

**SAINT VINCENT AND THE GRENADINES
ENVIRONMENTAL MANAGEMENT ACT 2009**

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SAINT VINCENT AND THE GRENADINES
ENVIRONMENTAL MANAGEMENT ACT

No. of 2009

A

BILL

ENTITLED

AN ACT to provide for the allocation of administrative responsibilities for environment management, the undertaking and coordination of environmental management and related activities.

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the House of Assembly and the Senate of Saint Vincent and the Grenadines and by the Authority of the same as follows:-

PART I

PRELIMINARY

Citation and Commencement

1. (1) This Act may be cited as the Environmental Management Act, 2009.

(2) This Act shall come into force on a day to be prescribed by the Minister by Order published in the *Gazette*, but the Minister may fix different dates for the coming into force of different parts of this Act.

Interpretation

2. In this Act, unless the context otherwise requires:

“authorised officer” means an officer authorised as such pursuant to section 9;

“Board” means the Board of Trustees established under section 72;

“Cabinet” has the meaning assigned to it by the Constitution;

“civil society organisations” includes all community, non-governmental and other organisations not directly linked to government and not engaged in generating profits that accrue to individual persons or bodies corporate;

“Commission” means the National Environmental Commission established by section 6;

“Department” means the Department of the Environment referred to in section 4;

“Director” means the Director of the Department;

“Environmental Appeal Tribunal” means the Environmental Appeal Tribunal established by section 10;

“Fund” means the Fund established by section ;

“environment” means the components of the earth, including:

- (a) air, land and water;
- (b) all layers of the atmosphere;
- (c) all organic and inorganic matter and living organisms; and
- (d) the interacting natural systems that include components referred to in paragraphs (a) to (c).

“environmental audit” means a systematic evaluation of environmental information about an organisation, facility or site to verify whether and to what extent it conforms to specified audit criteria;

“hazardous substance” means any substance authorised as a hazardous substance pursuant to section 26(1);

“Minister” means the Minister responsible for the environment;

“pollutant” means any substance, thing or man-made phenomenon authorised as a pollutant pursuant to section 13(2);

“pollution” includes the release or deposit of any pollutant or waste onto land or into the air or water, including the sea, so as to cause any direct or indirect alteration of the physical, thermal, chemical, biological or radioactive properties of any part of the environment or to cause harm to human health or affect the quality of the environment;

“renewable energy” means energy that is derived from a source that is not depleted by the extraction of energy or the process used for extraction of the energy;

Purposes

3. The purposes of this Act are to provide for:

- (a) the allocation and coordination of administrative responsibilities for environmental management within the State;
- (b) the prevention and mitigation of pollution of the environment, for the purposes of protecting human health and maintaining the quality of the environment;

- (c) the conservation of energy and the development of renewable energy resources;
- (d) the integration of environmental management and monitoring.

PART II

ADMINISTRATION

Establishment of Department of the Environment

4. (1) For the administration of this Act and the Regulations made thereunder, there shall be established under the Ministry for the time being responsible for the Environment, a department to be known as the Department of the Environment.
- (2) The Department shall be headed by a public officer, to be known as the Director of Environment, who shall be appointed by the Public Service Commission.
- (3) There shall be appointed by the Public Service Commission such other officers of the Department as may be necessary for the administration of the Act or the Regulations.
- (4) The Department may establish as and when deemed necessary, such Technical or Advisory Committee or Committees as it thinks fit, to advise on matters pertaining to Environmental Management.

The powers, duties and functions of the Department

5. The powers, duties and functions of the Department shall be as follows-

- (a) be responsible for the continuous and long-term assessment of the status of natural resources and of pollution, environmental degradation and other adverse impacts on the environment;
- (b) coordinate, monitor and ensure the protection and sustainable use of natural resources for the benefit of the present and future generations;
- (c) prevent and control pollution where there is no existing legal provision for such control by co-ordinating all activities relating to the discharge of wastes into the environment;

- (d) control the volume, types, constituents and effects of wastes, discharges, emissions, deposits or other sources of emission and substances which are of danger or a potential danger to the quality of the environment;
- (e) undertake surveys and investigations into the causes, nature, extent and prevention of pollution or environmental degradation or other adverse impacts on the environment and to assist and co-operate with other persons or bodies carrying out similar surveys or investigations;
- (f) conduct, promote, and co-ordinate research in relation to any aspect of environmental pollution or the prevention thereof, or environmental degradation or other adverse impacts on the environment and to develop criteria for the protection and improvement of the environment;
- (g) maintain a register of all wastes, discharges, emissions, deposits or other sources of emission or substances which are of danger or potential danger to the environment;
- (h) undertake investigations and inspections to ensure compliance with this Act or the regulations made thereunder;
- (i) provide information and education to the public regarding the importance of management and improvement of the environment;
- (j) provide assistance in the development and execution of programmes and projects that foster and encourage regional and international collaboration in the use of marine and other related areas of the environment;
- (k) advise the Minister on the formulation of policies relating to sustainable management of natural resources and the environment;
- (l) recommend measures aimed at controlling pollution and to prevent or control environmental degradation

and other adverse impacts on the environment resulting from industrial process or otherwise;

- (m) conduct studies and make recommendations on standards relating to the improvement of the environment and the maintenance of a sound ecological system;
- (n) monitor trends in the use of natural resources and their impact on the environment;
- (o) play a leading role in providing the direction for long-term sustainable development by ensuring environmental management is fully integrated in the decision-making process governing economic and social development;
- (p) foster, through inter-department and inter-ministerial cooperation, the prudent use and proper management of the natural resources of the state, the control of pollution, where needed, so as to ensure a better quality of life for present and future generations;
- (q) encourage governmental and non-governmental institutions or agencies to align their activities with national objectives on environmental management;
- (r) implement policies and programmes in pursuance of the national objectives on environment management;
- (s) co-ordinate the activities of other agencies concerned with the management of the environment.
 - (i) under this Act, or;
 - (ii) under any other law for the time being in force which is related to the objects of this Act.
- (t) exercise functions under any other Act as authorised by the Minister.

Constitution and functions of the National Environmental Commission

6. (1) The National Environmental Commission is hereby established to discharge such functions as set out in subsection (2).

(2) The functions of the Commission shall be to-

- (a) make recommendations on sustainable development issues and for any recommendation on the implementation of the National Environmental Policy;
- (b) undertake periodic review and advise on the necessary programmes, policies and strategies for achieving sustainable development;
- (c) advise on the rationalization of roles, responsibilities and functions of all agencies involved in sustainable development programmes;
- (d) advise on the formulation and implementation of a strategy to sensitize the public on issues of fully integrating environmental management into the economic and social development activities;
- (e) advise government on the implications of regional and international treaties and obligations of Saint Vincent and the Grenadines to these treaties and conventions;
- (f) secure inter-agency collaboration and coordination of programmes and policies to maximize efficiencies in the management of the use of physical, financial and natural resources and to eliminate the duplication of effort in the management of the use of natural physical resources.
- (g) sensitize key stakeholders and decision-makers by facilitating dialogue on the importance of fully integrating environmental management into the economic and social development process in the interest of establishing sustainable development and the responsibility it imposes on Government and the private sector, as well as the need for all parties to work together in an integrated and coordinated manner;
- (h) monitor national progress towards the full integration of environmental management in economic and social decision-making and how this is contributing to the establishment of sustainable development in relation to the obligations under regional and international policies and processes;
- (i) identify policy, legislative and institutional gaps and advise on ways and means of addressing these;
- (j) promote research and monitoring as well as the effective management and use of data and information with a view to supporting sound decision-making on environmental, social and economic development;

- (k) promote an integrated and coordinated approach to addressing environmental issues in Saint Vincent and the Grenadines;
 - (l) advise on matters relating to environmental management;
 - (m) advise the Minister on issues related to regional and international cooperation in the promotion of environmental management as an integral part of the social and economic development process;
 - (n) promote and facilitate capacity building as it relates to environmental management;
 - (o) promote a coordinated approach to awareness building on environmental management;
 - (p) promote effective and efficient compliance and enforcement of environmental legislation and standards; and
 - (q) monitor and coordinate the implementation of multilateral environment agreement;
 - (r) ensure that commitments made at regional and international fora on environment and development are implemented;
 - (s) foster the development and adoption of comprehensive national environmental standards and guidelines.
- (3) The National Environmental Commission established by subsection (1) consists of:
- (a) Permanent Secretary for the Ministry responsible for health as Chairman.
 - (b) The following public officers, as ex officio members-
 - (i) the Director of the Department of the Environment;
 - (ii) the Chief Fisheries officer;
 - (iii) the Director of Forestry;
 - (iv) the Head of the Physical Planning Department;
 - (v) the Chief Agricultural Officer
 - (vi) the Chief Surveyor;
 - (vii) the Director, National Emergency Management Organisation;
 - (viii) the Commissioner of Police.
 - (c) the Director, National Parks Authority;

- (d) the General Manager, Central Water and Sewage Authority
 - (e) a representative of the Ministry responsible for tourism;
 - (f) a representative of the Ministry responsible for finance;
 - (g) a representative from the Ministry responsible for science and technology;
 - (h) a representative of the Saint Vincent and the Grenadines National Trust;
 - (i) a representative of the Saint Vincent and the Grenadines Chamber of Commerce and Industry.
- (4) The members of the Commission appointed under subsection (2)(d) may be appointed for a period of three years but are eligible for reappointment.
 - (5) The appointment of any member of the Commission under subsection 2(a) or 2(c) to 2(f) shall be notified in the *Gazette*.
 - (6) The members of the Commission hold office on such conditions with respect to remuneration and allowances as the Minister may determine.
 - (7) The validity of any proceedings of the Commission is not affected by any vacancy in its membership or by any defect in the appointment of any of its members.
 - (8) The Commission may co-opt any person to assist it in dealing with any matter, if it is satisfied that the person's qualifications and experience are likely to help the Commission, and any person so co-opted is entitled to take part in the Commission's deliberations regarding that matter, but may not vote and shall take no part in any other proceedings of the Commission.
 - (9) The Commission may appoint from amongst its members committees of a general or special nature to carry out any of its functions which in the opinion of the Commission would be better managed by means of such committees.
 - (10) The Director shall appoint a member of the staff of the Department to serve as Secretary to the Commission and shall provide such other members of staff to facilitate the work of the commission.
 - (11) The Commission shall meet as often and at such times and places and on such days as are necessary or expedient for transacting its business, provided always that it meets at least four times in every calendar year, and may regulate its own procedure.
 - (12) All expenses incurred by the Commission in the discharge of its functions, unless otherwise provided for, are to be defrayed from the Consolidated Fund.
 - (13) The Commission shall submit yearly reports to the Minister or at such other intervals as the Minister may designate.

- (14) The Minister may give directions of a general matter to the Commission.

Inter-agency collaboration

7. (1) Where, in order to discharge its functions, the Department requires the co-operation and assistance of another Ministry, department of Government or statutory authority, the Department may consult with that other Ministry, department of Government or statutory authority, which shall render all possible assistance to the Department.

(2) Where the co-operation of the Department would facilitate the carrying out of any public business that is the responsibility of another Ministry, department of Government or statutory authority, the Ministry, department of Government or statutory authority responsible may consult the Department and, when consulted, the Department shall render all possible assistance.

Delegation of Powers

8. (1) The Director may by instrument in writing and subject to such conditions, directions, reservations or restrictions as he thinks fit, delegate to any other public officer any power or duty conferred or imposed by this Act on the Director, other than this power of delegation.

(2) Anything done by a delegate pursuant to a power or duty delegated under this section has the same force and effect as if it had been done by the Director.

Authorised Officers

9. (1) In order to administer and enforce this Act, the Director may, after consultation with the organisations which are affected, designate personnel from other governmental organisations as authorised officers, who may be co-opted by the Department from time to time, as is necessary or expedient for the purposes of this Act.

(2) In addition to the Director and other officers of the Department and persons authorised as authorised officers pursuant to subsection (1), it is declared that every police officer, forest officer, fisheries officer, public health inspector, development control or building inspector, is *ex officio* an authorised officer for the purposes of enforcing this Act.

Environmental Appeals Tribunal

10. (1) There is hereby established a body to be known as the Environmental Appeals Tribunal.

(2) The constitution and procedure of the Environmental Appeals Tribunal shall be in accordance with the First Schedule;

(3) The expenses of the Environmental Appeal Tribunal shall, unless otherwise provided for, shall be a charge on the Consolidated Fund.

PART III

POLLUTION CONTROL

Pollution Control Regulations

11. (1) The Minister may by Regulations prescribe for matters required or permitted to be prescribed under this Part and make such other provision as is necessary or convenient for giving effect to this Part.

(2) Without prejudice to the generality of subsection (1), the Minister shall by such Regulations designate as a pollutant any substance, thing or man-made phenomenon (including energy, noise, vibration, electro-magnetic or ionizing radiation, odour or temperature variation) which, in a specified quantity or concentration or condition, is likely to cause harm to human health or affect the quality of the environment.

(3) Regulations made under this section shall be published in the *Gazette* and come into force on the date of publication.

Registration of existing sources of pollution

12. (1) On the coming into force of Regulations made under section 13, any person who carries on an existing activity or process that may cause or result in the production of a pollutant, on a continuous or intermittent basis, shall give notice of that fact to the Department as soon thereafter as prescribed by the Regulations.

(2) After the coming into force of Regulations made under section 13, any person who proposes to commence any activity or process that may cause or result in the production of a pollutant, on a continuous or intermittent basis, shall give notice of that fact to the Department forthwith.

(3) The Department shall compile a register of sources of pollution, which shall be open to inspection by the public at its office during ordinary business hours on payment of the prescribed search fee, if any.

Pollution standards

13. (1) The Minister may by Regulations prescribe different standards for the deposit, release or escape of pollutants on or into land, water or the air or within different geographical areas.

(2) Notwithstanding any law to the contrary, after the commencement of this Act, no person may deposit or release or allow the escape of pollutants into the environment in a quantity or concentration or condition in excess of the prescribed pollution standard applicable to the receiving environment, without a pollution permit issued by the Department under and in accordance with this Act.

Time to be allowed for compliance

14. If, on the coming into force of any Regulations made under this Part, any person is engaged in any existing activity or process that, on a continuous or intermittent basis, causes or results in the deposit or release of any pollutant into the environment in excess of the prescribed standard, the Department shall allow that person a reasonable time to upgrade their plant or equipment to comply with the prescribed standard.

Liability for historical pollution

15. (1) If any part of the environment is found to have been polluted before the coming into force of this Act, the Department may, by notice served on that person, require any person who the Director finds to have been solely or partly responsible for causing or allowing that pollution to take place, to take such measures to clean up or rehabilitate the environment as are specified in the notice.

(2) When the Director finds that more than one person was responsible for such pollution, liability for undertaking the clean up or rehabilitation measures required pursuant to subsection (1) shall be shared between those persons on a *pro rata* basis.

(3) If any person fails or refuses to comply with a requirement imposed by the Director pursuant to subsection (1), within the period of time allowed for compliance specified in the notice, the Department may undertake the necessary clean up or rehabilitation measures, either directly or by employing contractors, and may recover the costs of so doing, or a proportional contribution to those costs, from that person as a civil debt in a court of competent jurisdiction.

(4) A person who the Director has found to be solely or partly responsible for pollution under this section may appeal against that finding to the High Court no later than 28 clear days after the date of service of the notice given under subsection (1).

Pollution permits

16. (1) The Department may by permit authorise the deposit or release of a pollutant on or into land, water or the air in quantities or concentrations in excess of the prescribed standard, subject to such conditions as it thinks fit, including the payment of such fees and charges as may be prescribed.

(2) In deciding whether to grant a permit pursuant to subsection (1), the Department may adopt and take into account ambient environmental standards and the cumulative impact on those standards of the grant of any pollution permit.

(3) The Department shall compile and maintain a register of pollution permits that is open to inspection by the public at its office during ordinary business hours, on payment of the prescribed search fee, if any, and shall provide members of the public with copies of entries in the register on payment of the cost of making copies.

Applications for pollution permits

17. (1) Any person who releases or proposes to release any pollutant into the environment in an amount or concentration or conditions in excess of the allowable standard shall apply to the Department for a pollution permit in the manner prescribed by the Regulations.

(2) The Department may at any time give notice to a person who has failed to apply voluntarily for a pollution permit, requiring that person to immediately cease polluting the environment and to make an application for a pollution permit within 10 days of the date of service of the notice.

(3) An application for a pollution permit shall be submitted to the Department at least 90 days before the date on which the applicant proposes to commence releasing any pollutant into the environment.

(4) An application for a pollution permit shall be made in the prescribed form and shall be accompanied by-

- (a) in the case of a point-source of pollution, such plans and other particulars as are necessary to describe the premises or plant or equipment from which the pollutant is to be released into the environment, identifying the point of release or, in the case of mobile plant and equipment the place at which it will be in operation;
- (b) in the case of a non-point source of pollution, such plans and other particulars as are necessary to describe the situation and extent of the land or water on or over which the pollutant is to be released into the environment;
- (c) in any case where the pollutant to be released will result from a process or activity, a general description of that process or activity;
- (d) in any case where any other statutory consent is required for undertaking that process or activity, proof that the required consent has been obtained;
- (e) any proposals for the reduction, re-use, recycling or treatment of noise, wastes, effluents and emissions generated by that process or activity; and
- (f) particulars of the type, volume and rate of release of the pollutant into the environment.

(5) Every application submitted to the Department under this section shall be accompanied by proof of payment of the application fee and proof of publication of the notice of intention to apply for a pollution permit published in accordance with section 18.

(6) If the information supplied by the applicant in support of the application is inadequate for the purposes of evaluating an application, the Department may in writing request the applicant to provide such other information as is reasonably required for evaluating the application and, in the event that such supplementary information is requested, the application will be treated

for the purposes of section 19 as having been received on the date when the supplementary information is received by the Department.

(7) The applicant may identify any of the information provided to the Department in connection with an application as a trade secret or confidential business information and, if in the opinion of the Director the applicant has shown a reasonable basis for this claim, the Department shall not release or disclose any such information to any other person.

(8) If the Director rejects a claim that information provided in connection with an application is a trade secret or confidential business information, the applicant may appeal in writing against that decision to the Appeal Tribunal within 21 days of the date of the decision, setting out the grounds upon which the appeal is made.

(9) When the Director rejects a claim that information provided in connection with an application is a trade secret or confidential business information, the Department shall not release or disclose any such information to any other person until the time allowed for appealing to the Appeal Tribunal pursuant to subsection (8) has elapsed, without an appeal having been made, or the appeal has been determined.

Publicity for applications

18. (1) At least 14 days prior to making of an application for a pollution permit, the applicant shall publish in a newspaper in general circulation in the State a notice of intention to make such an application:

(a) stating-

- (i) the name of the applicant;
- (ii) the location of the premises from which the pollutant is to be released;
- (iii) the general nature of the process to be conducted on the premises giving rise to the pollution;
- (iv) the pollutant to be released; and
- (v) the receiving environmental medium into which the pollutant is to be released; and

(b) advising members of the public of their right to make objections in writing against the application in accordance with subsection (2).

(2) When a notice has been published in accordance with subsection (1), any member of the public whose interests are likely to be affected by the grant of a pollution permit may, within 21 days of the publication of the notice, make an objection in writing to the Department against the application, stating-

(a) his name and address;

- (b) his interest in the matter; and
- (c) the nature and grounds of his objection to the application.

Determination of applications

19. (1) Within 60 days of receiving an application for a pollution permit, the Department shall consider the application and either-

- (a) grant a pollution permit to the applicant, either unconditionally or subject to such conditions as it thinks fit; or
- (b) notify the applicant in writing that the application is refused, giving its reasons for refusal.

(2) In considering an application for a pollution permit or the renewal or transfer of a pollution permit, the Department shall have regard to-

- (a) the applicable environmental quality standards, if any;
- (b) the background concentration of pollutants in the environment;
- (c) the desirability of preserving the quality of the environment at the existing level or restoring the quality of the environment to a higher level;
- (d) the desirability of ensuring that the best practicable available treatment or control of substances released into the environment is employed;
- (e) the combined effects of the proposed release of a pollutant into the environment and other existing releases into the environment; and
- (f) the desirability of making provision for future releases of pollutants into the environment.

(3) In considering an application for a pollution permit, the Department shall also consider any objection made in accordance with section 19 and may consult such other governmental organisations and persons as it deems necessary for assessing the merits of the application and any objection to it.

(4) Where an application for a pollution permit is refused by the Department, or is granted by the Department subject to conditions, the applicant may, within 28 days from receipt of notice of the decision, appeal in writing against that decision to the Appeal Tribunal, setting out the grounds upon which the appeal is made.

Term of pollution permits

20. (1) Subject to the provisions of this Part with respect to the suspension, modification, revocation and surrender of pollution permits, a pollution permit continues in force for the period specified therein and for any period for which the permit is renewed under subsection (2).

(2) The Department may, on application of the permit holder made not later than 30 days before the expiry thereof, renew a pollution permit for a period not exceeding the period for which it was originally granted, but, when renewing a pollution permit, the Department may vary, delete or add to the conditions contained therein.

Transfer of pollution permits

21. (1) A pollution permit granted under this Part is not transferable by the permit holder to any other person without the prior consent in writing of the Director.

(2) Where a pollution permit has been transferred in breach of the provisions of subsection (1), the Director may suspend the permit until the requisite consent is granted.

(3) If, having regard to all the circumstances, the Director decides not to grant consent for the transfer of a pollution permit, the Director may revoke the permit pursuant to section 24(3)(c).

Modification, suspension, revocation and surrender of pollution permits

22. (1) If it appears to the Director that it is expedient, having regard to a change in circumstances, including but not limited to changes in environmental conditions or pollution control technology, that any pollution permit should be modified, the Director may by notice in writing served on the permit holder modify the permit to the extent that it thinks fit.

(2) A person who has incurred expenditure in carrying out work rendered abortive by the modification of a pollution permit under subsection (1), or has otherwise suffered loss or damage directly attributable to such modification, is entitled to adequate compensation from the State in respect of that expenditure, loss or damage.

(3) The Director may, by notice in writing served on the permit holder, suspend or revoke a pollution permit where the permit holder-

- (a) fails to pay any amount payable under this Act or the pollution permit;
- (b) fails to fulfil any of the conditions of the pollution permit; or
- (c) does not comply with the provisions of this Act or any regulations made hereunder or any other written law.

(4) Where the Director is satisfied that any such default may result in irreparable damage to or irreversible degradation of the environment, the Director may suspend the pollution permit forthwith, for a period not exceeding 60 days.

(5) The Director shall not revoke a pollution permit on the ground of any such default unless the Director has-

- (a) by notice served on the permit holder, given not less than [30] days notice of its intention to cancel the pollution permit on that ground;
- (b) in the notice, specified a reasonable date before which the permit holder may submit in writing any representation which the permit holder wishes the Director to consider; and
- (c) take into account -
 - (i) any action taken by the permit holder to remedy such default or, where the default cannot be remedied, any action taken by the permit holder to prevent the recurrence of similar defaults; and
 - (ii) any representation submitted to the Director by the permit holder pursuant to paragraph (b).

(6) Where the Director decides to modify, suspend or revoke a pollution permit, the permit holder may, within 28 days from service of the notice of modification, suspension or revocation, as the case may be, appeal in writing against that decision to the Minister, setting out the grounds upon which the appeal is made.

(7) At any time when a pollution permit is in force, the permit holder may, by giving to the Director one month's prior notice in writing, surrender it, and upon surrender of the permit by the permit holder the Director shall cancel it by instrument in writing.

(8) On the revocation or surrender of a pollution permit, the rights of the permit holder cease, but the cancellation of the pollution permit does not affect any liability incurred by the permit holder before the revocation or surrender and any legal proceedings that might have been commenced or continued against the permit holder may be commenced or continued, notwithstanding the revocation or surrender of the pollution permit, as if it had not been cancelled.

Pollution charges

23. (1) The holder of a pollution permit is liable for the payment of pollution charges with respect to the release of any pollutant into the environment.

(2) In the case of each pollution permit, the following pollution charges are payable, in the amount prescribed by regulations-

- (a) a pollution permit fee for every year during which the permit is in force, based on the costs to the Department of supervising permits granted to different categories of permit holders, paid annually in advance 15 days prior to the start of the year to which it relates; and
 - (b) a pollution levy, calculated on the basis of the amount of each pollutant released into the environment measured as specified by the Department, paid quarterly in arrears within 15 days after the end of the quarter to which the payment relates.
- (3) If the Director is satisfied that, while a pollution permit is in force, the permit holder has expended money on scientific research or on new plant or equipment designed or intended to reduce the release of pollutants into the environment, the Director may allow the permit holder to offset part or all of the costs of such expenditure against the amount of the pollution levy payable.
- (4) When the Director rejects a claim for an offset allowance made pursuant to subsection (4), reasons shall be given in writing for the decision, and the permit holder may appeal within 28 days of the date of the decision to the Minister in writing, setting out the grounds of appeal.

Transboundary movement of wastes and hazardous substances

24. (1) Subject to the Customs Act, no person shall import into or land and unload in the State, or load for export or export from the State, any waste or hazardous substance, or any product or substance derived from any such waste or hazardous substance, without approval granted by the Department in accordance with this section.
- (2) An application for such approval shall be submitted to the Department in such form, giving such particulars and supported by such evidence as the Director determines, accompanied by the prescribed fee.
- (3) The Department may refuse to grant such approval where, in the Director's opinion, this is reasonably required for the purpose of preventing any risk of pollution of the environment or harm to human health arising from any waste or hazardous substance being imported or exported.
- (4) The Department may where it appears that there is no risk to the environment, grant any such approval, subject to such terms and conditions as the Director thinks fit, in relation to individual consignments or a series of consignments to the same person, but not in relation to consignments or classes of consignments generally.

Spills and accidental releases

25. (1) The Director may require any person who owns or controls any premises, vehicle or vessel on which any pollutant or hazardous substance is stored, used or transported, to prepare a contingency plan to deal with any spill or accidental release of that pollutant or hazardous substance.

(2) Any contingency plan prepared pursuant to subsection (1) shall set out the counter- measures to be adopted in the event of a spill or accidental release of the pollutant or hazardous substance and the steps to be taken to clean-up the environment afterwards and shall be submitted to the Director for approval, after consultation with the Director of the National Emergency Management Office and the Oil Spills Committee and such persons who he thinks fit, with or without amendments.

(3) When any spill or accidental release of a pollutant or hazardous substance occurs, the person who owns or controls the premises, vehicle or vessel on which the incident takes place shall immediately notify the Department and the National Emergency Management Office and the Oil Spills Committee of the incident, implement the approved contingency plan, if any, and take such other measures as are necessary or expedient to minimize any resulting threat to human health or the environment.

(4) If, after investigating the incident, it appears to the Director that such action is necessary, the Department may undertake such emergency response measures as it thinks necessary or expedient to protect human health and the environment, either directly or by coordinating the activities of the competent governmental and non-governmental organisations or by employing contractors, and may recover the costs of so doing from the person who owns or controls the premises, vehicle or vessel concerned, as a civil debt in the court of competent jurisdiction.

PART IV

ENVIRONMENTAL MANAGEMENT & MONITORING

National Environmental Management Strategy

26. (1) In furtherance of its duty under section 5(2)(d), the Department shall prepare and submit to the Minister, not later than twelve months after the commencement of this Act or such other time as the Minister may by Order direct, a National Environmental Management Strategy.

(2) A National Environmental Management Strategy prepared in accordance with subsection (1) shall include as a minimum a description of the environment in the State, an analysis of environmental issues of national significance and the environmental management strategies prescribed at the national level to address these issues.

(3) At any time after the adoption of a National Environmental Management Strategy pursuant to subsection (1), the Minister may direct that the Department shall revise the National Environmental Management Strategy.

Strategic Environmental Impact Analysis

27. (1) Where any Ministry, department of Government or statutory authority proposes to adopt or alter any policy, plan or programme, and it appears to the Director that the proposed policy,

plan or programme or alteration thereto may significantly affect the environment, the Director may require the Ministry, department of Government or statutory authority which proposes to adopt or alter the policy, plan or programme to carry out a strategic environmental impact analysis of the said policy, plan or programme or alteration thereto.

(2) For the avoidance of doubt, it is declared that the provisions of this section do not apply to the carrying out of any development project for which planning permission is required under the Physical Planning and Development Act, to which the environmental impact assessment provisions of that Act apply.

Environmental Monitoring

28. (1) For the purpose of enforcing any of the provisions of this Act or any Regulations made under this Act, the Department may require any person to carry out at their own expense such environmental monitoring activities as are specified by the Department and to submit such environmental monitoring reports as may be required by the Department from time to time.

(2) The Department shall facilitate the coordination of the activities of all Ministries, departments of Government and statutory authorities in relation to-

- (a) the continuous or periodic collection, collation and analysis of data concerning the state of the terrestrial and marine environment, including but not limited to air and water quality; and
- (b) the continuous or periodic sampling and analysis of effluents, emissions and discharges into the environment.

(3) The Department shall, not later than three months after the end of each calendar year, submit an annual report on its environmental monitoring activities to the Minister and every such report shall be laid in Parliament and made available for sale to the public, in electronic or printed form, at a reasonable price.

Environmental Auditing

29. The Minister may by Regulations establish or adopt appropriate standards and procedures for the carrying out of environmental audits and set out the circumstances in or under which environmental audits shall be carried out on any premises, the qualifications of persons by whom such audits may be carried out, and the measures that the Department may take with respect to the findings of such audits.

PART V

ENERGY

Energy Conservation

30. (1) In collaboration with other Ministries, government departments, statutory authorities, civil society organisations and the private sector, as appropriate, the Department shall promote the use of energy in ways that take into account human health, the environment in general and the atmosphere in particular, through less polluting and more efficient means of production, transmission, distribution and use of energy.

(2) Without limiting the generality of subsection (1), the Department shall:

- (a) evaluate and, as appropriate, promote cost-effective policies and programmes to improve energy efficiency and energy conservation;
- (b) promote the research, development and use of improved energy efficient technologies and conservation practices, giving special attention to the rehabilitation and modernization of power systems;
- (c) promote the development of scientific, planning and management capacities to develop, produce and use increasingly efficient and less polluting forms of energy;
- (d) promote appropriate energy efficiency and emission standards aimed at the development and use of technologies that minimize adverse impacts on the environment;
- (e) advise the Minister on matter relating to energy;
- (f) promote the development of an energy policy;
- (g) promote education and awareness raising programmes concerning energy efficiency and environmentally sound energy systems; and
- (h) promote labelling programmes for products to provide consumers with information on opportunities for energy efficiency.

Renewable energy

31. (1) In collaboration with other Ministries, government departments, statutory authorities, civil society organisations and the private sector, as appropriate, the Department shall evaluate and promote the use of new and renewable sources of energy and energy efficient technologies and systems through the application of economic instruments and the rationalisation and simplification of regulatory regimes.

- (2) Without limiting the generality of subsection (1), the Department shall:
 - (a) review current energy supply mixes to determine how the contribution of environmentally sound energy systems as a whole, particularly new and renewable energy systems, could be increased in an economically efficient manner;
 - (b) cooperate in identifying and developing environmentally sound and cost effective energy sources to promote the availability of increased energy supplies;
 - (c) promote the research, development and use of technologies and practices for environmentally sound energy systems, including new and renewable energy systems; and
 - (d) coordinate energy plans sub-regionally and regionally and study the feasibility of efficient distribution of environmentally sound energy from new and renewable energy sources.

32. Development of Climate Change Strategy and Action Plan

- (1) No later than twelve months after the enactment of this Act the Department shall initiate the formulation of a National Policy for the Reduction of Emissions from Greenhouse Gases.
- (2) The Department shall ensure that the formulation of the National Policy for the Reduction of Emissions from Greenhouse Gases is undertaken through the broadest possible consultation and participation.
- (3) The Minister may make Regulations to:-
 - (a) give effect to the National Policy for the Reduction of Emissions from Greenhouse Gases and Implementation Program formulated under the provisions of this section;
 - (b) establish procedures, programs and fiscal incentives to give effect to the National Policy for the Reduction of Emissions from Greenhouse Gases and Implementation Program formulated under the provisions of this section;
 - (c) establish any economic incentives for the promotion of technologies that result in the reduction of emissions of greenhouse gases;
 - (d) establish instruments to promote the use of fuels and equipment that reduce emissions of greenhouse gases;
 - (e) establish monitoring programs and enforcement mechanisms to give effect to the requirements of this section.
- (4) The Minister responsible for finance may, in consultation with the Minister responsible for the environment, make Regulations to provide for any reduction in import duties that

may be levied against any technology or equipment that will reduce emissions of greenhouse gases.

PART VI

ENVIRONMENTAL INFORMATION

National Environmental Information System

33. (1) The Department shall carry out such surveys and collect, collate and analyse such data and information as is necessary or expedient for environmental management purposes and establish and maintain a National Environmental Information System.

(2) The information in the National Environmental Information System may be kept in documentary form or in an electronic data and retrieval system, or partly in documentary form and partly in an electronic data and retrieval system, as the Director thinks fit.

Registers

34. (1) The Department shall maintain such registers as may be necessary or convenient for recording particulars of:

- (a) any application made under this Act;
- (b) any permit issued under this Act;
- (c) any enforcement proceedings taken under this Act; and
- (d) any other matter that may be prescribed by Regulations made under this Act.

(2) The Minister may by regulations prescribe the particulars to be recorded in a register required to be kept under this section and the form in which the register shall be kept.

(3) Every entry in a register shall be made within 7 days of the date on which the decision, notice or event to which it relates was made, filed, issued or done.

State of the Environment Report

35. (1) No later than 3 months after the end of every two calendar years, the Director shall submit to the Minister a report including:

- (a) an assessment of the state of the environment, with particular reference to any significant events or changes occurring during the year under review;
- (b) a description of the activities of the Department during the year under review, including an assessment of the effectiveness of co-ordination between the Department and other Ministries, departments of Government and statutory

authorities to which environmental management functions and duties have been allocated pursuant to section 7(3); and

- (c) a list of any other reports prepared under this Act by the Department or any other entity during the year under review, including but not limited to reports prepared in accordance with section 37.

(2) The Minister shall cause a copy of every such annual report of the Department to be laid in Parliament and made available for sale to the public at a reasonable price.

PART VII

Investigation, Procedures and General Penalties

36. (1) Any person who has information that an offence has been committed under this Act or any regulations made thereunder may report the facts to the Department for investigation.

(2) The Department shall investigate every report made under subsection (1) and where there is sufficient evidence that an offence has been committed, the Department may institute legal proceedings or report the matter to the police, as may be appropriate.

Obstruction, etc. of authorised officer

37. Every person who assaults, obstructs or hinders an authorised officer in the execution of his duty under this Act or regulations made thereunder commits an offence and shall be liable on summary conviction to a fine not exceeding Twenty Thousand Dollars, or to imprisonment for a term not exceeding three years, or to both such fine and imprisonment.

Damage to environment and death or harm to persons

38. (1) Every person who-

- (a) intentionally or recklessly causes a disaster which results in a loss of the use of the environment; or
- (b) shows wanton or reckless disregard for the lives or safety of other persons and thereby causes a risk of death or harm to another person,

commits an offence and is liable on summary conviction to a fine not exceeding \$500,000 or, in the case of a conviction under paragraph (a), to three times the assessed value of the damage caused, whichever is the greater, or to imprisonment for a term not exceeding five years imprisonment.

(2) A person shall not be liable under this section if he establishes that he exercised all due diligence to prevent the commission of the offence.

Continuing offence

39. Where an offence under this Act or regulations made thereunder is committed the offender is liable to be convicted for a separate offence for each day on which the offence is committed or continued.

Offences by Corporations

40. Where an offence under this Act or any regulations made thereunder is committed by a body corporate, every person who at the time of the commission of the offence was a director, general manager, company secretary or other similar officer of the body corporate, or was purporting to act in any such capacity, shall be deemed to be guilty of that offence unless he proves that the offence was committed without his consent or connivance and that he exercised all such diligence to prevent the commission of the offence as he ought to have exercised, having regard to the nature of his functions in that capacity and to all the circumstances.

Proof of offences

41. In any prosecution of any offence under this Act, it is sufficient proof of the offence to establish that it was committed by an employee or agent of the accused, whether or not the employee or agent is identified or prosecuted for the offence.

Order of court

- 42.** (1) Where an offender has been convicted of an offence under this Act, in addition to any other punishment that may be imposed under this Act, the court may, having regard to the nature of the offence and the circumstances surrounding its commission, make an order having any or all of the following effects-
- (a) prohibiting the offender from doing any act or engaging in any activity that may result in the continuation or repetition of the offence;
 - (b) directing the offender to take such actions as the court considers appropriate to remedy or avoid any harm to the environment that results or may result from the act or omission that constituted the offence;
 - (c) directing the offender to publish, in the manner prescribed, the facts relating to the conviction;
 - (d) directing the offender to notify, at the offender's own cost and in the manner prescribed, any person aggrieved or affected by the offender's conduct, of the facts relating to the conviction;

- (e) directing the offender to post such bond or pay such amount of money into court as will ensure compliance with any order made pursuant to this section;
 - (f) directing the offender to submit to the Department, on application made by it within three years after the date of conviction, such information with respect to the activities of the offender as the Court considers appropriate and just in the circumstances;
 - (g) directing the offender to compensate the Department, in whole or part, for the cost of any remedial or preventive action taken by or caused to be taken of the Department as a result of the act or omission that constituted the offence;
 - (h) directing the offender to perform community service, subject to such reasonable conditions as may be imposed therein where damage caused is less than Five Thousand Dollars;
 - (i) requiring the offender to comply with such other reasonable conditions as the court considers appropriate and just in the circumstances for securing the offender's good conduct and for preventing the offender from repeating the same offence or committing other offences.
- (2) Where an offender fails to comply with an order made under subsection (1)(c) directing the publication of the facts relating to the offence, the Department may publish the facts in compliance with the order and recover the costs of publication from the offender.
- (3) Where the court makes an order under subsection (1)(g) directing an offender to pay costs or the Department incurs publication costs under subsection (2), the costs constitute a debt due to the Government and may be recovered as such in the High Court.
- (4) An order made under subsection (1) comes into force on the day on which it is made or on such other day as the court may determine and shall continue in force for more than three years after that day.

Additional fine

43. Where an offender has been convicted for an offence under this Act, the Court may, where it is satisfied that as a result of commission of the offence the offender acquired any monetary benefits or that monetary benefits accrue to the offender, order the offender to pay, notwithstanding the maximum amount of any fine that may otherwise be imposed under this act, an additional fine in an amount equal to the court's estimation of the amount of those monetary benefits.

Compensation for loss of property

44. (1) Where an offender has been convicted of an offence under this Act, the Court may, at the time of passing the sentence and on the application of the person aggrieved, order the offender to pay to that person an amount by way of satisfaction or compensation for loss of or damage to property suffered by that person as a result of the commission of the offence.

(2) Where an amount that is ordered to be paid under subsection (1) is paid forthwith, the applicant may, by filing the order, enter as a judgment in the Court in which the trial was held, the amount ordered to be paid, and that judgment is enforceable against the offender in the same manner as if it were a judgment rendered against the offender in the Court in civil proceedings.

Penalty for contravening orders of court

45. Every person who contravenes or fails to comply with an order or direction made under section 46 commits an offence and shall be liable on summary conviction to a fine not exceeding fifty thousand dollars or to imprisonment for a term not exceeding three years, or to both.

Injunction

46. (1) Where, on the application of the Department, it appears to the High Court that a person has done, or is about to do, or is likely to do, any act or thing constituted or directed toward the commission of an offence under this Act or to do an act or thing that is likely to cause serious harm to the environment, the Court may issue an injunction ordering any person named in the application-

- (a) to refrain from doing any act or thing that appears to the Court may constitute or be directed towards the commission of an offence under this Act; or
- (b) to refrain from doing an act or thing that could cause serious harm to the environment;
- (c) to do any act or thing that appears to the Court may prevent the commission of an offence under this Act.

(2) No injunction shall issue under subsection (1) unless twenty-four hours notice is given to the party or parties named in the application or the urgency of the situation is such that service of notice would not be in the public interest.

Civil cause of action

47. (1) Any person who has suffered loss or damage as a result of conduct that is contrary to any provision of this Act or the regulations, may, sue for, and recover from the person who engaged in the conduct, an amount equal to the loss suffered.

(2) In any action under subsection (1) against a person, the record of proceedings in any court in which that person was convicted of an offence under this Act is, in the absence of any evidence to the contrary, proof that the person against whom the action is brought was engaged in conduct that is contrary to the provisions of this Act.

Other proceedings and remedies not affected

48. (1) Nothing in this Act shall prevent the prosecution of any person for an offence under any other Act.

(2) No civil remedy for an act or omission is suspended or affected by reason only that the act or omission is an offence under this Act and nothing in this Act shall be construed so as to repeal, remove, or reduce any remedy available to any person under any other law.

PART VIII

Averments and Proof of Documents in Proceedings under this Act

Proof of documents

49. (1) In all proceedings in which any notice, order or other, document required or authorized to be given or served under this Act has to be proved, the defendant shall be deemed to have received notice to produce it, and until the contract is shown, that document and its giving or service may be sufficiently proved by the production of what purports to be a copy, bearing a certificate under the hand of the person authorized to issue the original, stating that it was given or served on the date specified in the certificate.

(2) The validity of any notice order, other document or its giving or service shall not be affected by an error, misdescription or irregularity which-

- (a) is not calculated to mislead; and
- (b) in fact does not mislead.

Averment of occupation or control

50. In a prosecution for an offence under this Act or any regulations made thereunder, an averment in the complaint or to the effect that-

- (a) a person was the occupier, or in control, of any premises or of any part of any premises shall be deemed to be proven in the absence of proof to the contrary; or

- (b) in any matter the subject of the complaint, a permit or licence was not granted or any other form of authorization had not been given shall be deemed to be proven in the absence of proof to the contrary.

Statement to be evidence of authority

51. A statement in writing purporting to be signed by the Department-

- (a) to the effect that a specified person has been generally appointed by the Public Service Commission, or the Department-
 - (i) as an officer of the Department;
 - (ii) as an analyst; or
 - (iii) to lay complaints for offences against this Act; or
- (b) to the effect that a specified person was served with a notice under this Act and failed to comply with that notice; or
- (c) to the effect that a specified person has not been appointed by the Department as an authorised officer; or
- (d) to the effect that any exemption has been granted, or any conditions have been imposed, or that any variation or revocation of any condition or exemption has been made under this Act; or
- (e) to the effect that for any specified property or person-
 - (i) there was, or was not, in force a permit on a certain date or for a certain period; or
 - (ii) there was in force a permit which was subject to a specified condition, limitation or restriction; or
 - (iii) the permit relating to the property or person was suspended on a certain date or for a certain period; or
- (f) to the effect that permission of any specified kind was, or was not, granted under this Act to any specified person; or
- (g) to the effect that no exemption of any specified kind has been granted under this Act in favour of any specified person; or

- (h) to the effect that any person was or was not licensed or did or did not have a licence, permit or authorization on a certain date or for a certain period or that licence, permit or authorization was subject to any specified conditions, limitations, or restrictions, or that a licence, permit or authorization was suspended during a certain period or that a site was or was not licensed to accept industrial waste on a certain date or for a certain period; or
- (i) a document, standard, rule, specification or method, a copy of which is attached to the statement, is a document, standard, rule, specification or method referred to in regulation, notice, licence, or permit under this Act; or
- (j) to the effect that a document was or was not lodged with, received by, or served on, the Department,

shall be *prima facie* evidence of the matters stated therein.

Offences relating to false Information

52.-(1) A person commits an offence who intentionally or negligently provides incorrect or misleading information to, or conceals information concerning the properties or hazards of industrial waste thereby endangering human life, or the environment, or adversely affecting the operation of any plant or equipment used to treat or dispose of industrial waste.

(2) Any person who commits an offence under subsection (1) shall on summary conviction be liable to a fine not exceeding Twenty Five Thousand Dollars or two years imprisonment, or to both.

Special powers of authorized officers where there is imminent danger to environment

53.-(1) Notwithstanding anything to the contrary in this Act, if-

- (a) pollutants have been or are being discharged; or
- (b) a condition of pollution is likely to arise; or
- (c) any industrial waste or potentially hazardous substance appears to have been abandoned or dumped; or
- (d) any industrial waste or potentially hazardous substance is being handled; and
- (e) an authorised officer is of the opinion that there is or likely to be imminent danger to the environment,

an authorised officer may give such directions either orally or in writing, as the authorised officer considers appropriate, to remove, disperse, destroy, dispose of, abate, neutralize or treat any pollutant, waste, substance, environmental hazard or noise or within twenty-four hours.

(2) No matter or thing being done by an authorised officer or by any person under a direction given by an authorised officer shall, if the matter or thing was done in good faith in the exercise of the power conferred by this section on the authorised officer, subject the authorised officer or that person personally to any action, liability, claim or demand whatsoever.

(3) Any person who contravenes without reasonable cause a direction given by an authorised officer under subsection (1) commits an offence and shall be liable on summary conviction to a fine not exceeding Twenty Five Thousand Dollars or to two years imprisonment, or to both.

Powers of entry, search and seizure

54. (1) An authorised officer may at any reasonable time enter any premises or into any vehicle or on to any vessel for the purposes of carrying out any provision or requirement of this Act or any Regulations made under this Act.

(2) An authorised officer may in exercise of powers conferred by subregulation (1)-

- i. take and remove samples or make copies which in the opinion of the authorised officer are necessary for the purposes specified in subregulation (3);
- ii. seize any item necessary as evidence of the commission of an offence under this Ordinance or regulations made thereunder;
- iii. take photographs of and on any land or premises as he considers necessary;
- iv. take audio or visual recordings;
- v. enter upon any land and drill boreholes for the purpose of taking and removing samples of groundwater and making studies to assess the discharges of wastes and monitor the effect of such discharges;
- vi. inspect and take copies of computer records, for the purposes of subsection (3);
- vii. require any person in any place entered, to produce for inspection of for the purpose of taking copies any books, documents or papers relevant to the administration of this Act or regulations made thereunder;

(3) An authorised officer may detain any vehicle, boat, ship or person, where there is reasonable suspicion that an offence has been or is likely to be committed under this Act, or any regulations made thereunder, and in the exercise of this power, may request a person to produce his identification.

(4) Where any items of goods are found in any vehicle, boat, ship, or on any person which, in the opinion of the authorised officer, may constitute evidence of an offence under this Act or regulations made thereunder, the authorized officer may seize any such items or goods.

(5) An authorised officer shall not enter a dwelling house except-

- (a) with the consent of the occupant of the house; or
- (b) under the authority of a warrant issued by a magistrate;

(6) Any person who obstructs an authorised officer acting in the exercise of his power under this section is liable on summary conviction a fine of Thirty Thousand Dollars or twelve months imprisonment.

Sampling and testing

55. (1) When a sample is taken pursuant to section 58, the person taking the sample shall:
- (a) notify the person in charge of the premises, vehicle or vessel from which the sample was obtained of his intention to submit the sample for analysis or examination;
 - (b) divide the quantity into three parts, causing each part to be marked and sealed in such manner as the nature of the sample permits;
 - (c) deliver one of the parts to the person in charge of the premises, vehicle or vessel from which the sample was obtained;
 - (d) retain one of the parts for future comparison or verification; and
 - (e) submit the third part for analysis or examination as soon as may be practicable.

(2) Every sample taken in accordance with subsection (1) shall be submitted to an authorised scientific laboratory for analysis or examination in accordance with accepted forensic procedures.

Scientific Evidence

56. (1) The Minister shall by Order appoint at least one or more scientific laboratory as an authorised scientific laboratory for the purposes of this Act.

(2) A certificate signed by the person in charge of an authorised scientific laboratory appointed under subsection (1), stating that a substance has been analysed or examined and stating the results of the analysis or examination, is admissible in any proceeding under this Act as sufficient evidence of the matters in the certificate and of the correctness of the results of the analysis or examination.

(3) A certificate shall not be admitted into evidence under subsection (2) in a proceeding for an offence under this Act unless the defendant has been given a copy of the certificate together with reasonable notice of the intention to produce the certificate as evidence in the proceedings.

(4) In any proceedings for an offence against this Act, the defendant cannot adduce evidence in rebuttal of a certificate issued by an authorised scientific laboratory in relation to any matter of which the certificate is evidence unless, within 14 days after a copy of the certificate is given to the defendant in accordance with subsection (3), or such further time as the court may allow, the defendant gives to the prosecutor notice in writing of the intention to adduce such rebuttal evidence.

Service of documents

57. (1) Subject to the provisions of this section, any notice or other document required or authorised to be served under this Act, or under any regulation, order, direction or other instrument in writing made under this Act, may be served either:

- (a) in the case of a natural person:
 - (i) by delivering it directly to the person on whom it is to be served; or
 - (ii) in a case where an address for service has been furnished by the person on whom it is to be served, by delivering it or sending it by registered mail to that person at that address; or
 - (iii) by such means of substituted service as are recognised or authorised by the Rules of the Eastern Caribbean High Court; and
- (b) in the case of a body corporate, by serving it in accordance with the process for effecting service on a company incorporated under the Companies Act.

(2) Where the Notice or other document is required or authorised to be served on any person as having an interest in any land, and the name of that person cannot be ascertained after reasonable enquiry, or as an owner or occupier of the premises, the Notice or other document is deemed to be duly served if, being addressed to “the owner” or “the occupier” of

the specified premises, it is:

- (a) delivered or sent to the premises by registered mail and is not returned to the sender;
or
- (b) affixed conspicuously to some building or fixed object on those premises.

(3) Where a notice or other document to be served under this Act shall be served on more than one person, the fact that it was not duly served on any of those persons does not invalidate any action or other proceedings against any other of those persons.

Offences

58. (1) No person shall contravene any provision of this Act or of any regulations or orders, or the terms and conditions of any permit or other documentary authorisation granted or agreement made, under this Act.

(2) Unless a different or other penalty or punishment is specifically prescribed, a person who contravenes subsection (1) is guilty of an offence against this Act and is liable on summary conviction to a fine of Fifty Thousand Dollars and imprisonment for 2 years imprisonment or both.

(3) In addition to any penalty which the court may impose pursuant to subsection (2), the court may also order a person convicted of an offence under this Act to:

- (a) remedy any environmental condition or damage to the environment arising out of the offence and specify a date by or before which such remedial activities shall be completed; and
- (b) pay compensation to the State for any economic benefit gained or any amount of money saved by them as a result of contravention of this Act.

(4) For the avoidance of doubt it is declared that all fines and compensation payable to the State with respect to the commission of offences under this Act are payable into the Consolidated Fund.

Acceptance of compensation for offences

59. (1) When any person is reasonably suspected of having committed an offence against this Act, the Director or any authorised officer to whom the Director has delegated this power in writing may accept from that person, on behalf of the Department, a sum of money by way of compensation therefor, in substitution for any proceedings.

(2) Compensation may be accepted pursuant to subsection (1) only where the person suspected of the offence has expressed, in the prescribed form, his willingness to settle the matter out of court and the sum of money payable does not exceed the maximum fine for the offence.

(3) On payment of the sum of money set as compensation the suspected person, if in custody, shall be discharged and no further proceedings may be taken against that person in respect of the suspected offence.

Prosecution of offences

60. (1) The Director or any other authorised officer may summon before the courts and prosecute any person charged with the commission of any offence against this Act, whether punishable on summary conviction or indictment.

(2) For the avoidance of doubt, it is declared that the power conferred on the Director and authorised officers by subsection (1) is in addition to and not in substitution for any power conferred by law on the Director of Public Prosecutions.

(3) In the conduct of any proceedings pursuant to subsection (1), the Director or authorised officer may be assisted or represented by an Attorney-at-Law.

Private party actions

61. (1) Any person who is aggrieved by a violation of this Act may, with the leave of the court, institute proceedings in a court of competent jurisdiction against any other person who he reasonably suspects is responsible for that violation.

(2) The court may grant leave to institute proceedings pursuant to subsection (1) to any person or group of persons who has a specific interest in the claimed violation of the Act or any other person or group of persons who can satisfy the court that the proceedings are justifiable in the public interest.

(3) In any proceedings brought under this section, the burden of proof is on the person who institutes the proceedings.

(4) In the event that the court awards costs to the person against whom the proceedings are brought, the person who instituted the proceedings is liable for payment of the costs awarded.

(5) The Director of Public Prosecutions may intervene in any proceedings instituted by any person under this section, as of right.

Liability of company officers

62. (1) When an act or omission that is an offence under this Act or any Regulations made under this Act has been committed by a company incorporated under the Companies Act, any individual who was at the material time a director or officer of that company may be found personally liable for that offence, in addition to or in substitution for any liability to which the company is subject, if that act or omission was done with his knowledge, consent or acquiescence, or if he did not exercise reasonable diligence to prevent the commission of that offence.

(2) In any proceedings against a director or officer of a company pursuant to subsection (1), the onus of proving that the offence was committed without his knowledge, consent or acquiescence or despite the exercise of reasonable diligence on his part is on the accused.

Reservation of civil remedies

63. Nothing in this Act takes away or interferes with the right of the State or any other person to sue for and recover, at common law or otherwise, compensation for or in respect of damage or injury caused by an offence under this Act.

Penalties under the Act not substituted for others

64. Nothing in this Act shall be construed to prevent anyone being prosecuted under any other law for an act or omission that constitutes an offence under this Act or Regulations made under this Act, or from being liable under that other law to a higher punishment or penalty than is provided by this Act, provided that no one shall be punished twice for the same offence.

PART IX

Enforcement Notices and Cessation Orders

Enforcement notices

65. (1) If the Director is of the opinion that any person is contravening the provisions of this Act or any regulations made thereunder or is contravening any condition of any licence, permit or any condition imposed under the provisions of this Act or regulations made thereunder or is likely to contravene any such condition, the Department may serve on him an enforcement notice.

(2) An enforcement notice shall-

- (a) state the opinion of the Director in relation to the alleged contravention as provided in subsection (1);
- (b) specify the matters constituting the contravention or the matters making it likely that the contravention will arise;
- (c) specify the steps that must be taken to remedy the contravention or to remedy the matters making it likely that the contravention will arise, as the case may be; and
- (d) specify the period within which those steps must be taken.

(3) A copy of an enforcement notice shall be served-

- (a) on the owner and on the occupier of the land to which it relates; and

(b) on any other person, including any agent of the owner, having an interest which, in the opinion of the Director is materially affected by the notice.

(4) An enforcement notice may require-

- (a) the suspension or cancellation of any permit, licence or approval granted or issued by the Director;
- (b) the stopping or shutting down of any activity or thing either permanently or for a specified period;
- (c) the cessation of the construction or operation of any activity or thing until the Director is satisfied that the activity or thing will be constructed or operated in accordance with this Act or any regulations made thereunder;
- (d) the specification of the measures that must be taken in order to effect compliance with this Act or regulations made thereunder;
- (e) the alteration or removal of any vehicle, buildings, waste or other source of pollution; or
- (f) any activity on the land not to be carried out, or to be carried on, only to the extent specified in the notice.

(5) The Director may in the enforcement notice, order the immediate cessation of the offending activity if he is of the opinion that the circumstances giving rise to the notice are such as to warrant an order to that effect.

Variation or withdrawal of enforcement notice

66. (1) The Director may withdraw an enforcement notice if the person on whom the enforcement notice has been served consents in writing to comply with the requirements set out in the notice.

(2) The powers conferred by subsection (1) may be exercised whether or not the notice has taken effect.

(3) The Director shall, immediately after exercising the powers conferred by subsection (1), give notice of the exercise to every person who has been served with a copy of the enforcement notice or would, if the notice were reissued, be served with a copy of the notice.

(4) The withdrawal of an enforcement notice does not affect the power of the Director to issue a further enforcement notice.

Appeal against an enforcement notice

67.(1) A person on whom an enforcement notice is served, or any other person having an interest in the land affected may, at any time before the date specified in the notice as the date on which it is to take effect, appeal to the Appeal Tribunal against the notice on any of the following grounds-

- (a) that, in respect of any breach of this Act or regulations made thereunder, which may be constituted by the matters stated in the notice or, as the case may be, the condition or limitation concerned, have been discharged;
- (b) that those matters have not occurred;
- (c) that those matters (if they occurred) do not constitute a breach of the Act or regulations;
- (d) that copies of the enforcement notice were not served as required by section 69 of this Act;
- (e) that the steps required by the notice to be taken, or the activities required by the notice to cease, exceed what is necessary to remedy any breach of this Act which may be constituted by those matters or, as the case may be, to remedy any injury to any amenity which has been caused by any such breach.

(2) Where an appeal is made against an enforcement notice in which the cessation of an activity is ordered, the notice shall remain in force pending the final determination or withdrawal of the appeal.

Offences where enforcement notice not complied with

68.-(1) Where, at any time after the end of the period for compliance with an enforcement notice, any step required by the notice to be taken has not been taken or any activity required by the notice to cease is being carried on, the person who is then the owner or occupier of the property is in breach of the notice.

(2) Where the owner or occupier of the property is in breach of the notice, he commits an offence and is liable on summary conviction to a fine not exceeding Fifty Thousand Dollars or to five years imprisonment, or to both such fine and imprisonment.

(3) In proceedings against any person for an offence under subsection (2), shall be a defence for him to show that he did everything he could be expected to do to secure compliance with the notice.

(4) A person who has control of, or an interest in, the land to which an enforcement notice relates (other than the owner) shall not carry on any activity which is required by the notice to cease or permit such an activity to be carried on.

(5) A person who, at any time before the end of the period for compliance with the notice, contravenes subsection (4), commits an offence and is liable to a fine not exceeding Seventy-Five Thousand Dollars or to five years imprisonment, or both, and if the offence is continued, he commits a further offence and is liable to a fine of Five Thousand Dollars for every day the offence continues.

(6) An offence under subsection (2) or (5) may be charged by reference to any day or longer period of time and a person may be convicted of a second or subsequent offence under the

subsection in question by reference to any period of time following the preceding conviction of such an offence.

PART X

ENVIRONMENTAL TRUST FUND

Establishment and purposes of the Fund

69. (1) There is established a fund called the Environmental Trust fund which is vested in the Board.

(2) The purpose of the Fund is to provide stable, adequate, secure and sustainable funding to finance the management of the environment in [the State].

Board of Trustees of the Fund

70. (1) The Minister shall appoint a Board of Trustees for the Fund, consisting of seven members, as follows:

- (a) a Chairperson, appointed by the Minister acting in his own deliberate judgement from amongst outstanding persons with qualifications and experience in financial management, having an interest in the environment;
- (b) two persons representative of environmental non-governmental organisations incorporated in Saint Vincent and the Grenadines, appointed by the Minister after consultation with such persons or bodies as he thinks fit;
- (c) two representatives of the Government, nominated by the Minister responsible for finance.

(2) The Chairperson and other members of the Board hold office for such period, not exceeding three years in the first instance, under such terms and conditions of service as the Minister may fix in the instrument of appointment, but are eligible for reappointment.

(3) A member of the Board may at any time resign from office by giving notice in writing to the Minister, but a member who is absent without leave for three consecutive meetings of the Board is deemed to have resigned from office.

(4) A member of the Board may be removed from office at any time if he is declared bankrupt or for disability, neglect of duty or misconduct, proved to the satisfaction of the Minister.

(5) The appointment of any member of the Board and the termination of office of any member, whether by death, resignation, removal, lapse of time or otherwise, shall be published in the *Gazette* and at least one newspaper in general circulation in Saint Vincent and the Grenadines.

Status, functions and powers of the Board

71. (1) The Board is a body corporate, with perpetual succession and a common seal, and is capable of acquiring, holding and disposing of real and personal property, and of suing and being sued, and of doing and suffering all things that bodies corporate may lawfully do and suffer.

(2) The functions of the Board are to -

- (a) collect all revenue payable into the Fund or ensure that such revenue is collected promptly and efficiently and paid over into the Fund;
- (b) allocate monies amongst beneficiaries of the Fund for purposes which are eligible for funding in accordance with the provisions of the regulations made under this Act;
- (c) ensure that monies disbursed to beneficiaries of the Fund are utilised properly and efficiently for the purposes for which they have been allocated;
- (d) generally manage the Fund in accordance with the provisions of this Act and any other laws in force; and
- (e) perform any other function consistent with its functions under this Act that the Minister may direct.

Meetings of the Board

72. (1) The Board shall meet at least once in each quarter of the calendar year, at such times and in such places as the Board considers necessary or expedient for the efficient performance of its functions.

(2) The Chairperson may at any time call a special meeting of the Board and shall call such a meeting within seven days of the receipt of a request for a special meeting addressed to the Chairperson and signed by any three members of the Board.

(3) A quorum for an ordinary or special meeting of the Board consists of any four members, but if a member is disqualified from taking part in the deliberations and decision of the Board in respect of any matter pursuant to subsection (6), the attendance of that member shall be disregarded for the purposes of constituting a quorum for deliberation on and deciding that matter.

(4) If for any reason the Chairperson is unable to preside at a meeting of the Board, the members present may elect another member to preside over that meeting.

(5) Decisions of the Board shall be adopted by a majority of the votes of the members present, but in the case of an equality of votes on any matter, the person presiding at the meeting has a second or casting vote in respect of that matter.

(6) A member of the Board shall at the commencement of a meeting inform the Chairperson of any matter on the agenda for the meeting in which he has, directly or indirectly, personally or by his or her spouse or domestic partner, parent, child, brother or sister, business associate, company or organisation, any pecuniary or business interest, and that member shall vacate the meeting room upon the relevant matter coming up for discussion and decision, and the fact that the member who has such an interest has left the room shall be noted in the minutes of the meeting.

(7) The validity of any proceedings of the Board is not affected by any vacancy in its membership or by any defect in the appointment of any of its members.

(8) The Board may co-opt any person to assist it in dealing with any matter, if it is satisfied that the person has qualifications and experience that are likely to help the Board, and any person so co-opted is entitled to take part in the proceedings of the Board regarding that matter, but may not vote and shall take no part in any other proceedings of the Board.

(9) Minutes in proper form of every meeting of the Board shall be kept by the Corporate Secretary, confirmed by the members at the next subsequent meeting of the Board and signed by the Chairperson and Corporate Secretary once confirmed.

(10) Subject to subsection (11), a decision of the Board is valid even though a meeting of the Board was not convened, if -

- (a) proper notice of the proposed decision was given to all the members of the Board; and
- (b) the decision is assented to by letter, telegram, facsimile, electronic mail transmission or similar means, by a majority of the members of the Board.

(11) If any member has assented to a decision of the Board made under subsection (10) by telegram, facsimile, electronic mail transmission or similar means, the member's assent shall be subsequently authenticated by his or her signature, as soon as may be practicable.

(12) Subject to the foregoing, the Board may regulate its own procedure.

Staff of the Board

73. (1) The Board may employ at such remuneration and on such other terms and conditions as it thinks fit, including the payment of pensions, gratuities or other like benefits by reference to their service, such officers and employees as the Board considers necessary for the purposes of carrying out its functions.

(2) The Board shall employ a suitably qualified person to perform the duties of Corporate Secretary to the Board.

Resources of the Fund

74. The resources of the Fund consist of:

- (a) such amounts as may be appropriated annually or for special purposes by Parliament for the use and operations of the Fund;
- (b) such sums as may be collected pursuant to this Act or any other written law which provides for the imposition and collection of a tax, charge or fee payable into the Fund;
- (c) such amounts as may be provided to the Fund by foreign states, or regional or international organisations or lending agencies, to further the objects and purposes of this Act;
- (d) such monies earned or accruing from any investment made pursuant to section 47; and
- (e) any other sums or amounts to which the Fund may make a lawful claim.

Use of Fund monies

75. (1) Subject to subsection (2), the Trustees are authorised to utilise any monies standing to the credit of the Fund to defray:

- (a) all the expenditure incurred by the Commission and by any Tribunal in carrying out its functions;
- (b) all the expenditure incurred by the Board with respect to grants to beneficiaries for the purposes approved by the Minister;
- (c) all the expenses incurred by the Board in carrying out its functions under this Act, including the remuneration of members and staff of the Board; and
- (d) all other liabilities properly incurred by the Board.

(2) Contributions to the Fund may be designated for specific purposes or made subject to specific conditions, in which case such contributions shall be preserved and utilised solely for the designated purpose.

Investment of Fund Monies

76. All monies comprised in the Fund not required immediately to defray the expenses and liabilities provided for by section 46 may be invested by the Board from time to time in securities approved generally by the Minister of Finance.

Exemption from taxes

77. The Fund and the Board are exempt from the payment of any stamp duty, customs duty, value added tax, motor vehicle tax, fee, charge assessment, levy, impost or other tax whatsoever, on any income, expenditure or asset of the Fund or the Board.

Rules for operating the Fund

78. For the purpose of regulating and controlling the operation of the Fund, the Board may make Rules with respect to:

- (a) the bank into which revenues of the Fund are to be paid and the designation of any such bank account;
- (b) the method to be adopted in making payments out of the Fund; and
- (c) generally as to matters necessary for the proper keeping and control of the Fund.

Accounts and audit

79. (1) The Board shall keep proper accounts and records with respect to the Fund, in accordance with generally accepted accounting practices, of all monies received and expended and record the matters in respect of which such sums were received and expended.

(2) The accounts of the Fund shall be audited annually by independent auditors appointed by the Board, with the approval of the Minister.

(3) The members and staff of the Board shall grant to any auditor appointed to audit the accounts of the Fund access to all books, documents, cash and securities of the Fund and shall give to the auditor on request all such information as may be within their knowledge in relation to the operations of the Fund.

(4) An auditor appointed under this section has the power to summon and examine all persons whom the auditor thinks fit to examine for the purposes of obtaining information in connection with the examination and audit of the accounts of the Fund and respecting all other matters and things whatever necessary for the due performance of the functions vested in the auditor.

(5) Any person summoned pursuant to subsection (4) who, without reasonable excuse, does not obey the summons is liable on summary conviction to a fine of ten thousand dollars, or, in default of payment, to imprisonment for one month.

Annual reports

80. (1) The financial year of the Fund is April 1st in each year.

(2) Not later than three months after the end of each financial year, the Board shall submit

to the Minister a report containing:

- (a) a written statement on the activities of the Board throughout the preceding financial year; and
 - (b) the auditor's report on the accounts of the Fund audited in accordance with section 50.
- (3) The Minister shall cause a copy of every such annual report of the Board to be laid in [Parliament].

PART XI

MISCELLANEOUS

Regulations

- 81.** (1) The Minister may make Regulations, for giving effect to the provisions of this Act.
- (2) Without prejudice to the generality of subsection (1), Regulations made by the Act may provide for-
- (a) the forms for permits, licences and authorizations to be granted under this Act or under any regulations made thereunder;
 - (b) the fees for permits, licences and authorizations that may be issued under this Act or any regulations made thereunder;
 - (c) service of documents required to be served under this Act or any regulations made thereunder;
 - (d) the establishment of measures for the use of economic instruments for emission, effluent and waste disposal fees;
 - (e) standards with respect to the protection and rehabilitation of the environment and the conservation of natural resources;
 - (f) requiring the filing of returns or reports concerning any matter regulated by or under this Act;
 - (g) the grant, refusal, revocation or suspension of any licence or permit that may be issued by the Department and the terms, conditions or restrictions subject to which such licence or permits may be granted;
 - (h) the terms for enforcement notices or other order to be made under this Act;
 - (i) prescribing categories or products or developments which may require a permit;
 - (j) standards and codes of practices with respect to the protection and

rehabilitation of the environment and the conservation of natural resources;

- (k) the discharge of wastes generally, and fees payable in relation thereto;
- (l) the fees or charges payable to the Department for services rendered by the Department in carrying out the provisions of this Act;
- (m) 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; and
- (n) controlling environmental degradation and other adverse impacts on the environment;
- (o) respecting any other matter appearing to the Minister to be necessary or expedient for the purposes of giving due effect to this Act.

(3) Any regulations made under this Act may prescribe specific offences and provide that any person who commits such an offence is liable:

- (a) on summary conviction to a fine of not more than Fifty Thousand Dollars and to imprisonment for 2 years; or
- (b) on conviction on indictment to a fine of not more than Seventy-Five Thousand Dollars and to imprisonment for 3 years.

(3) Any Regulations made under this Act shall be published in the *Gazette* and come into force on the date of publication.

Institution of Proceedings

82. (1) Where the discharge of any pollutant in excess of the prescribed standards occurs or is apprehended to occur due to any accident or other unforeseen act or event, the person responsible for such discharge and the person in charge of the premises shall be bound to prevent or mitigate the pollution caused as a result of such discharge and shall also forthwith-

- (a) intimate the fact of such occurrence or apprehension of such occurrence; and
- (b) be bound, if called upon, to render all assistance, to the Department or such other authorities or agencies as may be prescribed.

(2) A person who fails to comply with subsection (1) is guilty of an offence and is liable on conviction to a fine of \$20,000 and to imprisonment for one year.

Furnishing of Information

83. (1) The Department may, in relation to its functions under this Act, from time to time, require any person, officer or other authority to furnish to it or to any prescribed authority or officer any reports, returns, statistics, accounts and other information that may be required for the purposes of this Act and such person, officer, or other authority shall be bound to do so.

(2) A person who fails to comply with subsection (1), on being required by the Department do so, is guilty of an offence and is liable on conviction to a fine of \$50,000 or in default a term of imprisonment of three years.

Department Empowered to collect Information

84. Any person may institute an action in court to compel the Department or any statutory authority to perform any duty imposed on it by this Act.

Arrest of Person

85. An authorised officer may arrest, with or without a warrant, any person who contravenes or is suspected on reasonable grounds of contravening or having contravened any provision of this Act or any regulations made thereunder, provided that any person arrested under this section by a authorised officer shall as soon as practicable be handed over by him to a police officer or taken by him to a police station.

Penalty

86. (1) Any person suspected on reasonable grounds of having contravened, or of being about to contravene, a provision of this Act or any regulations made thereunder shall, upon being requested so to do by a authorised officer correctly state his name and address and if he fails to do so, he commits an offence.

(2) Any person who commits an offence under subsection (1) shall be liable on summary conviction to fine not exceeding Five Thousand Dollars or to one year imprisonment, or to both such fine and imprisonment.

Compounding Offences

87. (1) The Director may compound any offences by any person under this Act or any regulations made under this Act if he is satisfied that evidence is available that would reasonably support the bringing of a prosecution against that person for that offence, by accepting on behalf of the Government from the person alleged to have committed the offence a sum not exceeding the maximum fine specified for that offence.

(2) On compounding an offence under this section, the Director may order the release of anything seized under this Act on such conditions, including the payment of such additional sums

of money not exceeding the value of the articles seized, as he may think fit.

(3) All monies received under this section shall be paid into the Treasury forthwith and in no event later than seven days after payment.

Fees and charges

88. Any fees payable with respect to any application made or permit or other documentary authorisation granted or other charges payable pursuant to this Act or the Regulations are to be paid into the Fund.

Acts done in good faith

89. No person authorised by or under this Act to carry out any function or exercise any power or perform any duty may be held personally liable in any court for or in respect of any act or matter done, or omitted to be done, in good faith in the exercise or discharge of that function or power or duty.

Act binds the State

90. This Act binds the State.

SCHEDULE

(Section 10)

CONSTITUTION AND PROCEDURE OF THE ENVIRONMENT APPEALS TRIBUNAL

1. (1) The Appeals Tribunal shall consist of not less than three or more than five members, appointed by the Cabinet, of whom the Chairperson shall be a legal practitioner of not less than five years standing and the other members shall have training or experience in environmental sciences, physical planning, engineering, architecture, land surveying or land development.
- (2) A member of the Appeals Tribunal shall, subject to the provisions of this Schedule, hold office for a period not exceeding three years, but shall be eligible for reappointment.
- (3) Where the Chairperson or any member of the Appeal Tribunal is absent or unable to perform the functions of their office, the Cabinet may appoint another person to act temporarily in place of the Chairperson or that member.
- (4) Any member of the Appeals Tribunal, may at any time resign from office by instrument in writing addressed to the Cabinet and transmitted through the Chairperson, and such resignation shall take effect as from the date of receipt of that instrument by the Cabinet.
- (5) The Cabinet may at any time revoke the appointment of any member of the Appeals Tribunal, including the Chairperson.
- (6) The appointment of any member of the Appeals Tribunal and the termination of office of any person as a member, whether by death, resignation, removal, effluxion of time or otherwise, shall be published in the *Gazette*.
2. (1) The Cabinet shall appoint a public officer to be Secretary of the Appeals Tribunal.
- (2) The Secretary shall keep a written record of all proceedings of the Appeals Tribunal, which shall be confirmed by the Chairperson.
3. Each member of the Appeals Tribunal shall be paid such remuneration and allowances, if any, as Cabinet may determine.
4. (1) The Appeals Tribunal shall convene at such time, at such places and on such days as may be necessary or expedient for the discharge of its functions.
- (2) The quorum for proceedings of the Appeals Tribunal shall comprise a majority of the members, but where a member is disqualified from taking part in the proceedings of the Appeals Tribunal in respect of any matter, that member shall be disregarded for the purpose of constituting a quorum for hearing, deliberating on and deciding that matter.
- (3) The decisions of the Appeals Tribunal shall be by a majority of votes of those

- members present and voting and, in addition to an original vote, the Chairperson shall have a second or casting vote in any case in which the voting is equal.
- (4) A member of the Appeals Tribunal shall, as soon as is practicable inform, the Chairperson of any matter in which he has, either directly or indirectly, personally or by his or her spouse, partner, business associate or company, any pecuniary or business interest and that member shall take no part, directly or indirectly, in any hearing, deliberation or decision by the Appeals Tribunal on that matter.
 - (5) The decisions of the Appeals Tribunal shall be authenticated by the signature of the Chairperson and the Secretary.
 - (6) Subject to the provisions of this paragraph, the Appeals Tribunal shall have the power to regulate their own proceedings.
5. A member of the Appeals Tribunal shall not, either directly or indirectly, except in the performance of a function or duty under or in connection with this or any other written law or as required by any other legal duty make a record of or divulge or communicate to any person information concerning the affairs of another person which he acquired by reason of their office under or for the purposes of this Act.
 6. The validity of any proceedings of the Appeals Tribunal shall not be affected by any vacancy in its membership or by any defect in the appointment of any of its members.
 7. In this Schedule, "Chairperson" includes a person appointed or elected, as the case may be, to act temporarily in the place of the Chairperson.