



LEGISLATIVE ASSEMBLY OF THE STATE OF GOA

**THE GOA SOLID WASTE MANAGEMENT
CORPORATION BILL, 2009**

(Bill No. 26 of 2009)

~~To be~~ introduced in the Legislative Assembly of the State of Goa

**GOA LEGISLATURE SECRETARIAT
ASSEMBLY HALL, PORVORIM, GOA**

July, 2009.

**THE GOA SOLID WASTE MANAGEMENT
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(BILL NO. 26 OF 2009)

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BILL

5 to make special provision for securing the
establishment and orderly development of
facilities for management of solid wastes, to
assist generally in the organisation and scientific
management thereof, and for that purpose to
establish Solid Waste Management Corporation,
and for the purposes connected with the matters
10 aforesaid.

BE it enacted by the Legislative Assembly of Goa
in the Sixtieth Year of the Republic of India, as
follows:-

1. *Short title, extent and commencement*— (1)
15 This Act may be called the Goa Solid Waste
Management Corporation Act, 2009.

(2) It extends to the whole of the State of Goa.

(3) It shall come into force on such date as the
Government may, by notification in the Official
20 Gazette, appoint.

2. *Definitions*.— In this Act, unless the context
otherwise requires,-

(a) "amenity" includes road, supply of water
or electricity, connectivity, street lighting,
25 drainage, sewerage, conservancy and such

other convenience as the Government may, by notification in the Official Gazette, specify to be an amenity for the purposes of this Act;

(b) "building" means any structure or erection, or a part of a structure or erection, which is intended to be used for residential, educational, commercial, industrial or other purposes, whether in actual use or not;

(c) "Collector" means the Collector of a district, and includes any Officer specially appointed by the Government to perform the functions of a Collector under this Act;

(d) "Corporation" means the Goa Solid Waste Management Corporation established under section 3;

(e) "engineering operations" include the formation or laying out of means of access to a road or the laying out of means of water supply or such engineering process for safe disposal or utilization of solid wastes;

(f) "facility" means establishment of any facility for the purpose of managing solid waste and includes institutions, industrial establishments, production and tool room, testing labs, research labs, manufacturing units, waste treatment plant, waste treatment and storage facility, environmental labs or like establishments;

(g) "Government" means the Government of Goa;

(h) "management" with it's grammatical

variations and cognate expressions, means carrying out of scientific, engineering and sustainable scheme for taking measures for safe disposal or utilization of the solid wastes;

(i) "means of access" includes a road, wharf or any means of access, whether private or public, for vehicles or boats or for foot passengers;

(j) "premises" means any land or building or part of a building and includes,-

(i) garden, ground and out-house, if any, appertaining to such building or part of a building; and

(ii) any fittings affixed to such building or part of a building for the more beneficial enjoyment thereof;

(k) "prescribed" means prescribed by rules made under this Act;

(l) "solid waste" includes commercial and residential waste generated either in solid or semi-solid form excluding industrial hazardous waste but including treated bio-medical waste;

(m) "solid waste management" means any service which is directly or indirectly undertaken for the purpose of solid waste management and includes providing any service for effectively managing solid waste, such as, treatment, storage, disposal, utilization, etc, of solid waste;

(n) "solid waste management area/site" means any area / site selected by the

Government where the Corporation may develop plots of land and / or build buildings and make them available for any solid waste management activity;

(o) the expression "land" and the expression "person interested" shall have the same meaning respectively assigned to them in section 3 of the Land Acquisition Act, 1894 (1 of 1894);

CHAPTER II 10

Establishment and Constitution of the Corporation

3. *Establishment and incorporation.*— (1) For the purpose of orderly establishment and organization or securing and assisting in the orderly establishment and organization of facility to manage solid waste, there shall be established by the Government, by notification in the Official Gazette, a Corporation by the name, the Goa Solid Waste Management Corporation. 15

(2) The Corporation shall be a body corporate with perpetual succession and a common seal, and may sue and be sued in it's corporate name, and shall be competent to acquire, hold and dispose off property, both movable and immovable, and to contract, and do all things necessary for the purposes of this Act. 20 25

4. *Constitution.*— (1) The Corporation shall consist of the following Directors, namely:-

(a) Secretary to the Government of Goa in the Department of Science, Technology and Environment; 30

(b) Director, Department of Science, Technology and Environment;

(c) Member Secretary, Goa State Pollution Control Board;

5 (d) Director, Directorate of Panchayats;

(e) two scientific/engineering experts, to be nominated by the Government;

10 (f) two persons having shown capacity in developing and building facility or managing solid waste and other waste, to be nominated by the Government;

15 (g) two persons who are actively working in the field of social service and community development, to be nominated by the Government.

(2) The Managing Director of the Corporation shall be the Chief Executive Officer of the Corporation and shall also be the ex-officio Secretary to the Corporation.

20 (3) The Government shall appoint one of the Directors of the Corporation to be the Chairperson of the Corporation.

25 5. *Disqualification for Director.*— A person shall be disqualified for being nominated as a Director of the Corporation, if he -

(a) is an employee of the Corporation, not being the Managing Director; or

(b) is of unsound mind, and stands so declared by a competent Court; or

(c) is an undischarged insolvent; or

(d) is convicted of an offence involving moral turpitude within a period of five years immediately before his being nominated as a Director.

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6. *Term of office and conditions of service of Director.*— (1) The Chairperson and Directors of the Corporation nominated under sub-section (1) of section 4, shall hold office during the pleasure of the Government.

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(2) The Chairperson and Directors of the Corporation nominated under sub-section (1) of section 4, shall be entitled to draw such honorarium or compensatory allowance for the purpose of meeting the personal expenditure for attending the meeting of the Corporation or of any Committee thereof or when appointed in connection with the work undertaken by or for the Corporation, as may be prescribed by the Government from time to time.

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(3) The office of Director and / or Chairperson of the Corporation, in so far as it is an office of profit under the Government, shall not disqualify the holder of such office for being chosen as and for being a member of the Legislative Assembly of Goa.

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7. *Meetings of Corporation.*— (1) The Corporation shall meet at such times and places, and shall, subject to the provisions of sub-section (2), observe such rules of procedure in regard to the transaction of its business, as may be prescribed.

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(2) A Director, who is directly or indirectly concerned or interested in any contract, loan, arrangement or proposal entered into or proposed to be entered into by or on behalf of the Corporation shall, at the earliest possible opportunity, disclose the nature of his interest to the Corporation, and shall not be present for any meeting of the Corporation when any such contract, loan, arrangement or proposal is discussed.

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(3) There shall be at least 1/3rd of the total number of Directors of the Corporation present for any meeting so called, failing which, the meeting shall stand cancelled. The Managing Director who shall function as ex-officio Secretary to the Corporation shall essentially remain present for all such meetings.

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8. *Cessation of Director.*— If a Director,—

(a) becomes subject to any of the disqualifications mentioned in section 5; or

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(b) tenders his resignation in writing to, and such resignation is accepted by, the Government; or

(c) is absent without the leave from Chairperson for three consecutive meetings of the Corporation, or from all meetings of the Corporation for three consecutive months; or

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(d) is convicted of an offence involving moral turpitude,

he shall cease to be a Director of the Corporation.

9. *Vacancies how to be filled.*— Any vacancy of a Director of the Corporation shall be filled as early as practicable in like manner:

Provided that during any such vacancy, the continuing directors may act as if no vacancy had occurred. 5

10. *Temporary absence of Directors.*— (1) If the Chairperson or any other Director of the Corporation is by reason of illness or otherwise rendered temporarily incapable of carrying out his duties or is granted leave of absence by the Government, or is otherwise unable to attend to his duties in circumstances not involving the cessation of his Directorship, the Government may appoint another person who fulfills the requirements thereof, to act for him and carry out his duties and functions by or under this Act. Such person shall vacate office on the date when the Director for whom he is acting resumes his duties. 15

(2) In the absence of the Chairperson, the Directors present shall choose the Presiding Officer to preside over the meetings of the Corporation. 20

11. *Proceedings presumed to be good and valid.*— No disqualification of, or defect in the appointment of, any person acting as the Chairperson or Director of the Corporation, shall vitiate any act or proceeding of the Corporation, if such act or proceeding is otherwise in accordance with the provisions of this Act. 25

12. *Officers and servants of the Corporation.*— (1) The Government shall appoint a Managing 30

Director and a Chief Accounts Officer of the Corporation.

(2) The Corporation may appoint such other officers and servants, sub-ordinate to the officers mentioned in sub-section (1), as it considers necessary for the efficient performance of its duties and functions, subject to the approval of the Government. 5

(3) The conditions of appointment and service of the Managing Director, the Chief Accounts Officer and other officers and servants of the Corporation shall be such as may be prescribed. 10

CHAPTER III

Functions and Powers of the Corporation

15 13. *Functions.*— The functions of the Corporation shall be,—

(i) generally to establish or to promote and assist in the rapid and orderly establishment, growth and development of solid waste management services and facilities in the State of Goa, in order to develop and create clean and sustainable waste free environment in the State of Goa. 20

(ii) in particular and without prejudice to the generality of clause (i) to— 25

(a) establish and develop facility for effective management of solid waste at places selected by the Government;

(b) develop areas in consultation with the Government for the purpose of making them 30

available for such institutions and solid waste management service providers to establish themselves;

(c) promote and implement schemes for managing solid waste and other waste at household, institutional, corporate and panchayat level; 5

(d) develop a database of available technology to tackle various solid waste and other waste problems at various levels; 10

(e) develop facilities relating to information dissemination and mass awareness to educate the general public and other establishments;

(f) encourage development of research facilities, provide aid to organizations, individuals, institutions, panchayats to develop and implement new models, etc; 15

(g) hold conferences, workshops, panel discussions, etc.; 20

(h) undertake schemes or works, either jointly or on agency basis, with other corporate bodies or institutions, or with the Government, in furtherance of the purposes for which the Corporation is established and all matters connected therewith. 25

14. *General powers of the Corporation.*— Subject to the provisions of this Act, the Corporation shall have power,-

(a) to acquire and hold such property, both movable and immovable, as the Corporation 30

may deem necessary for the performance of any of its activities and to lease, sell, exchange or otherwise transfer any property held by it on such conditions including a condition that any fees charged by the transferee shall be in accordance with such guidelines that may be framed by the Corporation in this regard from time to time as may be deemed proper by the Corporation; 5

(b) to provide or cause to be provided amenities and common facilities in solid waste management area/site and construct and maintain or cause to be maintained works and buildings thereof; 10

(c) to make available buildings on lease to the persons intending to start solid waste management services or facilities; 15

(d) (i) to allot plots of land or buildings or parts of buildings, including residential tenements to suitable persons in the solid waste management area/site established or developed by the Corporation; 20

(ii) to modify or rescind such allotments, including the right and power to evict the allottees concerned on breach of any of the terms or conditions of their allotment; 25

(e) to constitute advisory committee to advise the Corporation;

(f) to engage suitable consultants or persons having special knowledge or skills to assist the Corporation in the performance of its functions; 30

(g) subject to the previous permission of the Government, to delegate any of its powers, generally or specially, to any of its committees or officers, and to permit them to re-delegate specific powers to their subordinates; 5

(h) to enter into and perform all such contracts as it may consider necessary or expedient for carrying out any of its functions; and

(i) to do such other things and perform such acts as it may think necessary or expedient for the proper conduct of its functions and for carrying into effect the purposes of this Act. 10

15. *Authentication of orders and documents of Corporation.*— All permissions, orders, decisions, notices and other documents of the Corporation shall be authenticated by the signature of officer authorised by the Corporation in this behalf. 15

16. *Directions by the Government.*— The Government may issue to the Corporation such general or special directions as to policy as it may think necessary or expedient for the purpose of carrying out the purposes of this Act, and the Corporation shall be bound to follow and act upon such directions. 20

CHAPTER IV 25

Finance, Accounts and Audit

17. *Application of Corporation's assets.*— All property, funds and other assets vesting in the Corporation shall be held and applied by it, subject to the provisions and for the purposes of this Act. 30

18. *Corporation's fund.*— (1) The Corporation shall have and maintain its own fund, to which shall be credited, -

(a) all monies received by the Corporation by way of grants, subventions, loans, advances or otherwise; 5

(b) all fees, costs and charges received by the Corporation under this Act;

(c) all monies received by the Corporation from the disposal of lands, buildings and other properties, movable and immovable, and other transactions; 10

(d) all monies received by the Corporation by way of rent and profits, or in any other manner or from any other source including the proceeds of any loan authorised by section 20. 15

(2) The Corporation may keep in current or deposit account with any nationalized bank to be approved by the Government in this behalf, such sum of money out of its fund as may be prescribed and any money in excess of the said sum shall be invested in such manner as may be approved by the Government. 20

(3) Such accounts shall be operated upon by such officers of the Corporation as may be prescribed. 25

19. *Grants, subventions, loans and advances and capital contribution to the Corporation.*— The Government may, after due appropriation made by the State Legislature by law in this behalf, make such grants, subventions, loans and advances and 30

capital contribution to the Corporation as it may deem necessary for the performance of the functions of the Corporation under this Act, and all grants, subventions, loans and advances and capital contribution made shall be on such terms and conditions as the Government may, after consulting the Corporation, determine: 5

Provided that the Corporation will have to raise such funds essential for it's functioning and such other funds for it's intended projects through revenue generation measures and create sufficient fund-base to maintain it's sustainability, following which the Government shall appropriately decrease it's contribution or grants, as the case may be. 10 15

20. *Power of the Corporation to borrow.*— The Corporation may, subject to such conditions as may be prescribed in this behalf, borrow money in the open market or otherwise with a view to providing itself with adequate resources, with prior approval of the Government. 20

21. *Deposits.*— The Corporation may accept deposits on such conditions as it deems fit from persons, authorities or institutions to which allotment or lease of land, buildings or sheds is made or is likely to be made in furtherance of the objects of this Act. 25

22. *Reserve and other funds.*— (1) The Corporation shall make provision for such reserve and other specially denominated funds as the Government may, from time to time, direct. 30

(2) The management of the funds referred to in sub-section (1), the sums to be transferred from

time to time to the credit thereof and the application of money comprised therein, shall be determined by the Corporation.

(3) None of the funds referred to in sub-section (1) shall be utilized for any purpose other than that for which it was constituted, without the previous approval of the Government. 5

23. *Expenditure from funds.*— (1) The Corporation shall have the authority to spend such sums as it thinks fit for the purposes authorized under this Act from and out of the general fund of the Corporation referred to in section 18 or from the reserve and other funds referred to in section 22, as the case may be. 10 15

(2) Without prejudice to the generality of the power conferred by sub-section (1), the Corporation may contribute such sums as it thinks fit towards expenditure incurred or to be incurred in the performance of any of the statutory functions of the Corporation, including expenditure incurred in the acquisition of land. 20

24. *Budget and programme of work.*— (1) The Corporation shall, by such date in each year as may be prescribed, prepare and submit to the Government for approval an annual financial statement and the programme of work for the succeeding financial year. 25

(2) The annual financial statement shall show the estimated receipts and expenditure during the succeeding financial year in such form and detail as may be prescribed. 30

(3) The Corporation shall be competent to make variations in the programme of work in the course of the year provided that all such variations and re-appropriations out of the sanctioned budget are brought to the notice of the Government by a supplementary financial statement. 5

(4) A copy of each annual financial statement and the programme of work and the supplementary financial statement, if any, shall be placed before the Legislative Assembly as soon as may be after their receipt by the Government. 10

25. *Accounts and audit.*— (1) The Corporation shall maintain books of account and other books in relation to its business and transactions in such form, and in such manner, as may be prescribed. 15

(2) The accounts of the Corporation shall be audited by an auditor appointed by the Government, in the prescribed manner.

(3) As soon as the accounts of the Corporation are audited, the Corporation shall send a copy thereof with a copy of the report of the auditor thereon to the Government. 20

(4) The Government shall cause the accounts of the Corporation together with the audit report thereon forwarded to it under sub-section (3) to be laid annually before the Legislative Assembly. 25

26. *Concurrent and special audit of accounts.*— (1) Notwithstanding anything contained in section 25, the Government may order that there shall be concurrent audit of the accounts of the Corporation by such persons as it thinks fit. The Government 30

may also direct a special audit to be made by such person as it thinks fit of the accounts of the Corporation relating to any particular transaction or class or series of transactions or to a particular period.

5 (2) When an order is made under sub-section (1), the Corporation shall present or cause to be presented for audit such accounts and shall furnish to the person appointed under sub-section (1) such information as the said person may require for the purpose of audit.

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CHAPTER V

Acquisition and Disposal of Land

15 27. *Acquisition of land for the Corporation to be a public purpose.*— Any land required by the Corporation for carrying out any of its functions shall be deemed to be needed for a public purpose and may be acquired under the provisions of the Land Acquisition Act, 1894 (1 of 1894), or any other law for the time being in force.

20 28. *Use of land by the Corporation.*— The Corporation may use the land, by itself or permit user of the land through any other agency, for securing the purposes of this Act:

25 Provided that the Corporation shall obtain Government approval where the land is to be used by any other agency and such approval shall also include approval of the terms and conditions of user.

29. *Government lands.*— (1) For the furtherance of the objects of this Act, the Government may,

upon such conditions as may be agreed upon between the Government and the Corporation, place at the disposal of the Corporation any lands vested in the Government.

(2) After any such land has been developed by, or under the control and supervision of the Corporation, it shall be dealt with by the Corporation in accordance with the provisions of this Act and rules made hereunder and directions given by the Government in this behalf.

(3) If any land placed at the disposal of the Corporation under sub-section (1) is required at any time thereafter by the Government or is not required by the Corporation, the Corporation shall place it at the disposal of the Government upon such terms and conditions as may be mutually agreed upon.

CHAPTER VI

Supplementary and Miscellaneous Provisions

30. *Powers of Corporation in case of certain defaults by owner of land in solid waste management area/site.*— (1) If the Corporation, after holding a local inquiry, or upon report from any of its officers or other information in its possession, is satisfied that the holder of any land where solid waste management facility is provided, has failed to provide any amenity in relation to the land which in the opinion of the Corporation ought to be provided or has failed to carry out any development of the land for which permission has been obtained under this Act, the Corporation may serve upon the owner a notice

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requiring him to provide the amenity or carry out the development within such time as may be specified in the notice.

(2) If any such amenity is not provided or any such development is not carried out within the time specified in the notice, then the Corporation may itself provide the amenity or carry out the development or have it provided or carried out through such agency as it deems fit:

Provided that, before taking any action under this sub-section, the Corporation shall afford a reasonable opportunity to the owner of the land to show cause as to why such action should not be taken.

(3) All expenses incurred by the Corporation or the agency employed by it in providing the amenity or carrying out the development together with interest, at such rate as the Government may by order fix, from the date when a demand for the expenses is made until payment, shall be recoverable by the Corporation from the owner.

31. *Penalty for construction or use of land and buildings contrary to terms of holding.*— (1) Any person who, whether at his own instance or at the instance of any other person, undertakes or carries out construction of or alteration to any building in any solid waste management area/site contrary to the terms under which he holds such building or land under this Act or any rules made hereunder shall, on conviction, be punished with fine which may extend to fifty thousand rupees, and in the case of a continuing contravention, with a further fine which may extent to one thousand rupees for

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every day during which such offence continues after conviction for the first commission of the offence.

(2) Any person who uses any land or building in a solid waste management area/site contrary to the terms under which he holds such land or building under this Act or any rules made hereunder in this behalf shall, on conviction, be punished with fine which may extend to one lakh rupees.

32. *Power to lay pipe lines, etc.*— (1) Within any area taken up for development under sub-clause (b) of clause (ii) of section 13, the Corporation, or any person empowered in this behalf by the Government by notification in the Official Gazette (hereinafter in this section referred to as "the authorized person"), may, for the purposes of (a) carrying gas, water or electricity from a source of supply to the said area or (b) constructing any sewers or drains through any intervening area, lay down, place, maintain, alter, remove or repair any pipes, pipe lines, conduits, supply or service lines, posts or other appliances or apparatus in, on, under, over, along or across any land in such areas.

(2) The Corporation or the authorized person may at any time enter upon any land in any such area and in such event the provisions of section 33 shall, mutatis mutandis, apply.

(3) While exercising the power conferred by sub-section (1), the Corporation or the authorized person shall cause as little damage as possible to property. Full compensation to all persons

interested for any damage sustained by them in consequence of the exercise of such power as aforesaid shall be paid, as the case may be, by the Corporation or, in the case of the authorized person, by the Government.

(4) Nothing herein shall authorise or empower the Corporation or the authorized person to lay down or place any pipe or other works into, through or against any building or in any land not dedicated to public use without the consent of the owner and occupiers thereof, except that the Corporation or such person may at any time enter upon and lay or place any new pipe in the place of an existing pipe in any land wherein any pipe has been already lawfully laid down or placed in pursuance of this Act, and may repair or alter any pipe so laid down:

Provided that, nothing in the aforesaid provision shall be construed to mean that the Corporation or other person is forbidden from having the said land acquired at any time by the Government in the normal course.

33. *Powers of entry.*— Any officer of the Government, or that of the Corporation, either generally or specially authorized by the Government or the Corporation, in this behalf, may enter into or upon any land or building with or without assistants or workmen for the purpose of,-

(a) making any inspection, survey, measurement, valuation or enquiry or taking levels of such land or building;

(b) examining works under construction and ascertaining the course of sewers and drains;

(c) digging or boring into the sub-soil;

(d) setting out boundaries and intended lines of work;

(e) marking such levels, boundaries and lines by placing marks and cutting trenches; 5

(f) doing any other thing necessary for the efficient administration of this Act:

Provided that,—

(i) no such entry shall be made except between the hours of sunrise and sunset and without giving reasonable notice to the occupier, or of there be no occupier, to the owner of the land or building; 10

(ii) sufficient opportunity shall in every instance be given to enable women (if any), to withdraw from such land or building; 15

(iii) due regard shall always be had, so far as may be compatible with exigencies of the purpose for which the entry is made, to the social and religious usages of the occupants of the land or building erected. 20

34. *Officers of the Corporation may be vested with other powers.*— The Government may, by notification in the Official Gazette, nominate any officer of the Corporation to be a controller or licensing authority under any law for the time being in force relating to the procurement or distribution of any commodity in respect of the facilities for solid waste and other waste management established or to be established in the solid waste management area/site or in such 25 30

areas entrusted to or developed by the Corporation and no such nomination shall be called into question merely on the ground that such officer is not an officer of the Government.

5 35. *Overriding powers of Government to issue directions to local authorities.*— Notwithstanding anything contained in any other law, or in any licence or permit, if the Government is satisfied, 10 either on a recommendation made in this behalf by the Corporation or otherwise, that the setting up of solid waste or other waste management facility (whether within a solid waste management area/site or outside) is impeded by a local 15 authority's refusal to grant, or by such authority's insistence on conditions which the Government considers unreasonable for the grant of, any amenity, the Government may direct the local authority to grant such amenity on such conditions 20 as it may consider fit, and thereupon the amenity shall be granted:

25 Provided that the charge to be paid for granting or continuing such amenity to the local authority concerned is not less than the cost to the local authority or licensee concerned for providing such amenity:

30 Provided further that no such direction shall be issued by the Government unless the local authority shall have been given a reasonable opportunity to show cause why any such direction should not be made.

35 36. *Declaration of solid waste management area/site*— (1) Notwithstanding anything to the contrary contained in any other State law for the

time being in force, the Government may, by notification in the Official Gazette,-

(a) for the purpose of establishing facilities for solid waste and other waste management, and its disposal, declare any area as solid waste management area/site;- 5

(b) appoint the Corporation or any officer or Committee thereof for the purpose of the assessment and recovery of any taxes when imposed as per the provisions made thereof; 10

(c) declare that the provisions of any law relating to local authorities providing for control or erection of buildings, levy and collection of taxes, fees and other dues to the local authority which is in force in that area / site shall cease to apply and thereupon such provisions shall cease to apply thereof: 15

Provided that the local authority which were receiving house tax from the occupants in the solid waste management area / site under their respective laws, shall be compensated by the Government to the extent of the last financial year's collection of taxes for such period as may be determined by the Government which shall not be less than five years; 20 25

(d) make other provision as is necessary for the purpose of the enforcement of the provision so provided to that area / site.

(2) Before the publication of a notification under sub-section (1), the Government shall cause to be published in the Official Gazette and also in at least one newspaper published in a language other than 30

English and circulating in the area to be specified in the notification, and inviting from all persons who have any objections to the said proposal, to submit the same in writing with reasons thereof to the Government within one month from the date of publication of the proclamation in the Official Gazette. 5

(3) No such notification under sub-section (1) shall be issued by the Government, unless the objections, if any, so submitted under sub-section (2) are, in its opinion, insufficient or invalid. 10

37. *Recovery of sums due to the Corporation as arrears of land revenue.*— All sums payable by any person to the Corporation or recoverable by it by or under this Act and all charges or expenses incurred in connection therewith shall, without prejudice to any other mode of recovery, be recoverable as arrears of land revenue on the application of the Corporation. 15

38. Service of notices, etc.— (1) All notices, orders and other documents required by this Act or any rule made hereunder to be served upon any person shall, save as otherwise provided in this Act or such rule be deemed to be duly served,- 20 25

(a) where the person to be served is a company, if the service is effected in accordance with the provisions of section 51 of the Companies Act, 1956 (1 of 1956);

(b) where the person to be served is a firm, if the document is addressed to the firm at it's 30

principal place of business identifying it by the name or style under which it's business is carried on, and is either,-

(i) sent under a certificate of posting or by registered post; or 5

(ii) left at the said place of business;

(c) where the person to be served is a statutory public body or a corporation or a society or other body, if the document is addressed to the secretary, treasurer or other chief officer of that body, corporation or society at it's principal office and is either, - 10

(i) sent under a certificate of posting or by registered post; or

(ii) left at that office or at the place of establishment; 15

(d) in any other case, if the document is addressed to the person to be served and,-

(i) is given or tendered to him, or office or place of establishment; 20

(ii) if such person cannot be found, is affixed on some conspicuous part of his last known place of residence or business or is given or tendered to some adult member of his family or is affixed on some conspicuous part of the land or building to which it relates; or 25

(iii) is sent under a certificate of posting or by registered post to that person.

(2) Any document which is required or authorized to be served on the owner or occupier 30

of any land or building may be addressed to "the owner" or "the occupier", as the case may be, of that land or building (naming that land or building) without further name or description, and shall be deemed to be duly served,-- 5

(a) if the document so addressed is sent or delivered in accordance with clause (d) of subsection (1); or

(b) if the document so addressed or a copy thereof so addressed, is given or tendered to some person on the land or building or, where there is no person on the land or building to whom it can be delivered, is affixed on some conspicuous part of the land or building. 10

(3) Where a document is served on a firm in accordance with this section, the document shall be deemed to be served on each partner. 15

(4) For the purpose of enabling any document to be served on the owner of any property, the occupier (if any), of the property may be required by notice in writing by the Government or the Corporation, as the case may be, to state the name and address of the owner thereof. 20

39. *Public notices how to be made known.*—
Every public notice given under this Act or any rule made hereunder shall be in writing over the signature of the officer concerned and shall be widely made known in the locality to be affected thereby affixing copies thereof in conspicuous public places, within the said locality, or by publishing the same by beat of drum or by advertisement in a local newspaper, or by any two 25 30

or more of these means, and by any other means that the officer may think fit.

40. *Notices, etc. to fix reasonable time.*— Where any notice, order or other document issued or made under this Act or any rule made hereunder requires anything to be done for the doing of which no time is fixed by this Act or the rule, the notice, order or other document shall specify a reasonable period of time for doing the same or complying therewith.

41. *Furnishing of returns, etc.*— (1) The Corporation shall furnish to the Government such returns, statistics, reports, accounts and other information with respect to its conduct of affairs, properties or activities or in regard to any proposed work or scheme as the Government may from time to time require.

(2) The Corporation shall, in addition to the audit report referred to in section 25, furnish to the Government an annual report on it's working as soon as may be after the end of each financial year in such form and detail as may be prescribed, and a copy of the annual report shall be placed before the Legislative Assembly as soon as may be after it is received by the Government.

42. *Withdrawal of area/site or part thereof.*— Where the Government is satisfied that in respect of any particular solid waste management area/site, or any part thereof, the purpose for which the Corporation was established under this Act, has been substantially achieved so as to render the continued existence of such area/site or part thereof under the Corporation

unnecessary, the Government may, by notification in the Official Gazette, declare that such solid waste management area/site or part thereof has been removed from the jurisdiction of the Corporation. The Government may also make such other incidental arrangements for the administration of such area/site or part thereof as the circumstances necessitate.

43. *Default in performance of duty.*— (1) If the Government is satisfied that the Corporation has made a default in performing of any duty or obligation imposed or cast on it by or under this Act, the Government may fix a period for the performance of that duty or obligation and give notice to the Corporation accordingly.

(2) If, in the opinion of the Government, the Corporation fails or neglects to perform such duty or obligation within the period so fixed for it's performance, it shall be lawful for the Government to supersede and reconstitute the Corporation, as it deems fit.

(3) After the supersession of the Corporation and until it is re-constituted in the manner laid down in Chapter II, the powers, duties and functions of the Corporation under this Act shall be carried on by the Government or by such officer or officers or body of officers as the Government may appoint for this purpose from time to time.

(4) All property vested in the Corporation shall during the period of supersession vest in the Government.

44. *Dissolution of Corporation.*— (1) Where the Government is satisfied that the purposes for which

the Corporation was established under this Act have been substantially achieved so as to render the continued existence of the Corporation in the opinion of the Government unnecessary, the Government may, by notification in the Official Gazette, declare that the Corporation shall be dissolved with effect from such date as may be specified in the notification, whereupon the Corporation, shall be deemed to be dissolved accordingly.

(2) From the said date,—

(a) all properties, funds and dues which are vested in, or realisable by, the Corporation shall vest in, or be realisable by, the Government;

(b) all liabilities which are enforceable against the Corporation shall be enforceable against the Government.

45. *Authority for prosecution.*— Unless otherwise expressly provided, no Court shall take cognizance of any offence relating to property belonging to, or vested by or under this Act, in the Corporation, punishable under this Act, except on the complaint of, or upon information received from the Corporation or some person authorized by the Corporation by general or special order in this behalf.

46. *Composition of offences by Corporation.*— (1) The Corporation or any person authorized by the Corporation by general or special order in this behalf may, either before or after the institution of the proceedings, compound any offence made punishable by or under this Act.

(2) Where an offence has been compounded, the offender, if in custody, shall be discharged and no further proceedings shall be taken against him in respect of the offence compounded.

47. *Offence by companies.*— (1) Where an offence under this Act has been committed by a company, every person who, at the time the offence was committed, was in charge of, or was responsible to, the company, for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this subsection shall render any such person liable to any punishment under this Act if he proves that the offence was committed without his knowledge and that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.— For the purposes of this section,—

(a) "company" means a body corporate and includes a firm or other association of individuals; and

(b) "director" in relation to a firm, means a partner in the firm.

48. *Penalty for obstruction.*— (1) Any person who obstructs the entry of a person authorized under section 33 or any person with whom the Corporation has entered into a contract for the performance and execution of any act by such person, to enter into or upon any land or building or molests such person after such entry or who obstructs the lawful exercise by him of any power conferred by or under this Act shall, on conviction by a competent court, be punished with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

(2) If any person removes any mark set up for the purpose of indicating any level, boundary line, or direction necessary to the execution of works authorized under this Act, he shall, on conviction, be punished with imprisonment for a term which may extend to three months or with fine which may extend to rupees ten thousand or with both.

49. *Power to make Rules.*— (1) The Government, after consultation with the Corporation in regard to matters concerning it, may, by notification in the Official Gazette, make rules to carry out the purposes of this Act:

Provided that a consultation with the Corporation shall not be necessary on the first occasion of the making of rules under this section, but the Government shall take into consideration any suggestions which the Corporation may make in relation to the amendment of such rules after they are made.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) under section 6, the honorarium or compensatory allowance of the Directors including the Chairperson of the Corporation;

(b) under section 7, the time and place of meetings of the Corporation and the procedure to be followed in regard to the transaction of business at such meetings;

(c) under section 12, the conditions of appointment and service of the Managing Director, Chief Accounts Officer and other officers and servants of the Corporation;

(d) under section 18 (2), the sums of money to be kept by the Corporation in current and deposit accounts;

(e) under section 18 (3), the officers of the Corporation who may operate its accounts;

(f) under section 20, the conditions subject to which the Corporation may borrow;

(g) under section 24, the date by which the annual financial statement and programme of work shall be submitted by the Corporation to the Government and the form and manner of preparing such statement;

(h) under section 25, the form and manner of maintaining accounts;

(i) under section 29 (2), the manner in which Government lands shall be dealt with by the Corporation after development;

(j) under section 31, the additional terms and condition subject to which land and building in solid waste management area/site may be held or used;

(k) under section 41, the form of, and the details to be given in, the annual report; 5

(l) the fees which may be charged by the Corporation;

(m) any other matter which has to be, or may be, prescribed by rules. 10

(3) All rules made under this section shall be laid before the Legislative Assembly as soon as possible after they are made, and shall be subject to such modifications as the Assembly may make during the session in which they are so laid, or the session immediately following. 15

50. *Protection of action taken in good faith.*— No suit, prosecution or other legal proceedings shall lie against any person for anything which is in good faith done or intended to be done under this Act or any rule made hereunder. 20

51. *Notice of suit and limitation of suits against the Corporation, Committees, officers and servants for acts done in pursuance of execution of this Act.*— (1) No suit shall lie against the Corporation or against any Committee constituted under this Act or against any Officer, or servant of the Corporation in respect of any act done in pursuance of the execution or intended execution of this Act, or in respect of any alleged neglect, or default in the execution of this Act,— 25 30

(a) unless it is commenced within six months after the accrual of the cause of action; and

(b) until the expiration of two months after the notice in writing has been, in the case of the Corporation or it's Committee, delivered or left at the Corporation's office and in the case of an officer or servant of the Corporation, delivered to him or left at his office or place of abode and all such notices shall state with reasonable particulars the cause of action and the name and place of abode of the intending plaintiff and of his advocate, pleader, or agent, if any, for the purpose of the suit. 5 10

(2) If the defendant in any such suit is an officer, or servant of the Corporation, payment of any sum or part thereof payable by him in or in consequence of the suit may, with the sanction of the Corporation, be made from the Corporation funds. 15

52. *Directors, officers and staff of Corporation to be public servants.*— All directors, officers and servants of the Corporation shall, when acting or purporting to act in pursuance of any of the provisions of this Act, be deemed to be public servants within the meaning of section 21 of the Indian Penal Code, 1860 (45 of 1860). 20 25

53. *Power to remove doubts and difficulties.*— (1) If any difficulty arises in giving effect to the provisions of this Act, the Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act which appear to it to be necessary or expedient for the purpose of removing the difficulty: 30

Provided that no order shall be made under this section after the expiry of two years from the commencement of this Act.

(2) Every order made under this section shall, as soon as may be after it is made, be laid before the State Legislature. 5

54. Act to have overriding effect.— The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other State law. 10

Statement of Objects and Reasons

There is an urgent requirement for securing the establishment and orderly development of requisite facilities, to manage Solid Waste in the State of Goa. The Municipal Solid Wastes (Management and Handling) Rules, 2000 have been framed by the Central Government under the Environment (Protection) Act, 1986 (29 of 1986) so as to regulate the management and handling of the municipal solid wastes, which are applicable to municipal areas only. There is also an urgent need to address the problem of waste disposal at village panchayat / rural areas of the State of Goa in a co-ordinated and effective manner. A special focus requires to be given for management of waste in coastal belts, rural areas and other such areas as proposed by the Government. For this purpose, it is required to establish the Goa Solid Waste Management Corporation to assist generally in the organization and scientific management of Solid Waste in such areas in the State of Goa. The Goa Solid Waste Management Corporation would promote and assist in the rapid and orderly establishment, growth and development of Solid Waste Management services and facilities in the State of Goa, in order to develop and create such clean and sustainable waste free environment in the State. The Goa Solid Waste Management Corporation shall develop solid waste service facility, promote and implement scheme for managing solid waste and other waste at household, institutional, corporate, village panchayat level and also develop facilities related to information dissemination and creation of awareness for the purpose of educating general public and other establishments. The said

Corporation would encourage development of research facility and provide aid to such organization / individuals / institution to implement new models and also to undertake schemes or works with other corporate bodies or institution or with the Government, in furtherance of the purpose for which the Corporation is established.

This Bill seeks to achieve the above object.

Financial Memorandum

The Bill provides for establishment of the Goa Solid Waste Management Corporation. In furtherance to achieving its objectives and functions, the Corporation shall acquire certain fixed assets, land and building, machinery and employ staff for which purpose the Government through Department of Science, Technology and Environment (DSTE) shall provide for sufficient Grant-in-aid in the first instance to achieve establishment of the Corporation. The Corporation is expected to generate such revenue from its solid waste management projects and facilities which would provide for upkeep and maintenance of the facilities of the Corporation.

Memorandum Regarding Delegated Legislation

Clause 1 (3) of the Bill empowers the Government to appoint a date, by notification in the Official Gazette, for bringing into force the Act.

Clause 2 (a) of the Bill empowers the Government to specify an amenity by notification in the Official Gazette.

Clause 3 (1) of the Bill empowers the Government to establish, by notification in the Official Gazette, the Goa Solid Waste Management Corporation.

Clause 6 (2) of the Bill empowers the Government to frame rules to specify the honorarium or compensatory allowance entitled to the Chairperson and Directors of the Corporation.

Clause 7 (1) of the Bill empowers the Corporation to frame rules providing for the time, place of meeting of Corporation and the rules of procedure in regard to the transaction of its business.

Clause 12 (3) of the Bill empowers the Government to frame rules specifying the conditions of appointment and service of the Managing Director, the Chief Accounts Officer and other officers and servants of the Corporation.

Clause 18 (2) of the Bill empowers the Government to frame rules specifying the sums of money to be kept by the Corporation in current and deposit accounts.

Clause 18 (3) of the Bill empowers the Corporation to make rules authorizing the officers

of the Corporation who may operate the accounts of the Corporation.

Clause 20 of the Bill empowers the Government to frame rules to specify the conditions subject to which the Corporation may borrow money.

Clause 24 of the Bill empowers the Government to frame rules specifying the date by which the annual financial statement and programme of work to be submitted by the Corporation and the form and manner of preparing such statements.

Clause 25 of the Bill empowers the Government to frame rules specifying the form and manner of maintaining accounts of the Corporation.

Clause 29 of the Bill empowers the Corporation to frame rules specifying the manner in which lands shall be dealt with by the Corporation after development.

Clause 30 (3) of the Bill empowers the Government to fix the rate of interest by an order.

Clause 32 of the Bill empowers the Government to empower any person, by notification in the Official Gazette, to lay down, place, maintain, alter, remove or repair any pipe, pipelines, conduits, etc.

Clause 34 of the Bill empowers the Government to nominate, by notification in the Official Gazette, any officer of the Corporation to be a controller or licensing authority under any law.

Clause 36 (a) of the Bill empowers the Government to declare any area as Solid Waste Management area/site by notification in the Official Gazette.

Clause 41 of the Bill empowers the Government to frame rules specifying the form and details of the annual report.

Clause 42 of the Bill empowers the Government to declare, by notification in the Official Gazette, that Solid Waste Management area/site or part thereof has been removed from the jurisdiction of the Corporation.

Clause 45 of the Bill empowers the Corporation to authorize a person by general or special order, to make complaint or give information of any offence relating to property of the Corporation.

Clause 49 of the Bill empowers the Government to frame rules for carrying out the purposes of the Act.

Clause 53 of the Bill empowers the Government to make order for removing any doubt or difficulty, which arose while giving effect to the provisions of the Act.

These delegations are of normal character.

Place:
Secretariat,
New Annexe,
Porvorim-Goa, 403 521

(ALEIXO SEQUEIRA)
**Minister for Environment
Government of Goa**

Date: 31-07-2009

Place:
Goa Legislative Assembly,
Goa Legislature Secretariat
Porvorim - Goa, 403 521

(J. N. BRAGANZA)
Secretary (Legislature)

Date: 31-07-2009

Governor's Recommendation

The Governor has, in pursuance of Article 207 of the Constitution of India, recommended to the Legislative Assembly, the introduction and consideration of the Goa Solid Waste Management Corporation Bill, 2009.