

LOCAL GOVERNMENT (REGIONAL REFUSE DISPOSAL) BILL 1978

EXPLANATORY NOTES.

The purpose of this Bill is to provide legislative authority for municipal councils to join together to make long term plans for the disposal of refuse on a regional basis.

In its 1971 Progress Report on the Disposal or Destruction of Garbage and Other Rubbish the State Development Committee recommended, amongst other things, that the State's future refuse disposal needs be planned and co-ordinated on the basis of the needs of whole cities or regions and that the Government give maximum encouragement to the promotion and development of regional disposal schemes involving a number of councils.

Since then four regional groups have been formed in the metropolitan area on an informal basis. The legislation now proposed will provide a statutory basis for existing as well as future regions. It is of a flexible nature and will permit regional groups to function in whatever manner the participating councils consider to be appropriate, subject to the requirements of the agreed strategy plan for the region.

The new provisions are to be inserted in the Local Government Act as Part 41 (the former Part 41 was repealed in 1977). They are set out in Clause 2 of the Bill and the first is—

Section 812 which defines various terms used in the legislation.

Section 812A authorises the Governor in Council to declare any two or more municipal districts to be a refuse disposal region. Any Order made for this purpose may be subsequently revoked or amended if the councils concerned are first given an opportunity to express their views.

Section 812B authorises the Governor in Council, on the application of not less than two thirds of the municipalities whose municipal districts are in a refuse disposal region, to declare all the municipalities in the region to be a regional refuse disposal group. If a municipal district is added to or severed from a region the municipality concerned automatically becomes a member of the regional group or (as the case may be) ceases to be a member. The Governor in Council also has power to make an Order dissolving a regional group.

Section 812C provides for the approval by the Minister of a constitution for a regional group. On approval by the Minister, whether with or without amendments, the constitution is binding on all members. At any time after formation of a group all members may jointly submit a draft constitution for approval of the Minister but if no constitution has been submitted within six months after declaration of the group, two thirds of the members may submit a draft. The Minister, after consulting other members of the group, may approve the constitution with or without amendments.

Section 812D sets out the matters which must be dealt with in the constitution of a regional group. These include provision for—

- (i) Appointment of a committee of councillors.
- (ii) Apportionment of costs and expenses amongst members.
- (iii) The drawing up of general plans or strategies for the disposal of refuse for which the members are responsible.
- (iv) Guidelines for Host/Guest agreements.

Councils must dispose of refuse for which they are responsible in a manner which accords with the general plan in force for the regional group to which they belong. Any council which is a member of a group is expressly prohibited from entering into any agreement relating to use of a refuse disposal site which it owns or partly owns or which it manages if this will or may prejudice the general plan for the region and, further, may not fix any charge for refuse disposal which could prejudice the operation of the plan.

Section 812E provides that at least two thirds of the members of a group may resolve to amend the constitution of the group. The Minister, after consulting the members who do not favour the amendment, may approve the proposal with or without amendments.

Section 812F. The committee of a regional group will be a body corporate. Only sitting councillors may be members. A committee may employ staff and for the purposes of long service leave for its staff will be deemed to be a municipal council. Member councils of the group may assign officers or employees to work for the committee.

A committee may invest any moneys which it may have in the same way as a municipal council may invest its municipal fund and will have the same powers to enter contracts as a municipal council.

Section 812G requires the committee of a regional group to prepare and submit to member councils on or before the 31st August an estimate showing the nature and amount of expenditure proposed for the year beginning on the next succeeding 1st of October.

A council may object to any item and a dispute is then deemed to arise which must be settled in the prescribed manner. Subject to this each council must contribute the amount for which it is liable before the following 31st October or such other date or dates agreed on by the committee of the refuse group and the council concerned.

Councils may borrow for contributions towards capital works of a committee provided the works, if carried out by a council, would be permanent works or undertakings within the meaning of Part 15.

Committees are required to keep moneys received in an account and to apply such moneys only towards the performance and discharge of its functions.

Sections 812H and *812I* provide for appointment of auditors, qualified to audit the accounts of municipalities, to carry out audits of the accounts and other records which every committee is required to keep. Provisions similar to those applying to municipal councils have been adopted and Inspectors of Municipal Administration are given the same powers with respect to committees as they have in relation to municipal councils.

Section 812J. A committee may borrow money on the security of its assets and, with consent of the Minister, may obtain advances from banks by overdraft of its current account for the purpose of executing any work or undertaking for which councils are authorised to borrow. For the purpose of temporary accommodation a committee may obtain an overdraft not exceeding any amount due to the committee at the time by way of annual contributions from member councils of the group.

Section 812K. A committee may purchase or lease land by agreement. It may take land compulsorily (other than land of a municipality or other public authority) as if it were a municipal council and the region its municipal district. When a committee proposes to acquire land it must give to the council in whose municipal district the land is situated an opportunity to buy the land itself, either for its own use or the use of the committee. If the council objects that the land should not be used for the purpose for which the committee proposes to use it a dispute is deemed to arise between the council and the committee which must be settled by arbitration in the prescribed manner.

Section 812L. A committee may sell land no longer required for the purposes of the group but must first offer it to the council in whose municipal district it is situated. The price must be the market value as determined by the Valuer General or such lesser amount as is agreed upon by the parties. Leases of such land may be granted under the same conditions which apply to leases of land by municipal councils.

Section 812M. Councils may jointly agree to purchase or lease land or equipment or to erect buildings for refuse disposal purposes. Each council is authorised to borrow for the purpose of meeting its share of the cost.

Section 812N makes provision for the settlement of disputes which may arise between two or more regional groups, councils or committees. The parties may agree on an arbitrator or refer the matter to the Minister who may arbitrate himself or appoint an arbitrator. Whoever arbitrates will have the powers conferred on the Minister by the Principal Act for the settlement of disputes between councils and his decision will be final.

Section 812O applies to meetings of committees of regional groups the provisions of section 181 of the Principal Act which imposes certain disabilities on councillors who have pecuniary interests in matters being discussed by their councils. The provisions are being applied with the necessary alterations and adaptations.

Section 812P. A committee may, with the approval of the Governor in Council, make by-laws for carrying into effect the purposes of the legislation. It may also, subject to the constitution of the group, fix charges for receiving refuse at any depot which it has established.

Clause 3 makes amendments to the Health Act in relation to the powers and duties of councils with respect to refuse disposal to provide for the occasions when the powers are exercised or the duties performed by the committee of a regional group.

Clause 4 provides that committees of regional refuse disposal groups shall be "authorities" for the purposes of the *Local Authorities Superannuation Act 1958* so that any employees of a Committee may contribute for superannuation pursuant to that legislation.