A local authority, solid waste management company, licenced solid waste service provider, registered operator, self-service solid waste provider and any person undertaking a solid waste related operation, business or activity, shall—

Requirement to provide information, data and make returns to Director

(a) provide information, statistics and copies of records, relating to any solid waste operation to the Director, as requested; and

(b) file any return required by the Director giving accurate information concerning any solid waste related matter.

(2) A person providing information or filing a return under subsection (1) shall indicate that certain information is of a confidential nature, if it is information that should not be available to commercial competitors.

(3) If the Director is satisfied that the nature of the information submitted under subsection (2) justifies it being confidential, the information may only be provided to a public officer or an appropriate authority performing official duties under this Act or any written law relating to solid waste.

(4) A person, to whom information or a return has been provided under subsection (3), shall not disclose that information or return to any person who is not authorised by the Director to receive the information or return and the information or return shall not be used for any commercial purpose, except with the written consent of the person providing the information or return.

(5) If the Director is not satisfied that the nature of the information justifies it being confidential, the—

(a) person providing the information or return shall be advised of the Director's decision and the reasons for the decision shall be provided on request by the person providing the information or return or a person authorised by that person;

(b) Director shall consult with the person if so requested; and

(c) Minister may review the decision and make a decision that is just or appropriate in the circumstances of each case.

(6) The Director may request a person, in writing, to provide relevant information or data if any international agreement requires that any report be made or that any information or data be collected and provided.

(7) A person to whom a written request is made under this section who, without reasonable justification, refuses or fails to comply with that request, commits an offence and is liable, on conviction, to a fine not exceeding fifty thousand penalty units.

Power to hold hearing

58. (1) Despite subsection (2), a local authority or a board may conduct a hearing where it considers it necessary or desirable for the purpose of carrying out its functions related to solid waste services as provided in this Act.

(2) A local authority and a board shall conduct a hearing before exercising a power to—

(a) recommend a tariff; or

(b) establish a code of conduct for licenced solid waste providers, registered operators and self-service solid waste providers operating within their jurisdiction.

(3) A notice to hold a hearing shall be published in the *Gazette* or a newspaper of general circulation in Zambia specifying the—

(a) purpose of the hearing;

(b) time within which submissions may be made to the local authority or solid waste management company; and

(c) form in which submissions may be made.

(4) A local authority and a solid waste management company may hold a joint hearing for purposes of this Act.

Register of licenced solid waste service providers, registered operators and self-service solid waste providers

59. (1) A local authority and solid waste management company shall keep a Register of licenced solid waste service providers, registered operators and self-service solid waste providers operating in its solid waste management area, and shall at least once in every year, publish in the *Gazette* a list of the licenced solid waste service providers, registered operators and self-service solid waste providers for each service zone.

(2) The Register referred to under subsection (1), shall be available for public inspection during business hours on payment of a prescribed fee.

(3) A local authority and solid waste management company shall ensure that, where possible, the Register, under subsection (1), is accessible to the public electronically.

60. (1) A licenced solid waste service provider and self-service solid waste provider shall have access to landfills and other disposal facilities, including appurtenant infrastructure and installations for purposes of disposal of solid waste and to the extent necessary for them to carry out their activities, on payment of a prescribed fee, where applicable.

Access to landfills and other disposal facilities

(2) A local authority or solid waste management company under whose jurisdiction a landfill or disposal facility falls, shall issue guidelines and directions for entry into a landfill and other disposal facility, the manner of disposing solid waste, times of entry into and movement in a landfill or other disposal facility and other matters relating to safety and security in a landfill or other disposal facility that the local authority or solid waste management company considers necessary for such operations.

(3) Nothing in this section shall be construed as prohibiting the issuance of joint guidelines and directions by a local authority and solid waste management company.

61. (1) If a landfill or other solid waste disposal facility has specific constraints relating to available space or capacity arising, in particular, from congestion in areas used for storage of solid waste, a local authority or solid waste management company may, by instrument in writing—

Constraint of available space or capacity at landfill or other disposal facility

- (a) control the number of licensed solid waste service providers, from each service zone, that are allowed to access the landfill or other disposal facility, to particular days or times;
- (b) restrict disposal by self-service solid waste providers to certain working days or weekends;
- (c) divert licenced solid waste service providers or self-service solid waste providers wishing to dispose of solid waste to another solid waste management area, after agreement with the relevant local authority or solid waste management company; or
- (d) take other appropriate action that is necessary in the circumstances.

Functions and responsibilities of licenced service providers, self-service solid waste providers and registered operators

(2) A local authority or solid waste management company shall, when undertaking any measure under subsection (1) do so by notice in a newspaper of general circulation, specifying the period for which that measure shall be in place.

62. (1) Despite any other law and subject to this Act, a licenced solid waste service provider shall do all things necessary to provide efficient and effective solid waste services in its service zone.

(2) Subject to subsection (1), a licenced self-service solid waste provider may provide solid waste services to a gated community or housing estate under terms and conditions that may be agreed to with the developer or residents of that gated community or housing estate.

(3) A licenced solid waste service provider, self-service solid waste provider and registered operator shall submit to a local authority or solid waste management company, who has jurisdiction in the solid waste management area, within six months after the end of the financial year, an annual report concerning the activities and operations of the licenced solid waste service provider or registered operator during that year.

(4) The report, specified in subsection (3), shall be accompanied with—

(a) a statement of all directives given by the local authority or solid waste management company to the licenced solid waste service provider, self-service solid waste provider or registered operator during the year in question and how these have been effected; and

(b) other information that the local authority or solid waste management company may direct.

(5) A licenced solid waste service provider or registered operator shall not sub-contract its solid waste services, except with the written permission of the relevant local authority or solid waste management company.

(6) In this section, “developer” means a person who develops a gated community, housing estate or similar property.

Service level agreements to supply solid waste services

63. (1) A licenced solid waste service provider, self-service solid waste provider or registered operator may enter into a service level agreement with a local authority or a solid waste management company for the provision of solid waste services within a solid waste management area.

(2) Subject to subsection (1), a service level agreement shall specify the functions which shall be performed by the licenced solid waste service provider, self-service solid waste provider or registered operator during the term of the agreement and may make provision for, or with respect to—

- (a) the concurrent performance, by the local authority and the licenced solid waste service provider, of the same functions in different parts of the solid waste management area;
- (b) the indemnity by the licenced solid waste service provider, self-service solid waste provider or registered operator of any liability of the local authority arising from the performance or non-performance of its functions; and
- (c) the use, maintenance, rehabilitation and development by the licenced solid waste service provider, self-service solid waste provider or registered operator of the local authority's solid waste management infrastructure and facilities.

(3) A licenced solid waste service provider, self-service solid waste provider or registered operator may enter into service level agreements with more than one local authority or solid waste management company for purposes specified in subsections (1) and (2).

(4) A power or function which, in terms of an agreement, may be exercised or performed by a licenced solid waste service provider, self-service solid waste provider or registered operator shall be considered, when exercised or performed by the licenced solid waste service provider, self-service solid waste provider or registered operator, to have been exercised or performed under the authority of the local authority or solid waste management company.

64. The functions of a licenced solid waste service provider, self-service solid waste provider or registered operator are to—

- (a) provide commercial, industrial and residential solid waste collection services;
- (b) carry out the sound management or operation of landfill areas and other disposal facilities that incorporate comprehensive environmental management systems, including leachate containment and management measures in accordance with the Environmental Management Act, 2011;

Specific functions relating to licenced solid waste service provider, self-service solid waste provider and registered operator

Act No. 12 of 2011

- (c) provide appropriate waste treatment and storage facilities;
- (d) provide solid waste services to an aircraft, in collaboration with the appropriate authority;
- (e) recycle solid waste;
- (f) cooperate with public health and environment officers in the discharge of their responsibilities; and
- (g) implement solid waste control measures as prescribed.

Powers of licenced solid waste service provider and registered operator

65. A licenced solid waste service provider, self-service solid waste provider and a registered operator may exercise any power necessary or incidental to the discharge of their functions under this Act.

Performance of community obligations

66. A local authority and licenced solid waste service provider shall undertake community obligations at the direction of the Minister, which may involve any activity aimed at keeping public areas clean and free of solid waste, including—

- (a) street cleaning and other activities to maintain the cleanliness of public areas; and
- (b) providing waste receptacles or prescribed containers and other appropriate facilities in public areas in order to minimise and deal with solid waste on public roads and reserves and other areas accessible to the public.

PART VI SOLID WASTE TARIFFS

Criteria for setting and approval of tariffs

67. (1) The local authority may prescribe tariffs for solid waste management.

(2) A local authority shall, in determining the tariff take into account the —

- (a) costs of providing solid waste management services or solid waste services;
- (b) need for a return on the capital invested for providing solid waste management services or solid waste services;
- (c) financial implications of the tariffs on waste generators and other consumers;
- (d) stakeholder and investor interests;

- (e) desire to promote competitive tariffs;
- (f) promotion of solid waste collection and achieving a sound solid waste management system;
- (g) cost of meeting prescribed national solid waste standards;
- (h) financial sustainability of solid waste services; and
- (i) recovery of costs reasonably associated with providing solid waste management services and solid waste services.

68. (1) The Director may apply a compulsory garbage collection tariff to all residential premises in a district or waste management service area, and to all other premises to which the commercial and industrial waste collection tariff does not apply, as specified in subsection (2).

Compulsory, generalised and additional tariffs for solid waste for certain purposes

(2) The Director may apply a commercial and industrial waste collection tariff to all commercial and industrial premises in a district or solid waste management area.

(3) The compulsory garbage or commercial and industrial waste collection tariff, imposed in accordance with this section—

(a) may be set—

- (i) as an annual tariff; or
- (ii) at different levels for various service zones, taking into account matters such as, the ability of persons to pay the waste collection tariff; and

(b) shall be payable at intervals determined by the Minister.

(4) The Director may apply additional or increased tariffs to premises or classes of premises which generate particular types of solid waste or greater quantities of solid waste, or which are located in areas which necessitate particular solid waste collection measures to be applied.

(5) Tariffs may be set and imposed for —

- (a) disposing solid waste at landfills and other disposal facilities; and
- (b) any other solid waste service approved by the Director.

(6) A person obliged to pay a tariff imposed as a result of the exercise of a power, as specified in this section, by a local authority or solid waste management company, may, by written notice, request a review of the decision by the Department and, in determining such a request, the Director may —

(a) affirm the decision of the local authority or solid waste management company; or

(b) amend the decision of the local authority or solid waste management company in any appropriate manner and authorise payment or a refund.

(7) A request for a review, made under subsection (6), shall not postpone the obligation to pay the tariff and the Director may decline to consider a request if the person making it has not paid the tariff.

Administrative
penalty for
late payment
of tariffs

69. (1) Where a local authority is satisfied after investigation, or where any person admits that the person has committed an offence under this Act, the local authority may compound the offence by collecting from that person where the Authority is satisfied, after an investigation, or where any person admits that the person has committed an offence under this Act, the Director-General may compound the offence by collecting from that person such sum of money as the Director-General considers appropriate, but not exceeding fifty percent of the maximum amount of the fine to which that person would have been liable, on conviction, and no person having made such payment shall be thereafter prosecuted in relation to the offence so compounded.

(2) An administrative penalty imposed in accordance with subsection (1) may be enforced as a civil debt.

Billing
system and
collection of
tariffs

70. (1) A local authority, solid waste management company, licenced solid waste service provider, self-service solid waste provider or registered operator may establish a billing system, specifying billing periods, for purposes of solid waste services or solid waste management.

(2) All tariffs payable under this Part are recoverable as a civil debt.

(3) A local authority, solid waste management company, licenced solid waste service provider, self-service solid waste provider or registered operator may enter into arrangements with collection agents for the collection of charges and fees.

(4) In this section, “billing period” means the period for which a tariff is imposed for solid waste management or solid waste services.

- 71.** (1) The Minister may make regulations imposing—
- Special solid waste tariffs
- (a) additional tariffs on premises in commercial and industrial areas, where solid waste services are provided by a licenced solid waste service provider, for the maintenance and cleanliness of streets, footpaths, drains and public areas; and
 - (b) any other type of special tariff relating to solid waste services, or for the purpose of raising revenue for provision of effective solid waste services and facilities.

PART VII
GENERAL PROVISIONS

- 72.** (1) A local authority, solid waste management company, a licenced solid waste service provider, self-service solid waste provider or registered operator, may serve a written notice on any person requiring that solid waste owned, possessed or under the control of that person—
- Notices relating to solid waste
- (a) be stored, transported or disposed of in any required manner;
 - (b) not be stored, transported or disposed of in any particular manner;
 - (c) be removed from a particular place and properly disposed of; or
 - (d) be made available for recycling in a manner stated in the notice.
- (2) A person who fails to comply with a notice, specified in subsection (1), commits an offence and is liable, on conviction, to a fine—
- (a) not exceeding twenty thousand penalty units, in the case of an individual; or
 - (b) not exceeding fifty thousand penalty units, in the case of a body corporate or unincorporate body or an individual who commits a subsequent or further offence.

- 73.** (1) An inspector may inspect the premises and records of a solid waste service provider, self-service solid waste provider or registered operator to ensure compliance with this Act.
- Powers of inspector
- (2) An inspector may order a person to produce for inspection, or for the purposes of obtaining copies or extracts, any book, document or record relevant to the cause of the inspection.

(3) An inspector shall ensure that adequate arrangements for the provision of solid waste services are being provided, in accordance with this Act.

(4) A person who obstructs an inspector, in the exercise of that inspector's powers, commits an offence and is liable, on conviction, to a fine not exceeding two hundred thousand penalty units or to imprisonment for a term not exceeding two years, or to both.

(5) An inspector may arrest a person, without warrant, where the inspector has reasonable grounds to believe that the person—

(a) is committing or has committed an offence under this Act;

(b) is about to commit an offence under this Act and there is no other way to prevent the commission of the offence;

(c) unless arrested, will—

(i) escape or cause unreasonable delay, trouble or expense in being made answerable to justice

(ii) interfere with the witness; or

(iii) tamper with or destroy relevant evidence or material; or

(d) is wilfully obstructing the inspector in the execution of the inspectors's duties.

(6) An inspector shall, where the inspector arrests a person under subsection (5), hand over the person to a police officer, or surrender that person to a police post or station within twenty-four hours.

(7) An inspector who makes an arrest under subsection (5) shall, without undue delay, have the person so arrested brought before a court of competent jurisdiction to be dealt with accordingly.

Offences
cognizable
Cap. 88

74. An offence under this Act is a cognizable offence for the purposes of the Criminal Procedure Code.

Immunity
of
inspectors

75. An action or other legal proceeding shall not lie or be instituted for, or in respect of an act or thing done, or omitted to be done, in good faith by an inspector in the exercise of a power or duty conferred on the inspector under this Act.

Furnishing
of reports

76. An inspector shall furnish a local authority, solid waste management company, solid waste service provider, self-service solid waste provider or registered operator with such reports and other information relating to an inspection, in a prescribed manner and form.

77. (1) Where a local authority or solid waste management company is satisfied that a licenced solid waste service provider or registered operator is contravening or is likely to contravene a provision of this Act, guideline, standard, directive or other instrument issued by a local authority or solid waste management company, or any condition of a licence or permit, the local authority or solid waste management company shall serve an enforcement notice on that licenced service provider, self-service solid waste provider or registered operator.

Enforcement
notices

(2) An enforcement notice issued in accordance with subsection (1), shall clearly state—

- (a) who it is addressed to;
- (b) the issues to report on, in writing, including statistics and other financial information;
- (c) the documentation to be submitted to substantiate any information provided in the report;
- (d) the provisions of this Act, guideline, standard, directive, instrument or applicable legislation that has not been complied with;
- (e) the details of the nature and extent of non-compliance;
- (f) the enforcement measures that the local authority or solid waste management company intends to impose in the event of non-compliance with the enforcement notice;
- (g) the form and time frames for submission of the report; and
- (h) the address where the report shall be submitted.

(3) An enforcement notice, issued under subsection (1), shall require a licenced solid waste service provider, self-service solid waste provider or registered operator to comply with, or take or put in place, remedial measures that may be stated in the notice and the period within which the remedial measures are to be complied with, taken or put in place, or be subject to prosecution.

(4) If a licenced solid waste service provider, self-service solid waste provider or registered operator consistently, willfully and unlawfully fails to comply with an enforcement notice, issued in accordance with this section, the licenced solid waste service provider or registered operator commits an offence and shall be liable, on conviction, to a fine not exceeding one hundred thousand penalty units.

78. (1) The following persons may enforce an enforcement notice, in accordance with the powers specified in subsection (2):

Enforcement
powers

- (a) an inspector;
- (b) a police officer; and
- (c) an authorised officer.

(2) For the purposes of implementing and enforcing this Act, monitoring and containing the effects of solid waste on human health and the environment, a person referred to in subsection (1) may—

- (a) enter on any land;
- (b) with a warrant or with the consent of the owner or occupier, enter a private property or premise, after notifying the owner or occupier of the intention to do so;
- (c) take samples of solid waste, soil and water for testing and analysis;
- (d) require the production of records and information relevant to the management, storage, movement and disposal of solid waste; and
- (e) order that certain solid waste or materials apparently infected or affected by solid waste be contained, removed or otherwise dealt with.

(3) A person who refuses or fails to comply with an order given in accordance subsection (2)(e) commits an offence and is liable, on conviction, to a fine not exceeding two hundred thousand penalty units or to imprisonment for a term not exceeding two years, or to both.

General offences related to solid waste

79. (1) A person who disposes of, or dumps, solid waste at a place, other than a prescribed landfill or other disposal facility, commits an offence and is liable, on conviction, to a fine not exceeding—

- (a) fifty thousand penalty units or to imprisonment for a term not exceeding six months, or to both; or
- (b) one hundred thousand penalty units, for a body corporate or unincorporate body or an individual who commits a subsequent and further offence.

(2) A person commits an offence if that person—

- (a) throws or disposes of solid waste;
- (b) discharges or permits the discharge of solid waste; or
- (c) causes the disposal or discharge of solid waste on or in the vicinity of a roadway, street, vacant land or river front, or into a river, stream, creek, pool, well, lake, swamp or in a forest.

(3) A person convicted of an offence under subsection (2) is liable to a fine not exceeding—

- (i) fifty thousand penalty units; or
- (ii) one hundred thousand penalty units, in the case of a body corporate or unincorporated body or an individual who commits a subsequent and further offence.

- (4) A person who disposes of solid waste from a residential, commercial or industrial premise in a receptacle that is not a prescribed container for disposal of solid waste, commits an offence and is liable, on conviction, to a fine not exceeding—
- (a) ten thousand penalty units; or
 - (b) forty thousand penalty units, for a body corporate or unincorporated body or an individual who commits a subsequent and further offence.
- (5) A person commits an offence if that person—
- (a) damages, interferes with, or removes any property or sign at, a landfill or other disposal facility; or
 - (b) enters a landfill or other disposal facility without authority.
- (6) A person who is convicted of an offence under subsection (5), is liable to a fine not exceeding twenty thousand penalty units.
- (7) A person commits an offence if that person impedes, hinders, obstructs or assaults—
- (a) an authorised officer in the exercise of a function or power under this Act; or
 - (b) a contractor or employee engaged by a local authority, solid waste management company, licenced solid waste service provider or registered operator.
- (8) A person convicted of an offence under subsection (6) is liable to a fine not exceeding two hundred thousand penalty units.
- (9) A person commits an offence if that person—
- (a) refuses to give the Director, an authorised officer or an appropriate authority reasonable assistance that the Director, the authorised officer or the appropriate authority may require for the purpose of exercising a power specified in this Act;
 - (b) unreasonably delays or withholds information;
 - (c) knowingly provides materially fraudulent information;
 - (d) conceals or falsifies records;
 - (e) wilfully destroys records without lawful authority; or
 - (f) gives the Director, an authorised officer, an inspector, police officer or an officer of an appropriate authority false or misleading information in answer to an investigation or inquiry.
- (10) A person convicted of an offence, specified in subsection (9), is liable to a fine not exceeding two thousand penalty units.

- (11) A licenced solid waste service provider, self-service solid waste provider or registered operator that commits a second or subsequent offence relating to non-compliance with rules, guidelines or standards, under this Act commits an offence.
- Offences by principal officer of body corporate or unincorporate body
- 80.** Where an offence specified in this Act is committed by a body corporate or an unincorporate body, with the knowledge, consent or connivance of the director, manager or shareholder, that director, manager or shareholder is liable, on conviction, to the penalty or term of imprisonment specified for that offence.
- General penalty
- 81.** A person convicted of an offence, specified in this Act for which no penalty is specifically provided, is liable—
- (a) in the case of a first offence, to a fine not exceeding one hundred thousand penalty units or to imprisonment for a term not exceeding one year, or to both;
 - (b) in the case of a second or subsequent offence, to a fine not exceeding two hundred thousand penalty units or to imprisonment for a term not exceeding two years, or to both; and
 - (c) where an offence is of a continuing nature, to a fine not exceeding three hundred thousand penalty units for each day or part of a day during which the offence continues.
- Power of local authority to compound certain offences
- 82.** Subject to written consent of the Director of Public Prosecution and where a local authority is satisfied after an investigation, or where a person admits that the person has committed an offence under this Act, a local authority may compound the offence by collecting from that person such sum of money as the Town clerk or Council Secretary considers appropriate, but not exceeding fifty percent of the maximum amount of the fine to which that person would have been liable on conviction, and a person having made such payment shall not be thereafter prosecuted in relation to the offence so compounded.
- Administrative penalties
- 83. (1)** A solid waste management company may impose an administrative penalty, in form of a monetary payment, for a contravention of this Act, any guideline, standard, directive or other instrument, or any condition of a licence, which is not an offence.
- (2) Subject to the approval of a local authority or solid waste management company, a licenced solid waste service provider, self-service solid waste provider or registered operator may impose monetary penalties for late payment or non-payment of a tariff for solid waste services.

(3) A licenced solid waste service provider, self-service solid waste provider or registered operator who contravenes any rules, guidelines or standards made under this Act, shall be liable to an administrative penalty imposed in accordance with this section.

84. (1) A person aggrieved with a decision of the Director, local authority, solid waste management company, solid waste provider or registered operator may appeal to the Minister within forty-five days after receipt of the decision.

Appeals

(2) A person aggrieved with a decision of the Minister may appeal to the High Court.

85. (1) The Minister may, in consultation with other appropriate authorities, make regulations for the proper regulation and management of solid waste, solid waste services and solid waste and for the effective implementation of this Act.

Regulations

(2) Without prejudice to the generality of subsection (1), the Minister may, in consultation with a local authority or solid waste management company or where necessary, an appropriate authority, make regulations for—

- (a) anything required to be prescribed under this Act;
- (b) minimum service level indicators or guarantees;
- (c) content of service levels agreements;
- (d) complaint handling processes and procedures related to billing systems and poor quality of solid waste services;
- (e) publication of compliance levels and reporting of service levels;
- (f) procedures and processes for applications for approvals and imposition of tariffs;
- (g) procedures for appointment, powers and duties, of a statutory manager;
- (h) corporate governance in the management of solid waste;
- (i) data collection and analysis;
- (j) format of annual reports;
- (k) the effective management of solid waste and provision of solid waste services;
- (l) prescribing solid waste control measures;

- (m) procedures relating to the collection of solid waste related information and for its dissemination;
- (n) systems, forms and procedures for registration and licensing specified in this Act, and the payment of fees for licences, permits and certificates;
- (o) providing for the determination of any particular object, substance or thing to be solid waste for the purposes of this Act;
- (p) securing the observance and effective implementation of international agreements and obligations relating to solid waste; and
- (q) processes and procedures for ensuring the observance of approved standards, rules, operating procedures and codes of practices in accordance with this Act.

(2) Regulations made in accordance with this section may prescribe offences and impose penalties being fines not exceeding one hundred thousand penalty units or imprisonment for a period not exceeding one year, or to both.

Transitional provisions

86. A person who, prior to the commencement of this Act, was providing solid waste services shall apply for a licence or permit within ninety days of the commencement of this Act.
