

Prologue:

This Act in English is an informal translation from the gazetted Nepali version of ‘**Solid Waste Management Act 2011**’. This English version is prepared under ‘**ADB TA 7597-NEPAL: CAPACITY BUILDING FOR WASTE MANAGEMENT**’ (TA) with inputs and editorial support from MLD and SWMTSC. This Act, which is available only in Nepali at present, is being officially/formally translated in English under the aegis of MLD. Till such times, before the official version in English is made available, it is intended that this version be referred to during the initial stages of TA period so that the activities are not delayed. This Act will be one of the important foundations in this TA for development of policy and regulatory frameworks to implement the same.

Disclaimer:

This Solid Waste Management Act, 2011 (English version) is an internal publication of the MLD/SWMTSC and ‘**ADB TA 7597-NEPAL: CAPACITY BUILDING FOR WASTE MANAGEMENT**’. Its objective is to help the MLD, SWMTSC, and the TA project consultants prepare necessary documents within the framework of this Act.

Also, MLD, SWMTSC, and the TA intend to refer this document during the TA period until a formal and official English version of the Act is made available. This informal translation of the Act is one of the series of outputs of the TA collaboration. It was translated on **17th. August, 2011.**

The language in this document is not to be legally interpreted and is prepared for informal and internal referrals by all the concerned parties in the TA project cycle. **The TA is not liable for any or all interpretation of this document by third party users.**

For further information and suggestions:

Dr. Shafiul Ahmed, Team Leader

Surya Man Shakya, Deputy Team Leader.

**DRAFT of Informal Translation in English of
AN ACT
MADE TO AMEND AND CONSOLIDATE LAWS
RELATING TO
THE SOLID WASTE MANAGEMENT**

Preamble: Whereas, it is expedient to amend and consolidate the laws relating to the most urgently needed service like solid waste management to make arrangement for the systematic and effective management of solid waste by minimizing the solid waste at source, re-using, processing or disposing of the solid waste, and to maintain the clean and healthy environment by minimizing the adverse effects of the solid waste in the public health and environment.

Now, therefore, be it enacted by the Constitution Assembly in the capacity of the Legislative Parliament pursuant to Article 83 of the Interim Constitution of Nepal, 2007.

Chapter - 1 **Preliminary**

1. Short Title and Commencement:

- (1) This Act may be called the “Solid Waste Management Act, 2011”.
- (2) This act shall come into force immediately.

2. Definition:

Unless the subject or context otherwise requires, in this Act;

- (a) “Industrial Solid Waste” means the hazardous and polluted solid waste discharged from the Industrial Enterprises.
- (b) “Industrial Enterprises” means any company, industry, firm or any other entity established pursuant to prevalent laws with the objective to operate any industry, business or service.
- (c) “Container” means a receptacle, box, bucket or similar object which is kept in some fixed place for the purpose of collection of Solid Waste and this term shall also include the receptacle kept for production of compost.
- (d) “Center” means the Solid Waste Management Technical Assistance Center established pursuant to Section 26.
- (e) “Transportation” means transportation of solid waste collected from the source of production to Collection Center and Collection Center to Transfer Station or Transfer Station to Sanitary Landfill Site or the place fixed by the Local Body.
- (f) “Prescribed or as Prescribed” means prescribed or as prescribed by the Rules framed under this Act.
- (g) “Minimization” means reduction of the amount, size or effect of solid waste by using any technology or means.
- (h) “Discharge” means the act of removing or releasing of any solid waste from the source of production to any place prescribed by the Local Body.
- (i) “Council” means the Solid Waste Management Council constituted pursuant to Section 23.
- (j) “Pollution” means the activities that bring significant degradation to the environment, damage the environment or cause to harm and damage the beneficial or useful consumption of the environment by directly or indirectly impacting the environment by the combination of solid, liquid or gas discharged from solid waste.
- (k) “Affected Area” means the area specified in the Initial Environmental Examination (IEE) and Environmental Impact Assessment (EIA) Report of the Sanitary Landfill Site.

- (l) “Processing” means the process for the management of the solid waste by preparing any other useful goods or producing fertilizer, gas, energy, or any other object by changing the form and quality of solid waste.
- (m) “Processing Area” means the area of processing of solid waste to produce fertilizer, bio-gas, energy or other things.
- (n) “Re-cycling” means the act of transformation of the collected solid waste into raw material by using appropriate technology and developing them into useful objects, and reusing them.
- (o) “Solid Waste” means the domestic waste, industrial waste, chemical waste, medical waste or hazardous waste. This term shall also include substances including solid, liquid, gas, semisolid, smoke, dust, and materials used by the electronic and information technology, which are not in a position to be used forthwith, thrown or rotten, or disposed causing degradation of the environment; or other similar types of objects or posters or pamphlets posted in public places in an unauthorized manner, and other objects which have been declared as waste by the Government of Nepal through the publication of notices in the Nepal Gazette from time to time.
- (p) “Sanitary Landfill Site” means the place prescribed by the Local Bodies for the Disposal or Processing of solid waste.
- (q) “Solid Waste Collection” means picking up solid waste from the place of generation, door to door collection, sweeping and storing the solid waste from public places, uprooting shrubs or removing and collecting pamphlets and posters posted in an unauthorized manner from public places.
- (r) “Means of Solid Waste Collection and Transportation” means vehicle, equipment or machines used in order to collect and transport the solid waste.
- (s) “Post Closure Management” means the works to be carried out in a Sanitary Landfill Site to maintain balance in the environment therein after the closure of the site for Disposal of Solid Waste.
- (t) “Ministry” means the Ministry of Local Development of the Government of Nepal.
- (u) “Chemical Waste” means all chemical substances discharged from any source or process, which cannot be used as the case may be and which cause adverse effects to the health of human beings or to other living things and the environment, and the objects and goods including solid, liquid, dust, semisolid, or gas which has been declared as chemical waste by the Government of Nepal through the publication of notices in the Nepal Gazette from time to time.
- (v) “Disposal” means the final discharge and management of solid waste.
- (w) “Collection Center” means the place prescribed by the Local Body to discharge, store or stack domestic waste for a specified period of time. This term shall also denote the solid waste collector nominated by the Local Body to collect the solid waste from door to door or equipment for collection of solid waste.
- (x) “Committee” means the executive committee of the Center constituted pursuant to Section 29.
- (y) “Community Organization” means a non-profit making community based participatory users’ group, cooperative and the non-government organization formed under the prevalent laws for the welfare of the community.

- (z) “Transfer Station” means a place designated by the Local Body in order to dump the collected solid waste prior to transporting to Sanitary Landfill Site for Disposal.
- (aa) “Local Body” means the concerned Metropolitan City, Sub-Metropolitan City, Municipality and the Village Development Committee.
- (ab) “Medical Waste” means the hazardous waste produced and discharged from hospitals, clinics, pharmacies, dispensaries, blood banks, pathology labs, veterinary institutions and health research centers.
- (ac) “Hazardous Waste” means the goods, substances and radioactive rays discharged in different forms which cause to degrade the natural environment and harm human health and the life of other animals.

Chapter - 2
Provisions Relating to Production, Collection, Minimization and Disposal of Solid Waste

3. Responsibility to make arrangement for the Solid Waste shall rest with the Local Body:

- (1) The responsibility to construct and operate the infrastructure or structure required for the collection, final disposal and processing of solid waste, including construction of any transfer station, landfill site, processing plant, compost plant, and bio gas plant for the management of solid waste shall rest with the Local Body.
- (2) The responsibility to manage or use otherwise the solid waste discharged or dumped in collection center, transfer station or treatment plant or collected during cleaning shall rest with the Local Body.
- (3) For the purpose of this Section, the solid waste discharged or dumped in collection center, transfer station or treatment plant or objects collected during cleaning shall be regarded as solid waste.

4. Responsibility for Management of Solid Waste:

- (1) The responsibility to manage or cause to manage solid waste according to this Act shall rest with the Local Body.
- (2) Notwithstanding anything contained in Sub-section (1), the responsibility for processing and management of hazardous waste, medical waste, chemical waste or industrial waste under the prescribed standards shall rest with the person or institution that has generated the solid waste.
- (3) If any industry or medical institution requests for the management of solid waste remained after processing of hazardous waste, medical waste, chemical waste and industrial waste or other solid waste, or for using a Sanitary Landfill Site constructed by the Local Body, the Local Body may manage the solid waste or allow the institution to use the Sanitary Landfill Site by levying fees as determined by the Local Body.

5. Reduction in Production of Solid Waste:

- (1) Any individual, organization or institution shall have to reduce the amount of generated solid waste as much as possible while carrying out any work or business.
- (2) It shall be the duty of every person, institution or entity to reduce the quantum of the solid waste by making arrangements to dispose the disposable (bio-degradable? Organic?) solid waste within their own area or making arrangement for the reuse thereof and discharging the remaining solid waste thereafter.

Clarification: “Own area” means the compound of a person, institution or entity who produces solid waste including the compound of private homes, industrial areas, hospitals or health institutions and industrial institutions.

6. Segregation of the Solid Waste:

- (1) The Local body shall have to prescribe for segregation of solid waste at source by dividing the solid waste into different categories including at least organic and inorganic.
- (2) The responsibility to segregate solid waste at source as prescribed by the Local Body pursuant to Sub-section (1) and carrying them into the collection center shall rest with the person, institution or entity who produces the solid waste, and for this purpose the Local Body may provide necessary technology, goods, equipment, containers, etc. to them.

7. Discharge of Solid Waste:

- (1) The time, location and method for discharge of solid waste shall be as prescribed by the Local Body.
- (2) The person, organization and entity that produces hazardous waste or chemical waste shall have to manage such solid waste as prescribed.
- (3) The hazardous waste and chemical waste shall not be discharged in the solid waste collection center or transfer station.

8. Designation of Solid Waste Collection Center:

- (1) The Local Body may arrange for the location of container by designating the collection point in each street or colony to collect solid waste systematically.
- (2) While designating the collection center as per Sub-section (1), it shall be designated in such a place that it is convenient to all and is environmentally appropriate.
- (3) The time and method to discharge solid waste and collection thereof in the collection center pursuant to Sub-section (1) shall be as prescribed by the Local Body.

9. Transportation of Solid Waste:

- (1) The Local Body or the institution or body designated by such Body shall be responsible to transport the solid waste collected in the Collection Center to the Transfer Station or Sanitary Landfill Site.
- (2) While transporting solid waste, only prescribed transportation vehicles shall be used. While prescribing transportation vehicles, consideration should be given to

the weight, capacity, methods and procedures, capacity of the roads and the likely impacts to the environment during transportation of the solid waste..

- (3) The Local Body shall only transport solid waste that is discharged and collected after segregation at source pursuant to Section 6 separately.

10. Reduction, Reuse and Recycling of Solid Waste:

- (1) The Local Body shall take necessary steps for the promotion of reduction, reuse and recycling of solid waste and may frame and enforce necessary directives for effective implementation thereof.
- (2) The Local Body may coordinate with the concerned industry to promote activities for the reduction of solid waste produced by encouraging the reuse of materials during production and packaging by such industry.

Chapter - 3

Provision Regarding Transfer Station and Sanitary Landfill Site

11. Site selection of Transfer Station:

- (1) The Local Body may select any place for a Transfer Station to manage solid waste collected in the initial state.
- (2) While selecting the site for a Transfer Station pursuant to Sub-section (1), such location that does not cause any adverse effect to the public health and environment shall be considered, and necessary provision shall be made to avoid emanation of foul odor from such a place.

12. Sanitary Landfill Site:

- (1) The Local Body may select the Sanitary Landfill Site under the prevalent laws relating to the environment for management and permanent disposal of solid waste collected within its area.
- (2) If the Local Body does not have its own land to locate the Sanitary Landfill Site pursuant to Sub-section (1) or if the land nevertheless is not suitable for the Sanitary Landfill Site, it may purchase or take in lease the appropriate land to locate the landfill.
- (3) While selecting the Sanitary Landfill Site according to this Section, the private sector may develop and operate the Sanitary Landfill Site in parcels of private land as well under Section 16.
- (4) If the land is unavailable to locate the Sanitary Landfill Site pursuant to Sub-section (1) or (2), the Local Body may select the appropriate land and request the Ministry to acquire the land.
- (5) If it is requested to make the Sanitary Landfill Site available pursuant to Sub-section (4), the Ministry shall acquire such land and provide to the Local Body.
- (6) If the same Sanitary Landfill Site is deemed appropriate for two or more than two Local Bodies, the Ministry shall coordinate between such Local Bodies, and with written consent and terms between the concerned Local Bodies, may acquire that site as the Sanitary Landfill Site.
- (7) The Local Body shall have to carry out the operation and post closure management of the Sanitary Landfill Site in accordance with the prescribed environmental standards.

- (8) While carrying out the post closure management of Sanitary Landfill Site pursuant to Sub-section (7), the Local Body shall have to carry out works as recommended in the initial environmental examination or environmental impact assessment report.
- (9) The Local Body may announce a Sanitary Landfill Site as an environmentally sensitive area, if necessary.
- (10) The Local Body may issue and implement instructions and directives to stop unauthorized entrance of birds, animals and human beings, to excavate stone, aggregate and stone to protect the environment and to do the appropriate management of the site pursuant to Sub-section (9).

Chapter - 4

Involvement of the Private Sector and Community in Solid Waste Management

13. Provision regarding License:

- (1) Nobody shall do or cause to do the work relating to the solid waste management without obtaining license from the Local Body pursuant to this Act.
- (2) Any national or international company, institution or body, that wishes to manage solid waste, shall have to submit an application to the concerned Local Body mentioning the following particulars:
 - a. Plan regarding solid waste management;
 - b. Details of necessary manpower and technology relating to the solid waste management; and
 - c. Other particulars as prescribed.
- (3) The concerned Local Body may grant license after necessary examination on the application submitted pursuant to Sub-section (2).
- (4) If it is found that the technology required for the management, recycling, processing and disposal of solid waste could not be available within the country, the Local Body, by obtaining approval of the Government of Nepal, may grant license to any foreign company, institution or body pursuant to Sub-section (3) subject to transfer of such technology within the timeframe mentioned in the agreement.
- (5) The other provisions relating to license shall be as prescribed.

14. Solid Waste Management can be done through the Private Sector:

- (1) The Local Body may carry out the management of solid waste within its area through a private sector company who has obtained license as per Section (13) or through competition in community sector as per Section 15 or adopting any process as per prevalent law relating to the private investment for construction and operation of infrastructure, as it deems necessary.
- (2) While carrying out the management of solid waste pursuant to Sub-section (1), any or all of the following works in the case of any private sector company and any of the following works in the case of community and non-governmental institution may be carried out:
 - a. To raise awareness for minimization of solid waste,
 - b. Collection of solid waste,
 - c. Transportation of solid waste,

- d. Use, reuse, recycling or processing of solid waste ,
- e. Disposal of solid waste, and
- f. Post closure management (of a sanitary landfill site).

15. Management of Solid Waste through Competition:

- (1) While carrying out the management of solid waste through private sector or community institutions pursuant to Section 14, the management responsibility shall be assigned (awarded) through competitive bidding under open tendering.
- (2) While selecting solid waste management operators pursuant to Sub-section (1), it shall be done on following basis:
 - a. The amount committed to pay to the Local Body,
 - b. The capacity, capital, technology and manpower strength to produce energy or compost from the solid waste,
 - c. The financial and technical capability,
 - d. The sustainability of the proposed technology for solid waste management and minimization of environmental impact,
 - e. If a management contract is proposed, the proposed management fee,
 - f. If it is regarding the use, recycling or processing of solid waste, the royalty amount agreed to pay to the Local Body.
- (3) The other provisions regarding the tender shall be as prescribed by prevalent laws.
- (4) The company, institution or body who has obtained the responsibility for solid waste management pursuant to Sub-section (1) may levy fees pursuant to Section 18 subject to the agreement signed with the Local Body.
- (5) The other provisions regarding the involvement of the non-governmental sector in solid waste management shall be as prescribed.

16. Approval may be granted for the Construction and Operation of a Sanitary Landfill Site:

- (1) If approval for the construction of a Sanitary Landfill Site, Processing Area or other facilities is sought by the private sector for solid waste management, the Local Body may grant approval to construct and operate such facilities subject to the environmental law and other prevalent laws.
- (2) While constructing and operating the facilities for solid waste management by the private sector pursuant to Sub-section (1), the Local Body shall monitor whether the prescribed environmental standards have been complied with or not.
- (3) If it is observed that the approved standards have not been complied while monitoring pursuant to Sub-section (1), the Local Body may prescribe the time to make necessary arrangement for complying with such standards and if necessary arrangement could not be made to comply with the standards within such timeline, the Local Body may cancel the license of such person or company as prescribed.

17. Solid Waste Management may be done under Public-Private Partnership.

- (1) The Local Body may carry out solid waste management works in partnership with the private sector, community and non-governmental organizations subject to the prevalent laws.

- (2) Notwithstanding anything contained in Sub-section (1), the works like raising awareness to minimize the solid waste, collection of solid waste, transportation of solid waste, post closure management of Sanitary Landfill Sites, and construction of garden and beautification may be carried out or caused to carry out in partnership with the community and non-governmental organizations.

Chapter - 5
Provisions regarding Solid Waste Management Service Fee

18. Service Fee may be collected:

- (1) The Local Body may impose and collect service fee from the concerned person, institution or body for the management of solid waste.
- (2) The service fee pursuant to Sub-section (1) shall be fixed by the Local Body based on the quantity, weight and nature of the solid waste and other particulars as prescribed.
- (3) The service fee pursuant to Sub-section (1) may be collected by the concerned Local Body itself or through the institution or body designated by it.
- (4) Notwithstanding anything contained in this Section, the person, institution or body who has obtained the responsibility for management of solid waste pursuant to Section 15 may collect service fee from the concerned person, institution or body for management of solid waste based on the agreement with the Local Body.
- (5) The Local Body shall show the income from the fee received as per this Section and the income to be received for involving the private sector in solid waste management in a separate heading and shall, under the prescribed standards, utilize that amount for solid waste management, environmental protection and development of the area affected by the Sanitary Landfill Sites.

19. Service may be Suspended or Terminated:

- (1) The Local Body may suspend or terminate the solid waste management service to the service recipient who has not paid the service fee as prescribed pursuant to Section 18.
- (2) Notwithstanding anything contained in Sub-section (1), the person, institution or body, who has obtained responsibility for solid waste management pursuant to Section 15, may suspend or stop the solid waste management works of the service recipient, who has not paid the service fee as prescribed pursuant to Section 18 (4), and if the service is suspended or stopped in such a way, the information thereof shall have to be given to the Local Body.
- (3) In the event that the service is suspended or stopped pursuant to Sub-section (1) or (2), the concerned owner of the house shall have to manage the solid waste produced in his or her house by himself/herself.
- (4) If the service recipient pays the service fee to be paid pursuant to Section 18, he or she shall be provided the service again.

Chapter - 6
Provision regarding Pollution Control and the Monitoring of
Solid Waste Management Work

20. Pollution Control:

- (1) The Local Body shall have the responsibility to manage by endeavoring to minimize, as much as possible and without creating any pollution, the environmental impacts likely to be caused by the solid waste management within its area .
- (2) The Center shall provide necessary technical support to the Local Bodies for the purpose of management of solid waste without any pollution.
- (3) While discharging and managing the collected solid waste, the Local Body shall have to follow the standard prescribed under this Act.

21. Monitoring of Solid Waste Management:

- (1) The Local Body shall monitor or cause to monitor regularly the solid waste management and discharges.
- (2) The Local Body may prepare and execute the necessary work-plan for the purpose of monitoring or causing to monitor pursuant to Sub-section (1).
- (3) The person designated to monitor pursuant to Sub-section (1) shall submit the monitoring report to the concerned Local Body after completion of monitoring work.
- (4) The Local Body shall make necessary arrangement for the improvement and implementation of the matters referred in the report received pursuant to Sub-section (3).
- (5) If the Center is requested by the Local Body for providing technical assistance for any work regarding monitoring of the solid waste management, the Center shall provide the required technical assistance as well as monitor the overall situation of solid waste management.

22. Provision regarding Economic and Social Development and Environmental Protection of Areas Affected by Sanitary Landfills:

- (1) The Local Body shall prepare the master plan for economic, social and physical development and environmental protection of the area affected by a Sanitary Landfill Site and also prepare and implement various programs for the execution of that plan.
- (2) For the purpose of Sub-section (1), the Local Body may conduct programs mainly in the following areas:
 - a. Construction of road, electricity supply, drinking water and drainage management, sanitation and environmental protection;
 - b. Establishment and operation of schools and health institutions;
 - c. The programs required for the upliftment and development of the economically poor and socially marginalized group of people from the area affected by a Sanitary Landfill Site.
- (3) The Local Body shall prepare the plan pursuant to Sub-section (1) and or select the program pursuant to Sub-section (2) in consultation with the concerned community.

1. While implementing the program prepared pursuant to this Section for the affected area, it shall be implemented in such a way that the local community would have participation in the implementation.
2. While operating the Sanitary Landfill Site or implementing any program for the same, it shall be done in accordance with the standards prescribed by the prevalent law relating to the environment.
3. To advise for the economic and social development and environmental protection of the most affected area and areas affected by a Sanitary Landfill Site, a committee may be formed at local level as prescribed.

Clarification: For the purpose of this Section, the most affected area means the area specified by the Government of Nepal through the publication of notice in the Nepal Gazette.

Chapter - 7
Provision regarding Solid Waste Management Council

23. Formation of the Council:

- (1) A Solid Waste Management Council shall be formed to determine the policy to be adopted with regard to solid waste management.
- (2) The Council formed pursuant to Sub-section (1) shall consist of the following Members:

a. Minister, Ministry of Local Development	Chairperson
b. Secretary, Ministry of Physical Planning and Construction	Member
c. Secretary, Ministry of Industry	Member
d. Secretary, Ministry of Environment	Member
e. Secretary, Ministry of Health and Population	Member
f. Secretary, Ministry of Local Development	Member
g. Secretary, National Planning Commission	Member
h. Chief, Kathmandu Metropolitan City	Member
i. Five persons nominated by the Council from among the Chiefs of the Municipalities having representation of five development regions	Member
j. Five persons including at least three women nominated by the Government of Nepal from among the officials of the association or federation relating to the local bodies	Member
k. Two persons including at least one woman nominated by the Council from the area declared by the Government of Nepal as the area most affected by solid waste affected area	Member
l. Representative, FNCCI	Member
m. Two persons including at least one woman nominated by the Council from among the solid waste management experts or scientists	Member
n. One representative nominated by the Council from among	Member

the community organizations working in the solid waste management sector, representative	as institutional
o. Executive Director, Solid Waste Management Technical Support Center	Member Secretary

- (3) The tenure of the office of the Member nominated pursuant to Clause (m) of Sub-clause (2) shall be four years and he or she may be re-nominated.
- (4) The tenure of the office of the Member nominated pursuant to Clause (i), (k) and (n) of Sub-clause (2) shall be one year and he or she shall not be reappointed.
- (5) The Center shall work as the Secretariat of the Council.

24. Functions, Duties and Powers of the Council

The Functions, duties and Powers of the Council shall be as follows:

- (a) To formulate the national policy on solid waste management and submit it to the Government of Nepal for approval.
- (b) To make policy provisions for coordination among the bodies related to the solid waste management works.
- (c) To approve the standards to fix service fees for maintaining uniformity in service fees charged by the Local Body for solid waste management.
- (d) In the situation where a Local Body has to make investment for solid waste management in an integrated manner, to fix the percentage of investment to be made by such Local Body;
- (e) To perform the other works as prescribed.

25. Meetings and Decisions of the Council:

- (1) The meeting of the Council shall be held at least once in a year on the date, time and venue as fixed by the Chairperson of the Council.
- (2) The meeting of the Council shall be presided over by the Chairperson of the Council and in his/her absence, the Member elected among the Members present shall preside over the meeting.
- (3) If more than 50% of the total Members are present at the meeting, it shall be deemed to have the quorum for the meeting of the Council.
- (4) The decision in the meeting of the Council shall be taken normally through consensus. If no consensus is reached, it shall be decided through affirmative vote of majority and if there is tie in votes, the person presiding over the meeting shall give his or her casting vote.
- (5) The Council may invite any solid waste management expert, national or foreign, or any related official to participate in the meeting of the Council as an observer if it deems necessary.
- (6) The decision of the Council shall be certified by the Member-Secretary.
- (7) The other procedures regarding meeting of the Council shall be as determined by the Council itself.

Chapter - 8
Provision Regarding Solid Waste Management
Technical Support Center

26. Establishment of the Center:

- (1) Solid Waste Management Technical Support Center shall be established to provide technical support to the Local Bodies for solid waste management and to carry out research and study on the subject related therewith.
- (2) The office of the Center shall be located in Kathmandu Valley.

27. The Center to be a Corporate Body:

- (1) The Center shall be an autonomous corporate body having perpetual succession.
- (2) The Center shall have its seal (stamp) for the purpose of its business.
- (3) The Center may, like an individual, acquire, utilize, sell or manage otherwise any movable or immovable properties.
- (4) The Center may sue and be also sued in its own name.
- (5) The Center may like an individual enter into any contract and may use the rights and discharge the responsibilities as per the contract.

28. Functions, Duties and Powers of the Center:

The functions, duties and powers of the Center shall be as follows:

- (a) To support the Local Body for development of technology appropriate for solid waste management and for enhancement of their capacity;
- (b) To monitor and evaluate the technical aspects of solid waste management and provide advice to the concerned Local Body regarding improvements to be done therein;
- (c) To prepare annual budgets and programs and submit those to the Board of Directors for approval;
- (d) To support Local Bodies on solid waste management.
- (e) To prepare processes and minimum standards for the collection, treatment, transportation, disposal or obliteration of solid waste of any nature and quantity at any specific place, and submit those to the Council for approval;
- (f) To develop, extend and disseminate innovative technology regarding solid waste management.
- (g) To provide technical assistance to the Local Bodies to construct facilities relating to solid waste management.
- (h) To conduct or cause to conduct research and study on solid waste management and collect statistics and make public the facts related to the solid waste management condition of the country.
- (i) To perform as a resource center and research center to develop skilled manpower and to enhance the capacity for solid waste management.
- (j) To draw attention of concerned agencies for proper management of hazardous, medical, chemical and industrial waste.
- (k) To identify and develop techniques to minimize the production of solid waste based on the nature of the solid waste and to encourage for adoption thereof.
- (l) To prepare a set of strategy to be adopted for public participation in the waste management activities.

- (m) To provide suggestions to the Local Body regarding fixation and collection of service fee by carrying out detail studies on the issue to make solid waste management activities reliable and economically sustainable.
- (n) To execute or cause to execute the decisions of the Council, Board of Directors and Coordination Committee.
- (o) To provide technical assistance or advice, by charging service fee, in the event that any person, institution or body from the private sector carrying out solid waste management work requests for technical assistance or advice.Center.
- (p) To do or cause to do the other works as prescribed.

29. Formation of the Committee:

- (1) A Board of Directors shall be formed as follows for the operation, supervision and management of all activities of the Center:

a. Secretary, Ministry of Local Development	Chairperson
b. Joint Secretary, Ministry of Finance	Member
c. Joint Secretary, Ministry of Environment	Member
d. Joint Secretary, Municipality Management Division of the Ministry of Local Development	Member
e. Two persons including one women nominated by the Board from among the experts	Member
f. Executive Director, Solid Waste Management Technical Support Center	Member Secretary

- (2) The tenure of office of the member nominated pursuant to Clause (e) of Sub-section (1) shall be for four years.

30. The Functions, Duties and Powers of the Board of Directors:

The Functions, Duties and Powers of the Board shall be as follows:

- (a) To approve the annual budget, plan and program of the Center.
- (b) To approve the proposals for getting assistance for the Center or for selling or transferring the immovable properties of the Center.
- (c) To evaluate the technical and administrative functions of the Center and to give necessary instructions to the Executive Director.
- (d) To approve the by-laws of the Center.
- (e) To implement or arrange to implement the decisions of the Council.
- (f) To discuss on audit observations pointed in the audit report of the Center and to give instructions to the Executive Director for initiating necessary actions for clearing of any audit objections.
- (g) To approve the organization chart, number of employees, terms of service of employees, remuneration and other facilities as per necessity.
- (h) To perform other functions as prescribed.

31. Meeting and Decision of the Board of Directors:

- (1) The meeting of the Board shall be held as needed on such date, time and venue as prescribed by the Chairperson.

- (2) The meeting of the Board shall be presided over by the Chairperson, and in his/her absence, the member selected from among the members present shall preside over the meeting.
- (3) The presence of more than 50% of the members shall constitute quorum for conducting the meeting.
- (4) Decisions by the Board shall be taken based on the affirmative votes of the majority and in the case of a tie in votes, the person presiding over the meeting shall cast the deciding vote.
- (5) The Board may invite any national or foreign expert in solid waste management or concerned official in Board meetings to participate as an observer.
- (5) The decision of the Board shall be certified by the Member-Secretary.
- (6) Other procedures regarding meetings of the Board of Directors shall be as determined by the Board itself.

32. Sub-committee or Taskforce May be formed:

- (1) The Board may form Sub-committees or task forces having participation of experts in related subjects as per necessity for performing the works to be done by the Center regularly.
- (2) The functions, duties and powers, and procedures of the Sub-committee or Task Force formed pursuant to Sub-section (1) shall be as prescribed by the Board at the time of formation of such Sub-committee or Task Force.

33. Provision regarding the Executive Director:

- (1) The Government of Nepal shall appoint a person, who holds Master's Degree with at least ten years of experience in the solid waste management field, to the position of the Executive Director of the Center to work as chief administrative officer of the Center.
- (2) The tenure of the Executive Director shall be for four years and he or she may be reappointed.
- (3) Notwithstanding anything contained in Sub-section (2), if he or she does not fulfill his or her responsibilities honestly or does not demonstrate conduct as per the position, or if he or she is found to have lack of performance capacity or work effectiveness, the Government of Nepal may dismiss him or her from that position before completion of his or her tenure of office.
However, before dismissing him or her from the position, he or she shall not be deprived from a reasonable chance to submit clarification in his or her favour.
- (4) The remuneration, facilities and other terms of service of the Executive Director shall be as prescribed.

34. Employees of the Center:

- (1) The Center shall have employees in required numbers to perform its works.
- (2) The provision regarding appointment, terms of service, remuneration and other facilities of employees of the Center shall be as prescribed in the by-laws of the Center.

35. Fund of the Center:

- (1) The Center shall have a separate fund.

- (2) The fund established pursuant to Sub-section (1) shall consist of the following amounts:
 - a) The amount received from the Government of Nepal;
 - b) The amount received from research work or against the consultancy service provided by the Center;
 - c) The amount received from international organizations or institutions, foreign governments or institutes as loan or grant assistance;
 - d) The amount received from any other sources.
- (3) All the expenditures related to the Center shall be incurred from the Fund established pursuant to Sub-section (2).
- (4) The Center shall have to take prior approval of the Ministry of Finance of the Government of Nepal for receiving amounts as per clause (c) of Sub-article (2).
- (5) The amount received in the Fund shall be deposited by opening accounts in a Bank, which is licensed as "A" class bank as per the prevalent laws related to Bank and Financial Institutions, as prescribed by the Board.
- (6) The operation of account of the Center shall be as prescribed in the by-laws of the Center.

36. Account and Audit:

- (1) The account of income and expenditure of the Center shall be kept as per the accounting system adopted by the Government of Nepal.
- (2) The auditing of the Center shall be performed by the Auditor General.
- (3) The Center shall have to maintain the internal control system as prescribed.
- (4) The Government of Nepal may inspect or cause to inspect the account of income and expenditure, document related thereof, cash and goods as well, if desired.

37. Annual Report:

- (1) The Center shall have to submit an annual report of the works and activities carried out by it throughout a year to the Government of Nepal within three months after the end of every fiscal year.
- (2) In the report to be submitted pursuant to Sub-article (1), brief account of the works carried out throughout the year, achievements and the cost involved therein, future strategy and programs, and the details regarding financial status shall be included in addition to other particulars.
- (3) The Center shall make public the report prepared pursuant to Sub-section (1).

Chapter - 9
Offences and Punishment

38. Offences: If any person commits any of the following, it shall be deemed to have committed an offence:

- (a) To discharge solid waste in ways other than the time and place prescribed by the Local Body;
- (b) To use solid waste deposited in containers or solid waste collection centers in an unauthorized manner;
- (c) To disrupt a container kept in a solid waste collection center, causing damage to it, removing it to other places or causing any damage to the collection center;

- (d) To carry out solid waste management work without obtaining a license as per this Act;
- (e) To violate the terms mentioned in the license issued for solid waste management as per this Act;
- (f) To throw, keep or stack any kind of harmful materials in a solid waste collection center, container or solid waste dumping area;
- (g) To keep, throw or stack solid waste from a house, compound or surrounding in the road or any public place;
- (h) To cause pollute the house or land of any person by discharging contaminated water or leachate from solid waste or sewerage;
- (i) To park any kind of transportation vehicle in the road or any public place during the time prescribed by the Local Body for carrying out cleaning or collection of solid waste or during the cleaning time, or to refuse to remove the vehicle from such place;
- (j) To keep, throw, stack or discharge any kind of hazardous waste on the road or in any public place causing adverse effects to public health except in places prescribed by the Local Body;
- (k) To throw, keep, discharge or cause to discharge chemical waste, industrial waste, medical waste or hazardous waste haphazardly;
- (l) To throw, keep, discharge or cause to discharge hazardous waste produced by any industrial enterprise or health institution haphazardly;
- (m) To create obstacle in collection, transportation and management of solid waste;
- (n) To create obstacle, closure, cordoning in collection of solid waste, transportation and final disposal station or to strike in works relating to solid waste management;
- (o) To produce, sale or distribute any goods prohibited by the Government of Nepal through the publication of notices in the Nepal Gazette specifying the goods as generating solid waste in large scale.
- (p) To import chemical pesticides contradicting with Section 44 or without fulfilling the responsibility to dispose the date-expired drugs.
- (q) To discharge solid waste in a mixed way contradicting with Section 6 without out segregation of solid waste at source.
- (r) To keep, throw or stack the dead or slaughtered birds or animals or their dung, feather, bone and fish scale, etc. in public places, roads, streets or plaza? courtship (*chwok*).

39. Punishment:

- (1) The Local Body may punish a person with a fine up to five thousand rupees for the first time for committing the offence as specified in Clause (a) of Section 38; from five thousand rupees to ten thousand rupees for committing the same offence for the second time; and fifteen thousand rupees per instance for committing the same offence for the third time or more, and may also recover the cost incurred for the collection of solid waste from the same person.
- (2) The Local Body may impose a fine from five hundred rupees up to five thousand rupees on anyone who commits an offence as mentioned in Clause (b) and (i) of Section 38.

- (3) The Local Body may impose a fine from fifteen thousand rupees up to fifty thousand rupees on anyone who commits an offence as mentioned in Clause (c) of Section 38, and may recover the cost incurred for the management of container or collection point from the offender.
- (4) The Local Body may impose a fine from fifteen thousand rupees to fifty thousand rupees on anyone who commits an offence as mentioned in Clause (d) and (e) of Section 38, and may prevent him or her from such activities unless he or she secures a license for the same.
- (5) The Local Body may impose a fine from five thousand rupees to fifteen thousand rupees on anyone who commits offence as mentioned in Clause (f) of Section 38, and if any damage is caused by such goods or materials, the amount of such damage may also be recovered from the offender.
- (6) The Local Body may impose a fine from five thousand rupees to fifteen thousand rupees on anyone who commits offence as mentioned in Clause (g), (h) and (r) of Section 38.
- (7) The Local Body may impose a fine from thirty thousand rupees to fifty thousand rupees on anyone who commits offence as mentioned in Clause (j) of Section 38.
- (8) The Local Body may impose a fine from fifty thousand rupees to one hundred thousand rupees on anyone who commits offence as mentioned in Clause (k), (l) and (p) of Section 38, and if the same offence is committed again, it may also punish with a double fine as was imposed earlier and recommend to the concerned authority for cancellation of the license.
- (9) The Chief District Officer of the concerned district may impose a fine from ten thousand rupees to fifty thousand rupees or an imprisonment from fifteen days to three months or both on anyone who commits offence as mentioned in Clause (m) and (n) of Section 38.
- (10) The Chief District Officer of the concerned district may impose a fine from five thousand rupees to ten thousand rupees or an imprisonment up to three months or both on anyone who commits offence as mentioned in Clause (o) of Section 38.
- (11) The concerned Local Body may impose a fine of five hundred rupees per instance on anyone who commits offence as mentioned in Clause (q) of Section 38.

40. The Service and Facilities may be stopped:

- (1) The Local Body may, in addition to stopping the services being provided by the Local Body, send a letter to the concerned authority/body requesting to stop the electricity and telephone services and to withhold the selling of house and land of the person who has failed to pay or refused to pay the service fee prescribed pursuant to this Act.
However, the concerned person shall be notified of the same in writing before sending such letter.
- (2) Upon receipt of request pursuant to Sub-section (1), it shall be the duty of the concerned authority/body to stop such services.

41. **Government will be the Plaintiff:** In the offences as mentioned in Clause (m), (n) and (o) of Section 38, the case shall be initiated by the government as plaintiff of the case and these offences shall be deemed to have been included in Schedule 1 of the Government Cases Act, 1992.
42. **Appeal may be filed:** Any person who is not satisfied with the order of punishment given pursuant to Section 39 may submit an appeal to the concerned Appellate Court within a period of 35 days from the date of receipt of the order.

Chapter-10 **Miscellaneous**

43. **Management of Medical Waste:**
- (1) The authority that grants license to establish a health institution as per the prevalent law shall, before granting license for establishment and operation of the health institution, confirm whether appropriate management has been made for solid waste management or not and it shall have to grant license only if appropriate arrangement is made.
 - (2) While granting license pursuant to Sub-section (1), the special conditions to be abided by or the standards to be maintained by the health institution regarding solid waste management may also be prescribed.
44. **Provision regarding Chemical Pesticide:**
- (1) While importing the chemical pesticide, it shall be imported under the prescribed standards.
 - (2) The concerned person or institution shall have the responsibility to dispose the date-expired chemical pesticide under the prescribed standards.
45. **Maintaining Record of Community Sector Institutions involved in Solid Waste Management:**
- (1) Every Local Body may maintain an updated record of community sector organizations involved in solid waste management within their jurisdiction.
 - (2) In the details to be recorded pursuant to Sub-section (1), the area and nature, human resources, financial and technical resources of such sector and other details as prescribed by the Local Body may also be mentioned.
46. **Information to be provided:**
While carrying out the solid waste management work by obtaining assistance from foreign persons, organizations, institutions or donor agencies by any person, the information thereof shall have to be given to the Ministry through the concerned Local Body.
47. **Delegation of Authority:**
- (1) The Council may delegate any powers conferred on it except to taking decision on policy matters, to its Chairperson or Member as per necessity.
 - (2) The Board may delegate any of the powers conferred on it to its Chairperson, Member or Executive Director.

- (3) The Executive Director may delegate some of the powers conferred to him or her to any officer of the Center as per necessity.
- 48. Contact with the Government of Nepal**
The Council or Center, while contacting with the Government of Nepal, shall contact through the Ministry of Local Development.
- 49. Reward may be given:**
- (1) The Center may provide appropriate reward as honor to a person or institution, who has contributed to develop new concepts for solid waste management, to promote such activities for managing solid waste.
 - (2) The concerned Local Body may give honor or provide cash reward to a person who complains with evidence against any person who keeps, stacks or throws solid waste haphazardly in contravention of the provision of this Act.
- 50. Power to frame the Rules and By-laws:**
- (1) The Government of Nepal may frame and enforce necessary rules in order to fulfill the objectives of this Act.
 - (2) The Center may frame and enforce necessary by-laws under this Act and the Rules framed under this Act.
However, while framing the by-laws causing financial burden to the Government of Nepal, approval of the Ministry of Finance of the Government of Nepal shall have to be obtained.
- 51. Standards or Directives may be issued:**
- (1) The Center may issue separate standards in consultation with the Local Body for the management of different types of solid waste under this Act and the Rules framed under this Act.
 - (2) The concerned Local Body may frame and enforce necessary directives with regard to management of solid waste.
- 52. Prevailing Law to be applicable:**
Matters relating to solid waste management provided for in this Act shall be duly carried out and the prevailing law shall apply in other matters.
- 53. Repeal and Saving:**
- (1) The Solid Waste (Management and Resource Mobilization) Act, 1987 has been repealed.
 - (2) The Acts performed as per the Solid Waste (Management and Resource Mobilization) Act, 1987 shall be deemed to have performed as per this Act.
 - (3) All the moveable and immovable properties, staffs and liabilities of the Solid Waste Management and Resource mobilization Center formed under the Act pursuant to Sub-section (1) shall be deemed to have been transferred to the Center formed under this Act.