Sri Lanka Legislative Drafting Workshops

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A STATUTE TO PROVIDE FOR THE ESTABLISHMENT OF THE AUTHORITY; TO MAKE PROVISION WITH RESPECT TO THE POWERS, FUNCTIONS AND DUTIES OF THE AUTHORITY; AND TO MAKE PROVISION FOR THE PROTECTION, MANAGEMENT AND ENHANCEMENT OF THE ENVIRONMENT; FOR THE REGULATION, MAINTENANCE AND CONTROL OF THE QUALITY OF THE ENVIRONMENT; FOR THE PREVENTION, ABATEMENT AND CONTROL OF POLLUTION; AND FOR MATTERS CONNECTED THERETHROUGH OR INCIDENTAL THERETO.

BE it enacted by the Provincial Council of the Province of the Democratic Socialist Republic of Sri Lanka as follows:

1. This Statute may be cited as the Province Environmental Statute No. of , and shall come into operation on such date as the Provincial Minister in charge of the subject of Environment may appoint by Notification published in the Gazette.

PART I

ESTABLISHMENT OF THE PROVINCE ENVIRONMENTAL AUTHORITY AND AN ENVIRONMENTAL ADVISORY COMMITTEE.

2. (1) For the purposes of this Statute, there shall be established an Authority called the Province Environmental Authority (hereinafter referred to as the "Authority").

(2) The Authority established under subsection (1) shall consist of the persons who are
for the time being members of the Authority under subsection (1) of section 3.

(3) The Authority shall, by the name assigned to it by subsection (1), be a body corporate and shall have perpetual succession and a common seal and may sue or be sued in such name.

3. (1) The Authority shall consist of the following members -

(a) five persons appointed by the Governor of the Province on the recommendation of the Chief Minister (hereinafter referred to as "appointed members");

(b) the Chief Secretary of the Provincial Council; and

(c) the Secretary to the Ministry of the Minister in charge of the subject of Environment.

(2) The Chief Secretary shall be the Chairman of the Authority.

4. (1) The seal of the Authority shall be in the custody of the Authority.

(2) The seal of the Authority may be altered in such manner as may be determined by the Authority.

(3) The seal of the Authority shall not be affixed to any instrument or document except in the presence of two members of the Authority both of whom
shall sign the instrument or document in token of their presence.

[5. (1) The Authority shall have its own Fund. There shall be credited to the Fund of the Authority:

(a) all such sums of money as may be voted from time to time by the Provincial Council for the use of the Authority;

(b) all such sums of money as may be received by the Authority in the exercise, discharge and performance of its powers, functions and duties; and

(c) all such sums of money as may be received by the Authority by way of loans, donations, gifts, or grants from any sources whatsoever, whether in Sri Lanka or with the concurrence of the Government, outside Sri Lanka.

(2) There shall be paid out of the Fund of the Authority all such sums of money required to defray expenditure incurred by the Authority in the exercise, discharge and performance of its powers, functions and duties.

(3) The initial capital of the Authority shall be .... million rupees. The amount of the initial capital shall be paid out of the Provincial Fund in such instalments as the Provincial Minister in charge of the subject of Finance may in consultation with the Minister determine, and such sums shall be credited to the Fund established under subsection (1).]
Financial Year and the Audit of Accounts of the Authority.

6. (1) The financial year of the Authority shall be the calendar year.

   (2) The Authority shall cause proper books of accounts to be kept of the income and expenditure, assets and liabilities and all other transactions of the Authority.

   (3) The Auditor General shall audit the accounts of the Authority every year, and shall at the end of each financial year submit to the Provincial Council a report as the accounts audited by him.

7. (1) There shall be established the an Environmental Advisory Committee (hereinafter referred to as "the Committee") which shall consist of the following members appointed by the Minister:

   (a) representatives from the Ministry of Environment;

   (b) representatives from local authorities within the Province.

   (c) experts in the field of Environment;

   (d) representatives from Non-Governmental Organization having similar or related objectives;

   (e) a representative from the Central Environmental Authority; and

   (f) Representative from private sector enterprises carrying on business within the Province.
(2) The Minister shall appoint one of the members appointed under subsection (1) to be that Chairman of the Committee.

(3) The functions of the Committee shall be,

(a) generally to advice the Authority on matters pertaining to its responsibilities, powers, duties and functions; and

(b) to advise the Authority on any matters referred to the Committee by the Authority.

8. (1) A person shall be disqualified from being appointed or from continuing as an appointed member of the Authority or a member of the Committee:

(a) if such person is, or becomes, a Member of Parliament, a Provincial Council or any local authority;

(b) if such person is not, or ceases to be, a citizen of Sri Lanka.

(2) The appointed members of the Authority and the members of the Committee shall hold office for a period of three years and shall be eligible for re-appointment.

(3) (a) No member of the Authority shall be a member of the Committee; and

(b) no member of the Committee shall be a member of the Authority.

(4) The Governor in consultation with the Chief Minister, or the Minister as the case may be,
shall remove from office any appointed member of the Authority or any member of the Committee respectively, where -

(a) he becomes subject to any of the disqualifications set out in subsection (1); or

(b) he becomes permanently incapable of performing his duties owing to any physical disability or unsoundness of mind; or

(c) he does any act which, in the opinion of the Governor or the Minister as the case may be, is likely to bring the Authority or the Committee into disrepute.

Provided, however, that no member of the Committee shall be removed from office, without the concurrence of the Minister or authority who nominated such member.

(5) In the event of the vacation of office of any appointed member of the Authority or any member of the Committee from office, the Governor or the Minister as the case may be, may appoint another person to hold such office during the unexpired part of the term of office of the member whom he succeeds:

Provided, however, that no appointment shall be made in respect of a member of the Committee without the concurrence of the Minister or authority who nominated such member.

(6) If any appointed member of the Authority or a member of the Committee is temporarily unable to discharge the duties of his office due to ill
health or absence from Sri Lanka or for any other cause, the Governor or the Minister may as the case may be, appoint any person to act in place of such member:

Provided however that no such appointment shall be made in respect of a member of the Committee, without the concurrence of the Minister who nominated such member.

(7) Any appointed member of the Authority or any member of the Committee may at any time resign his office by letter in that behalf addressed to the Governor or the Minister as the case may be.

(8) The Chairman, Members of the Authority and members of the Committee may be paid such remuneration out of the Fund of the Authority as the Minister may in consultation with the minister in charge of the subject of Finance, determine.

(9) The Chairman of the Authority or Committee shall, if present, preside at all meetings of the Authority, or Committee, as the case may be. In the absence of the Chairman of the Authority or Committee at any such meeting, the members present shall elect one of the members present to preside at the meeting.

(10) (a) The quorum for any meeting of the Authority shall be three members.

(b) The quorum for any meeting of the Committee shall be members.
(11) (a) The Authority or Committee as the case may be, may regulate the procedure in regard to the meetings of such Authority or Committee and the transaction of business at such meetings.  

(b) Meetings of the Authority shall be held at such times and places as the Authority determines.  

(c) The Committee shall meet at least four times each year at such times and places as are fixed by the Authority.  

(12) The Authority shall, in the exercise, discharge and performance of its powers, functions and duties under this Statute, be subject to such general or special directions as may, from time to time, be issued by the Minister.  

(13) No act or proceeding of the Authority or Committee shall be invalid by reason of the existence of a vacancy among their respective members or any defect in the appointment of a member.  

PART II  
OBJECTS, POWERS, FUNCTIONS AND DUTIES OF THE AUTHORITY.  

9. The objects of the Authority shall be -  

(a) to comply with and give effect to the national policy on environment;
10. The powers, functions and duties of the Authority, shall be,-

(a) to administer the provisions of this Statute and the rules made thereunder;

(b) to recommend to the Minister, a Provincial Environmental Policy within the framework of the national policy on environment and criteria for the protection of any portion of the environment with respect to the uses and values, whether tangible or intangible, to be protected, the quality to be maintained, the extent to which the discharge of wastes may be permitted without detriment to the quality of the environment and long range development uses and planning and any other factors relating to the protection and management of the environment within the Province;

(c) to undertake surveys and investigations as to the causes, nature, extent and
prevention of pollution and to assist and co-operate with other persons or bodies carrying out similar surveys or investigations;

(d) to specify standards, norms and criteria for the protection of beneficial use and for maintaining the quality of the environment so however such standards shall not be less stringent than the standards adopted by the National Environmental Authority;

(e) to adopt guidelines determined by the National Environmental Authority in relation to the approval of development projects submitted to the Authority for its approval under this Statute;

(f) to be responsible for the co-ordination of all regulatory activities relating to the discharge of wastes and pollutants into the environment and the protection and the improvement of the quality of the environment;

(g) to regulate, maintain and control the volume, types, constituents and effects of waste, discharge, emissions, deposits or other sources and subsources of pollution which are of danger or potential danger to the quality of environment of any segment of the environment;
(h) to require the submission of proposals, for new projects and changes in or abandonment of existing projects, for the purpose of evaluation of the beneficial and adverse impacts of such proposals on the environment;

(i) to require any local authority to comply with and give effect to any recommendations relating to environmental protection within the limits of the jurisdiction of such local authority and in particular any recommendations relating to all or any of the following aspects of environmental pollution:

(i) the prohibition of the unauthorized discharge, emission or deposit of litter, waste, garbage and sewage;

(ii) the prevention of the discharge of untreated sewage or substandard industrial affuents or toxic chemicals into soil, canals or water ways;

(iii) the prohibition of the display of posters or bills on walls or buildings or any other unauthorized places and regulation of the erection of advertising hoardings;

(iv) the prevention of the defacement of the scenic places and public property;
(v) the control of the pollution of the atmosphere;

(vi) the control of noise pollution; and

(vii) the storage, transport and disposal of any material which is hazardous to health and environment;

(j) to appoint special committees to assist it in the performance of its functions;

(k) to publish reports and information with respect of any aspects of environmental protection and management;

(l) to undertake investigations and inspections to ensure compliance with this Statute and to investigate complaints relating to non-compliance with any of its provisions;

(m) to specify in conformity with guidelines adopted by the Central Environmental Authority, methods to be adopted in taking samples and making tests for the purposes of this Statute;

(n) to provide information and education to the public regarding the protection and improvement of the environment;

(o) to establish and maintain with the concurrence of the Government, liaison with international organizations with
respect to environmental protection and management;

(p) to report to the Minister upon matters concerning the protection and management of the environment and upon any matters referred to it by the Minister;

(q) to promote, encourage, co-ordinate and carry out long range planning in environmental protection and management;

(r) to encourage, promote and give effect to methods of converting and utilizing residues;

(s) to enter into all such contracts or agreements as may be necessary for the exercise, discharge and performance of its powers, functions and duties; and

(t) to do all other acts or things necessary or conducive to the exercise, discharge and performance of its powers, functions and duties.

11. (1) The Authority may, with the concurrence of the Minister from time to time, give to any local authority, within the Province, in writing such directions whether special or general to do or cause to be done any act or thing which the Authority deems necessary for safeguarding and protecting the environment within the local limits of such local authority.
(2) Every local authority to which a direction has been given under subsection (1) shall comply with such direction.

PART III

STAFF OF THE AUTHORITY

12. (1) There shall be a Director-General of the Authority who shall be appointed by the Governor. The Director-General shall be the Chief Executive Officer of the Authority and be charged with the direction of the business of the Authority, the organization and execution of the powers, functions and duties of the Authority and the administration and control of the employees of the Authority.

(2) The Director-General shall also function as Secretary to the Authority.

(3) The Secretary shall be entitled to be present and to speak at meetings, but shall not be entitled to vote at such meetings.

13. (1) The Authority may appoint such officers as it considers necessary for the efficient exercise, discharge and performance of its powers, functions and duties.

(2) The officers of the Authority shall be appointed and remunerated in such manner and at such rates, and shall be subject to such conditions of service, as may be determined by rules made by the Authority in that behalf.
[(3) At the request of the Authority any officer in the public service or the Provincial public service as the case may be, may, with the consent of that officer and the Secretary to the Ministry of the Minister or the Provincial Minister as the case may be, in charge of the subject of Public Administration, be temporarily appointed to the staff of the Authority for such period as may be determined by the Authority with like consent, or be permanently appointed to such staff.] 

[(4) Where any officer in the public service or the Provincial public service as the case may be, is appointed to the staff of the Authority, such officer shall be, subject to such circulars or rules that may be issued in that regard by the Secretary to the Ministry of the Minister in charge of the subject of Public Administration or the Provincial Minister in charge of the subject of Public Administration as the case may be.] 

[(5) Where the Authority employs any person who has entered into a contract with the Provincial Council by which he has agreed to serve such Council for a specified period, any period of service with the Authority by that person shall be regarded as service to the Provincial Council for the purpose of discharging the obligations of such contract.]

[(6) At the request of the Authority any officer or servant of a local authority within the administrative of the Province area may with the consent of such officer and relevant local authority, be temporarily appointed to the staff of the Authority for such period as may be determined by the Authority]
with like consent or be permanently appointed to such staff on such terms and conditions including those relating to pension or provident fund rights as may be agreed upon by the Authority, and that local authority.

(7) Where any person is temporarily appointed to the staff of the Authority in pursuance of the provisions of subsection (7), such person shall be subject to the same disciplinary control as any other member of such staff.

PART IV

ENVIRONMENTAL PROTECTION

Prohibition of the discharge, emission or deposit of waste into the environment.

14. (1) With effect from such date as may be appointed by the Minister by Order published in the Gazette, (hereinafter referred to as the "relevant date") no person shall discharge, deposit, or emit waste into the environment which will cause pollution except:

(a) under the authority of a licence issued by the Authority; and

(b) in accordance with such standards and other criteria as may be prescribed by rules made under this Statute.

(2) The standards and other criteria to be prescribed under paragraph (b) of subsection (1) of this section, shall be based on the national standards and criteria established under the Act.
15. (1) The Authority may, on application being made therefore to the Authority in such form as may be prescribed, and on payment of the prescribed fee, issue a licence to any person permitting such person to discharge, deposit or emit, waste into the environment.

(2) Every licence issued under this Part shall:-

(a) be in such form as may be prescribed;

(b) be subject to such terms, conditions and such standards as may be prescribed;

(c) be valid for such period as shall be specified in the licence, provided, it shall not be for more than a period of twelve months; and

(d) be renewable.

16. (1) The Authority may, where it considers necessary, refer any application made under section 15 to an appropriate Provincial Ministry, department, Institution or any officer requesting that a report be submitted on such application within a specified time. and in such a case the Authority shall not make any decision on such application until it receives the report relating to the same from such Provincial Ministry, department, Institution or officer as the case may be.

(2) The Authority may where it considers appropriate and expedient refer any application made under section 15 to the relevant Government Department for a report within a specified time.
17. Where a licence has been issued to any person under this Part and such person acts in violation of any of terms, standards and conditions of the licence, or where since the issue of the licence, the receiving environment has been altered or changed due to natural factors or otherwise, or where the continued discharge, deposit or emission of waste into the environment under the authority of the licence will or could affect any beneficial use adversely, the Authority may by order suspend the licence for any period specified in such order, or cancel such licence.

18. (1) Any applicant for a licence under this Part who is aggrieved by the refusal of the Authority to grant a licence, or, any holder of a licence issued under this Part and who is aggrieved by the suspension or cancellation, or refusal to renew a licence so issued may, within thirty days after the date of the notification of such decision, appeal in writing against such refusal, suspension, cancellation or refusal to renew, as the case may be to the Secretary to the Ministry of the Minister.

(2) The Minister shall in giving a decision consult the Committee whose recommendations shall be taken into consideration in giving his decision.

19. (1) Where an accident takes place in any premises in which a trade or business is being carried on and which is likely to cause pollution of the inland waters, soil or atmosphere within the Province, it shall be the duty of the person who is carrying on such business or trade to immediately inform the Authority of such accident.
(2) A person who fails to report an accident as required under subsection (1) shall be guilty of an offence under this Act.

PART VI

ENVIRONMENTAL QUALITY

20. (1) Subject to section 14 of this Statute with effect from the relevant date, no person shall pollute any inland waters of within the Province or cause or permit to cause pollution in the inland waters within the Province so that the physical, chemical or biological condition of the waters is so changed as to make or reasonably expected to make those waters or any part of those waters unclean, noxious, poisonous, impure, detrimental to the health, welfare, safety or property of human beings, poisonous or harmful to animals, birds, wildlife, fish, plants or other forms of life or detrimental to any beneficial use made of those waters.

(2) Without limitation to the generality of subsection (1), a person shall be deemed to contravene the provisions of that subsection, if -

(a) he places in or on any waters or in a place where it may gain access to any waters any matter, whether solid, liquid or gaseous, that is prohibited by or under this Statute or by any rules made thereunder;

(b) he places any waste, whether solid, liquid or gaseous, in a position where it faillls, descends, drains, evaporates, is washed, is
blown or percolates, is likely to fall, descend, drain, evaporate, be washed, be blown, percolate, into any waters or on the bed of any river, stream or other waterway when dry, or knowingly or through his negligence, whether directly or indirectly, causes or permits such matter to be placed in such a position;

(c) he places waste on the bed, when dry, of any river, stream or other waterway or knowingly or through his negligence causes or permits any wastes to be placed on such a bed; or

(d) he causes the temperature of inland, coastal or offshore waters of Sri Lanka to be raised or lowered by more than the prescribed limits.

(3) Every person who contravenes the provisions of subsection (1) shall be guilty of an offence, and on conviction shall be-

(a) liable to a fine not less than rupees ten thousand and not exceeding rupees one hundred thousand, and thereafter in the event of the offence being continued to be committed, to a fine not less than rupees five hundred for each day on which the offence is so continued to be committed; and

(b) required to take within such period as may be determined by court, such corrective measures as may be deemed
necessary to prevent further damage being caused to the inland, coastal and offshore waters of the Province and furnish at the end of such period sufficient and acceptable proof of the incorporation of such corrective measures. The court shall also order such person convicted, to bear the expenses that may have been incurred by the Authority in the correction of damage already caused as a consequence of the commission of such offence, and where such person fails to bear the expenses so incurred be recovered in like manner as a fine imposed by the court.

(4) Where any person convicted of an offence under subsection (3) continues to commit such offence after a period of six weeks from the date of his conviction, the court may upon an application for closure being made by the Chief Executive Officer or any officer authorized in that behalf by the Chief Executive Officer, order the closure of such factory or trade, or business being carried at such premises, which caused the pollution of inland, coastal or offshore waters of Sri Lanka, until such time such person takes adequate corrective measures to prevent further damage being caused.

(5) In any case where such person fails to comply with the closure order issued under subsection (4), the Magistrate shall forthwith order the fiscal of the court requiring and authorizing such fiscal before a date specified in such order, not being a
date earlier than three or later than seven clear days from the date of issue of such order, to close such factory or trade or business being carried at such premises. Such order shall be sufficient authority for the said fiscal or any police officer authorized by him in that behalf to enter the premises with such assistants as the fiscal or such police officer shall deem necessary to close such factory or trade or business being carried at such premises.

21. (1) Subject to Section 14 of this Act, with effect from the relevant date no person shall pollute the atmosphere or cause or permit the atmosphere to be polluted so that the physical, chemical or biological condition of the atmosphere is so changed as to make or reasonably be expected to make the atmosphere or any part thereof unclean, noxious, poisonous, impure, detrimental to the health, welfare, safety, or property of human beings, poisonous, impure, detrimental to the health, welfare, safety, or property of human beings, poisonous or harmful to animals, birds, wildlife, plants or all other forms of life or detrimental to any beneficial use of the atmosphere.

(2) Without limitation to the generality of subsection (1) a person shall be deemed to contravene that subsection if —

(a) he places in or in such manner that it may be released into the atmosphere, any matter, whether liquid, solid or gaseous, that is prohibited by or under this Statute or by any rules made thereunder to be placed in the atmosphere or does not comply with any
regulations prescribed therefore under this Statute;

(b) he causes or permits the discharge of odours which by virtue of their nature, concentration, volume or extent are obnoxious or unduly offensive to the senses of human beings;

(c) he burns wastes otherwise than at times or in the manner or place prescribed;

(d) he uses an internal combustion engine or fuel burning equipment not equipped with any device required by the rules to be fitted to such engine for the prevention or reduction of pollution: or

(e) he uses or burns any fuel which is prohibited by rules made under this Statute.

(3) Every person who contravenes the provisions of subsection (1) shall be guilty of an offence, and on conviction shall be -

(a) liable to a fine not less than rupees ten thousand and not exceeding rupees one hundred thousand and thereafter in the event of the offence being continued to be committed, to a fine of not less than rupees five hundred for each day on which the offence is so continued to be committed,
(b) required to take within such period as may be determined by court, such corrective measures as may be deemed necessary, to prevent further damage being caused by the pollution of atmosphere, and furnish at the end of such period sufficient and acceptable proof of the incorporation of such corrective measures. The court shall also require such person convicted to bear the expenses incurred by the Authority in the correction of damage already caused as a result of the commission of such offence.

(4) Where any person convicted of an offence under subsection (3) continues to commit such offence after a period of six weeks from the date of his conviction, the court may upon an application for closure being made by the Chief Executive Officer or any officer authorized in that behalf by the Chief Executive Officer, order the closure of such factory, trade or business being carried at such premises which caused the pollution of atmosphere until such time, such person takes adequate corrective measures to prevent further damage being caused.

(5) In any case where such person fails to comply with the closure order issued under subsection (4) the Magistrate shall forthwith order the fiscal of the court requiring and authorizing such fiscal, before a date specified in such order, not being a date earlier than three or later than seven clear days from the date of issue of such order, to close such factory or trade or business being carried at such premises.

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Failure to fit and maintain prescribed control devices is an offence.

Pollution of soil is an offence.

Such order shall be sufficient authority for the said fiscal or any police officer authorized by him in that behalf to enter the premises with such assistants as the fiscal or such police officer shall deem necessary to close such factory or trade or business being carried at such premises.

22. Any person who owns, uses, operates, constructs, sells, installs or offers to sell or install any machinery, vehicle or boat required by or under this Statute or any rules made thereunder to be built, fitted or equipped with any device for preventing or limiting pollution of the atmosphere without such machinery, vehicle or boat being so built, fitted or equipped shall be guilty of an offence. All devices built, fitted or equipped under this section shall be maintained and operated at the cost of the owner.

23.(1) Subject to section 14 of this Statute, with effect from the relevant date no person shall pollute or cause or permit to be polluted any soil or the surface of any land so that the physical, chemical or biological condition of the soil or surface is so changed as to make or be reasonably expected to make the soil or the produce of the soil poisonous or impure, harmful or potentially harmful to the health or welfare of human beings, poisonous or harmful to animals, birds, wildlife, plants or all other forms of life or obnoxious or, unduly offensive to the senses of human beings or so as to be detrimental to any beneficial use of the land.
(2) Without limitation to the generality of subsection (1) a person shall be deemed to contravene that subsection if :-

(a) he places in or on any soil or in any place where it may gain access to any soil, any matter, whether liquid, solid or gaseous, that is prohibited by or under this Statute or any rules made thereunder or does not comply with such rules; and

(b) he establishes on any land a refuse dump, garbage tip, soil and rock disposal site, sludge deposit site, waste injection well, or otherwise uses land for the disposal of or repository for solid or liquid wastes so as to be obnoxious or unduly offensive to the senses of human beings or will pollute or adversely affect underground water or be detrimental to any beneficial use of the soil or the surface of the land.

(3) Prior exemptions may, however, be granted for valid reasons such as the application of an approved preparation in a prescribed manner for the control of a given pest, provided that such treatment does not damage the soil seriously.

(4) Any person who contravenes any of the provisions of this section shall be guilty of an offence and on conviction be liable to a fine not less than rupees ten thousand and not exceeding rupees one hundred thousand and in the case of a continuing
offence to a fine not less than rupees five hundred for each day on which the offence continues after conviction.

24. (1) No person shall make or emit or cause or permit to be made or emitted noise except under the authority of a licence issued by the Authority under this Statute.

(2) The provisions of section 15, 16, 17 and 18 shall, mutatis mutandis, apply to and in relation to the issue of a licence under subsection (1).

25. (1) Any person who without a licence or contrary to any conditions, limitation or restriction to which a licence under this Statute or any other written law is subject, makes or causes or permits to be made or emitted noise that is greater in volume, intensity or quality than the standard as may prescribed for the emission of noise which is tolerable noise in the circumstances, shall be guilty of an offence under this Statute.

(2) Any person who is guilty of an offence under subsection (1) shall on conviction be liable to a fine not less than rupees ten thousand and not exceeding rupees one hundred thousand and in the case of a continuing offence to a fine not less than rupees five hundred for each day in which the offence continues after conviction.

26. Where the Authority is of opinion that the
circumstances are such that any litter deposited in any place, whether public or private, is or is likely to become detrimental to the health, safety or welfare of members of the public, unduly offensive to the senses of human beings or a hazard to the environment, the Authority may by notice in writing direct the person who is responsible for depositing such litter or any public authority whose function is to dispose of or remove such litter, to remove or dispose of such litter or to take such action in relation to such litter as may be specified in the notice.

For the purposes of this section "litter" means unwanted waste material whether a by product which has arisen during a manufacturing process or a product which has passed its useful working life and has been discarded.

27. The cost of removing or otherwise disposing of or reducing litter pursuant to a notice given under section 26 may be recovered in any court of competent jurisdiction against any person proved to have deposited the litter, as a debt due to the Authority, and when recovered shall be paid to the fund of the Authority.

28. Any person to whom a notice in writing under section 26 is directed and who fails without reasonable cause to comply with the requirements of the notice shall be guilty of an offence.

29. (1) No person shall discharge or spill any oil or mixture containing oil into the inland waters within the Province, exceeding the prescribed standards.
(2) Any person who contravenes the provisions of subsection (1) shall be liable on conviction to a fine not less than rupees ten thousand and not exceeding rupees one hundred thousand or to imprisonment for a term not exceeding two years.

30. (1) The Minister may by Order published in the Gazette.

(a) prohibit the use of any materials for any process, trade or industry;

(b) prohibit whether by description or by brand name, the use of any equipment or industrial plant;

which will endanger the quality of the environment, within the areas specified in the Order.

(2) The Minister may by Order published in the Gazette require the installation, repair, maintenance or operation of any equipment or industrial plant within the areas specified in the Order.

(3) Any person who contravenes any prohibition or fails to comply with any requirement in any Order made under subsections (1) and (2), shall be guilty of an offence.

31. In any prosecution for an offence under this Part of this Statute a certificate issued under the hand of the Chief Executive Officer to the effect that the pollution specified in the certificate has been caused to the environment, shall be admissible in
evidence, and shall be prima facie proof of the matters contained therein.

PART VII

APPROVAL OF PROJECTS

32. For the purpose of this Statute, the Minister may by Order published in the Gazette specify the Provincial agencies (hereinafter referred to as "project approving agencies") which shall be the project-approving agency for the purpose of this Part of this Statute.

33. (1) For the purpose of this Statute, the Minister shall by Order published in the Gazette, determines the development projects that are being undertaken within the Province -

(α) where the project boundaries and the impact of the project are confined to the Province as one geographical entity; and

(β) where the project boundaries and the impact of the project may extend to areas outside the geographical limits of the Province, [in respect of which, approval would have to be obtained under this Statute (hereinafter referred to as "prescribed project").]

(2) All prescribed projects that are being undertake by any Provincial Ministry, Government or Provincial department, public corporation, statutory board, local authority, company, firm or individual
Submission of environmental impact assessment report.

will be required to obtain the approval of the Authority for the implementation of such prescribed project.

34. (1) It shall be the duty of all project approving agencies to require from any Provincial Ministry, Government or Provincial department, corporation, statutory board, local authority, company, firm or individual who submit any prescribed project for its approval, to submit within a specified time an (initial environmental examination) report or an environmental impact assessment report as required by the project approving agency relating to such project and containing such information and particulars as may be prescribed by the Minister for the purpose.

(2) The project approving agency shall on receipt of an initial environmental examination report or an environmental impact assessment report as the case may be, by notice published in the Gazette and in one newspaper each in the Sinhala, Tamil and English languages, notify the place and times at which such report shall be available for inspection by the public, and invite the public to make its comments, if any, thereon.

(3) Any member of the public may within thirty days of the date on which a notice under subsection (2) is published, make his or its comments, if any, thereon to the project approving agency and the project approving agency may, where it considers appropriate in the public interest afford an opportunity to any such person of being heard in support of his comments, and shall have regard to such comments and any other materials if any, elicited at
any such hearing, in determining whether to grant its approval for the implementation of such prescribed project.

(4) Where approval is granted for the implementation of any prescribed project, such approval shall be published in the Gazette and in one newspaper each in Sinhala, Tamil and English languages.

35. The project approving agency shall determine the procedure it shall adopt in approving any prescribed projects submitted to it for approval. Such procedure shall be based on the guidelines prescribed by the Minister for such purpose who may follow the standards, procedures and guidelines laid down by the Minister in charge of the subject of Environment, of the Central Government under section 200C of this Act.

36. (1) Where the project approving agency refuses to grant approval for any prescribed project submitted for its approval, the person or body of persons aggrieved shall have a right to appeal against such decision to the Secretary to the Ministry of the Minister who shall consult the Committee in giving a decision on such appeal.

(2) The decision of the Secretary to the Ministry on such appeal shall be final.

37. Where any alterations are being made to any prescribed project for which approval has been granted or where any prescribed project already approved is being abandoned, the Provincial Ministry, Government or
Provincial department, corporation, statutory board, local authority, company, firm or individual who obtained such approval, shall inform the appropriate project approving agency of such alterations or the abandonment as the case may be, and where necessary obtain fresh approval in respect of any alterations that are intended to be made to such prescribed project for which approval had already been granted.

38. It shall be the duty of all project approving agencies to forward to the Authority a report on each prescribed project for which approval is granted by such agency.

PART VIII
GENERAL

Arbitration.

[39. (1) Where any dispute arise between the Authority and the Environmental Authority of any other Province established by a Statute made by the Provincial Council of that Province, in relation to any act or thing done or purported to be done by the Authority under this Statute, including any dispute arising out of an approval granted by the Authority for the implementation of an approved project referred to in paragraph (b) of subsection (1) of section 31, such a dispute may, where the parties to the dispute so agrees, be referred for settlement to a Panel of three arbitrators, appointed in the following manner -

(a) one arbitrator each appointed by the two Authorities to the dispute; and
(b) a third arbitrator who will act as an umpire to be appointed by the two arbitrators appointed under paragraph (a).]

(2) The decision of the arbitrators appointed under subsection (1) shall be binding on the two Authorities in relation to such dispute.

Furnishing of Information.

40. (1) For the purpose of giving effect to the principles and objects of this Statute the Authority may, by notice in writing served on the occupier of any premises, require that occupier to furnish to the Authority within fourteen days or such longer period as is specified in the notice, such information as to any manufacturing, industrial, or trade process carried on in such premises or as to any waste discharged or likely to be discharged from the said premises as is specified in the notice.

(2) The Authority shall treat all information furnished to it pursuant to any requirement made under subsection (1) with the strictest of secrecy and shall not divulge such information to any person other than to a court, subject to subsection (3) for the purpose of any prosecution for an offence under this Statute.

(3) Any information furnished or statement made to the Authority pursuant to any requirement made under subsection (1) shall not, if the person furnishing the information or making the statement, objects at the time of furnishing the information or statement, to doing so on the ground that it might tend to incriminate him, be admissible in evidence upon any proceedings against that person for an offence under
41. (1) The Chief Executive Officer or any other officer duly authorized in writing by him may at any time enter any land or premises and may:

(a) examine and inspect any equipment, vehicle or industrial plant;

(b) take samples of any pollutants that are emitted, discharged or deposited or are likely to be of a class or kind that are usually emitted, discharged or deposited from such equipment or industrial plant;

(c) examine any books, records or documents relating to the performance or use of such equipment, or industrial plant or relating to the emission, discharge or deposit from such equipment or industrial plant;

(d) take photographs of such equipment or industrial plant as he considers necessary or make copies of any books, records or documents seen in the course of such examination; or

(e) take sample of any fuel, substance or material used, likely to be used or usually used in such trade, industry or process carried on in or on such premises.

(2) The Chief Executive Officer or officer authorized by him may, where he has reasonable cause to apprehend any serious obstructions in the execution of
his duties under subsection (1), enter any land or premises accompanied by a police officer.

(3) Any person who prevents or obstructs the Chief Executive Officer or an authorized officer in carrying out such inspection or investigation, recording of data or the taking of samples under subsection (1), shall be guilty of an offence under this Statute.

42. (1) The Authority shall have the power to issue directives to any person engaged in or about to engage in any development project or scheme which is causing or is likely to cause, damage or detriment to the environment, regarding the measures to be taken in order to prevent or abate such damage or detriment, and it shall be the duty of such person to comply with such directive.

(2) Where a person fails to comply with any directives issued under subsection (1), the Magistrate may, on application made by the Authority, order the temporary suspension of such project or scheme until such person takes the measures specified in such directive.

43. (1) The Minister may by Order published in the Gazette declare any area to be an environmental protection area (hereinafter referred to as a "protection area").

(2) An Order under subsection (1) declaring an area as a protection area, shall define that area by setting out the metes and bounds of such area.
44. Where any area has been declared to be a protection area, the Minister may by Order published in the Gazette declare that any planning scheme or project in a protection area under the provisions of any law which is in conflict with any provisions of this Statute shall cease to operate in that area.

(2) So long as an Order under subsection (1) is in force, the Authority shall be responsible for the physical planning of such area in accordance with the provisions of this Statute.

(3) Notwithstanding the provisions of subsection (1), the Minister may, at the request of the Authority, declare from time to time by order published in the Gazette, that with effect from such date as shall be specified in such Order, the Authority shall cease to be the authority responsible for the planning in such protection area.

(4) So long as an Order under section (4) is being in force in relation to a protection area no person other than the Authority shall exercise, perform and discharge any powers, duties and functions relating to planning and development within such protection area.

45. The Authority may appoint:

(a) analysts for making analysis of samples taken for the purposes of this Statute; and

(b) environmental officers for inspection and evaluating the records of monitoring prescribed equipment and installations.
for detecting the presence, quantity and nature of waste and their effects on the receiving portions of the environment.

46. Any Authority, institution or body empowered by or under any written law to issue licenses relating to any of the matters referred to in this Statute, shall conform to the standards specified or laid down under this Statute.

47. (1) Subject to subsection (5), the Authority may by Order, delegate any of its powers, duties and functions under this Statute to any Provincial or Government department, corporation, statutory board, local authority or any public officer, or Provincial public officer within the Province.

(2) Where the Authority has delegated any power under subsection (1), to any Provincial or Government department, corporation, statutory board, local authority or any public officer or Provincial public officer any officer of such Provincial or Government department, corporation, statutory board or local authority as or such public or Provincial public officer the case may be, may exercise any of the powers which the Chief Executive Officer would be able to exercise had he been exercising the powers himself.

(3) Nothing in this section shall preclude the Authority from any responsibility to protect the environment and from administering the provisions of this Statute.
(4) An Order made under subsection (1) may be revoked or varied at any time by the Authority.

(5) An Order under subsection (1) shall not be made by the Authority—

(a) in respect of any local authority except with the concurrence of the Provincial Minister in charge of the subject of Local Government; and

(b) in respect of any Provincial Government department, corporation, statutory board, public officer or Provincial Public officer except with the concurrence of the Minister in charge of such Provincial Government department or corporation or statutory board, or the department in which such public officer or Provincial public officer is employed.

All members, officers and servants of the Authority shall be deemed to be public servants within the meaning of and for the purposes of the Penal Code.

The Authority shall be deemed to be a scheduled institution within the meaning of the Bribery Act and the provisions of that Act shall be construed accordingly.

The provisions of this Statute shall have effect within the Province notwithstanding anything to the contrary in the provisions of any other written
Protection for action taken under this Act or on the direction of the Authority.

This Act to prevail over other written laws.

law, and accordingly in the event of any conflict or inconsistency between the provisions of this Statute and the provisions of such other written law, the provisions of this Statute shall prevail over the provisions of such other written law.

51. (1) No suit or prosecution shall lie:

(a) against the Authority, for any act which in good faith is done or purported to be done by the Authority under this Statute;

(b) against the members of the Authority, Committee, Divisional Environmental Agency, any officer or servant of the Authority or any agency to which power has been delegated under section 47, for any act which in good faith is done or purported to be done under this Statute or on the direction of the Authority.

(2) Any expense incurred by the Authority in any suit or prosecution brought by or against the Authority before any court shall be paid out of the Fund of the Authority and any costs paid to, or recovered by, the Authority in such suit or prosecution shall be credited to the Fund of the Authority.

(3) Any expense incurred by any such person as is referred to or in paragraph (b) of subsection (1) in any suit or prosecution brought against him before any court in respect of any act which is done or is purported to be done by him under this Act or on the direction of the Authority shall, if the court holds
Penalty for offences for which no punishment is expressly provided for.

52. Every person who contravenes or fails to comply with any provisions of this Statute or of any rules made thereunder for which no punishment is expressly provided for, shall on conviction before a Magistrate shall be liable to imprisonment of either description for a term not exceeding two years or to a fine not exceeding ten thousand rupees or to both such imprisonment and fine.

53. (1) The Minister may make rules in respect of all matters which are stated or are required by this Statute to be prescribed or for which rules are required by this Statute to be made.

(2) In particular and without prejudice to the generality of the powers conferred by subsection (1) the Minister may make rules in respect of all or any of the following matters:

(a) Levy of fees for:

(i) examining plans, specifications and information relating to installations or proposed installations,

(ii) the issue of licences under this Statute;

(iii) carrying out necessary monitoring duties;

(b) specification of standards or criteria
for the implementation of any Provincial Environmental Policy or classification for the protection of the environment and for protecting beneficial uses;

(c) specification of standards or criteria for determining whether any matter, action or thing is poisonous, objectionable, detrimental to health or within any other description or referred to in this Statute;

(d) prohibition of the discharge, emission or deposit into the environment of any matter, whether liquid, solid or gaseous, or of radioactivity and prohibition or regulating the use of any specified fuel;

(e) specification of ambient air quality standards, emission standards and specifying the maximum permissible concentrations of any matter that may be present in or discharged into the atmosphere;

(f) prohibition of the use of any equipment, facility, vehicle or boat capable of causing pollution or regulating the construction, installation or operation thereof so as to prevent or minimize pollution;
(g) requirement of issuing pollution warnings or alerts;

(h) prohibition or regulation of the open burning of refuse, waste or other combustible matter;

(i) regulation of the establishment of sites for the disposal of solid or liquid waste on or in land;

(j) determination of objectionable noise and specification of standards for tolerable noise;

(k) prohibition of or regulation of bathing, swimming, boating or other activity in or around any waters that may be detrimental to health, welfare or for preventing pollution;

(l) requirement that the oil refineries and installations operating in Sri Lanka store such substance or material and equipment necessary to deal with any oil pollution of the inland waters of Sri Lanka that may arise in the course of their business;

(m) requirement that the oil refineries carrying on business install such equipment as may be prescribed for the purpose of reducing or preventing any trade effluent from containing oil;
(n) prescribing the procedure relating to appeals against the decision of the Authority;

[(o) relating to visual amenities in urban and rural areas;]

[(p) storage and transportation of harmonious materials;]

(q) disposal of wastes and hazardous materials whether to the atmosphere, waters or soil; and

(r) requirement of specific environmental monitoring duties by the proponent or developer or a specified third party delegated for this purpose.

(3) Every rule made by the Minister shall be published in the Gazette and shall come into operation on the date of such publication or upon such later date as may be specified in the regulation.

(4) Every rule made by the Minister shall, as soon as convenient after its publication in the Gazette, be brought before the Provincial Council for approval. Every rule on which is not so approved shall be deemed to be rescinded as from the date of such disapproval but without prejudice to anything previously done thereunder. Notification of the date on which any rule is deemed to be rescinded shall be published in the Gazette.

Interpretation. 54. In this Statute unless the context otherwise
requires:

"Act" means the National Environmental Act, No.47 of 1980;

"air pollution" means an undesirable change in the physical, chemical and biological characteristics of air which will adversely affect plants, animals, human beings and inanimate objects;

"beneficial use" means a use of the environment or any portion of the environment that is conducive to public benefit, welfare, safety or health and which requires protection from the effects of waste, discharges, emissions and deposits;

"Central Environmental Authority" means the Central Environmental Authority established by the National Environmental Act, No.47 of 1980;

"environment" means the physical factors of the surroundings of human beings including the land, soil, water, atmosphere, climate, sound, odours, tastes and the biological factors of animals and plants of every description;

"environmental impact assessment report" means a written analysis of the predicted environmental consequences of a proposed approved project and containing an environmental cost benefit analysis, if such
an analysis has been prepared, including a description of the project, and includes a description of the avoidable and unavoidable adverse environmental effects of the proposed approved project; a description of alternatives to the activity which might be less harmful to the environment together with the reasons why such alternatives were rejected, and a description of any irreversible or irretrievable commitments of resources required by the proposed approved projects;

"local authority" means any Municipal Council, Urban Council or Pradeshiya Sabha and includes any Authority created and established by or under any law to exercise, perform and discharge powers, duties and functions corresponding to or similar to powers, duties and functions exercised, performed and discharged by any such Council;

"Minister" means the Provincial Minister in charge of the subject of environment;

"noise pollution" means the presence of sound at a level which causes irritation, fatigue, hearing loss or interferes with the perception of other sounds and with creative activity through distraction;

"pollutant" means any substance whether liquid, solid or gaseous which directly or indirectly:
(a) alters the quality of any segment or element of the receiving environment so as to effect any beneficial use adversely; or.

(b) is hazardous or potentially hazardous to health;

"pollution" means any direct or indirect alteration of the physical, thermal, chemical, biological or radioactive properties of any part of the environment by the discharge, emission, or the deposit of wastes so as to effect any beneficial use adversely or to cause a condition which is hazardous or potentially hazardous to public health, safety or welfare, or to animals, birds, wildlife, aquatic life, or to plants of every description;

"prescribed" means prescribed by rules;

"Provincial Council" means the Provincial Council of the Province;

"territorial waters" includes the territorial sea and the historic waters of Sri Lanka;

"toxic chemical" means a substance characterized by definite molecular composition which has harmful effects on living material or which can create hazardous changes in the environment;
"waste" includes any matter prescribed to be waste and any matter, whether liquid, solid, gaseous, or radioactive, which is discharged, emitted, or deposited in the environment in such volume, constituency or manner as to cause an alternation of the environment.

Sinhala text to prevail in case of inconsistency.

55. In the event of any inconsistency between the Sinhala and Tamil text of this Statute, the Sinhala text shall prevail.