

THE WASTE REDUCTION AND PREVENTION ACT

Table of Contents

Regulations

(Assented to March 15, 1990)

WHEREAS the volume of waste generated in Manitoba is a threat to the environment;

AND WHEREAS action is required to reduce and prevent waste;

AND WHEREAS governments, government agencies and all members of society are responsible for reducing and preventing waste;

AND WHEREAS that responsibility includes contributing toward the cost of waste reduction and prevention;

THEREFORE HER MAJESTY, by and with the advice and consent of the Legislative Assembly of Manitoba, enacts as follows:

Purpose

1(1) The purpose of this Act is to reduce and prevent the production and disposal of waste in the province consistent with the principles of sustainable development and to this end

(a) to encourage consumers, manufacturers, distributors, retailers, governments, government agencies and other persons to develop and adopt practices and programs for the reduction and prevention of waste;

(b) to enhance public awareness of the detrimental effect of waste on the environment and the natural resources of the province; and

(c) to ensure the use of resources and the environment today meet the needs of the present without compromising the ability of future generations to meet their own needs.

Principles of sustainable development

1(2) For the purpose of subsection (1) the principles of sustainable development include the following:

(a) that government, manufacturers, distributors and retailers acknowledge their stewardship for wastes generated;

(b) that sustaining a healthy environment and sound economy requires all Manitobans to acknowledge responsibility for both the environment and the economy, by reducing and preventing the production and disposal of waste;

(c) that waste minimization through reducing and recycling, including reuse and recovery, be encouraged and promoted;

(d) that scientific research and technological innovations respecting waste reduction and prevention be encouraged with a view to preventing and reducing adverse impact on the environment and economy;

(e) that decisions respecting waste management be made with due regard for their impact on the environment, including human health, and that waste management programs and initiatives be instituted with due regard for their economic impact;

(f) that waste management policies, programs and decisions anticipate, prevent or mitigate adverse environmental and economic impacts;

(g) that government, manufacturers, distributors and retailers assist in the maintenance of ecological processes and the biological diversity of the province, ensure that the management of renewable resources is based on a sustained yield and make decisions that reflect wise and efficient use of renewable and non-renewable resources;

(h) that all Manitobans have a role in enhancing the long term productive capability, quality and capacity of our natural ecosystems;

(i) that policies, programs and decisions take into account the need to rehabilitate any part of the environment that is damaged or degraded as a result of waste disposal and management;

(j) that the ecological interdependence of the provinces and territories of Canada and of the nations of the world be recognized.

S.M. 1994, c. 22, s. 2.

Definitions

2 In this Act,

"additional WRAP levy" means an additional levy for waste reduction and prevention as provided in the regulations; (« cotisation RVPD supplémentaire »)

"designated material" means a designated material within the meaning of the regulations; (« matériau désigné »)

"environment officer" means a person appointed as an environment officer under subsection 7(2); (« agent de l'environnement »)

"industry operated WRAP fund" means a waste reduction and prevention fund within the meaning of the regulations; (« fonds RVPD géré par une industrie »)

"minister" means the member of the Executive Council charged by the Lieutenant Governor in Council with the administration of this Act; (« ministre »)

"recycle" means to do anything, including reuse or recover, that results in providing a use for a thing that otherwise would be disposed of or dealt with as waste, including collecting, transporting, handling, storing, sorting, separating, and processing the thing, but does not include the disposal of waste in land, the use of a thermal destruction process or any other activity prescribed by regulation; (« recyclage »)

"retailer" means a retailer within the meaning of the regulations; (« détaillant »)

"waste" means waste within the meaning of *The Environment Act*; (« déchets »)

"waste reduction and prevention" includes recycling; (« réduction du volume et de la production des déchets »)

"WRAP levy" means a levy for waste reduction and prevention as provided in the regulations. (« cotisation RVPD »)

S.M. 1994, c. 22, s. 3.

Powers of minister

3 To carry out the purpose of this Act, the minister may

(a) consult with manufacturers, distributors, retailers, consumers, governments, government agencies and other persons and make recommendations with respect to improving waste reduction and prevention programs and practices;

(b) encourage manufacturers, distributors, retailers, consumers, governments, government agencies and other persons to implement programs and practices to reduce and prevent waste;

(c) monitor the waste reduction and prevention programs and practices of manufacturers, distributors, retailers, consumers, governments and government agencies;

(d) undertake, or by means of grants or other assistance, support and encourage programs or research in the field of waste reduction and prevention;

(e) cause the preparation and publication of educational materials pertaining to waste reduction and prevention;

(f) enter into any agreements respecting waste reduction and prevention that the minister considers advisable; and

(g) generally, do any acts the minister considers necessary to carry out the purpose of this Act.

S.M. 1994, c. 22, s. 4.

WRAP Strategy Report by minister

4 The minister shall cause to be prepared within six months from the date of the coming into force of this section and annually thereafter, a "Waste Reduction and Prevention Strategy Report" which includes the following information:

- (a) a statement of specific goals relating to waste reduction and prevention;
- (b) a plan setting out the means of achieving these goals; and
- (c) a report on waste reduction and prevention activities in the province.

Tabling of report

5 The minister shall lay the report referred to in section 4 before the Legislative Assembly immediately if the Legislative Assembly is in session, or, if the Legislative Assembly is not in session, the minister shall

- (a) without delay, provide a copy of the report to each member of the Legislative Assembly;
- (b) make copies of the report available to the public; and
- (c) lay the report before the Legislative Assembly within 15 days of the beginning of the next ensuing session.

Advisory committee

6(1) The minister shall establish an advisory committee for the purpose of providing advice and assistance in carrying out the purpose of this Act.

Minister's powers with respect to the committee

6(2) The minister may, with respect to the committee established under this section,

- (a) appoint or provide for the manner of appointment of its members;
- (b) prescribe the term of office of any member; and
- (c) designate a chairperson.

Powers and duties of committee

6(3) The committee established under this section shall advise the minister in respect of

- (a) the purposes of this Act and its implementation; and
- (b) any exemption proposed to be made by regulation;

and shall exercise any powers and perform the duties and functions that the minister approves, confers or imposes on it.

S.M. 1994, c. 22, s. 5.

Delegation of powers

7(1) The minister may delegate any duty or power imposed on the minister by this Act or the regulations, to a person who is under the responsibility of the minister.

Appointment of environment officers

7(2) The minister may in writing appoint persons to be environment officers for the purpose of this Act and the regulations.

S.M. 1994, c. 22, s. 6.

8 to 11 Repealed.

S.M. 1994, c. 22, s. 7.

WRAP levies to be collected

- 12 A person who manufactures or distributes a designated material, and a retailer, shall
- (a) collect the WRAP levies and additional WRAP levies prescribed by regulation for the designated material; and
 - (b) remit them;

in accordance with the regulations.

S.M. 1994, c. 22, s. 8.

WRAP levies to be paid

13 A person who manufactures or distributes a designated material, and a retailer, shall, in accordance with the regulations, pay the WRAP levies and additional WRAP levies prescribed by regulation for the designated material.

S.M. 1994, c. 22, s. 8.

Industry operated WRAP funds

- 14 When
- (a) an industry operated WRAP fund is established under the regulations; and
 - (b) a management board or other body is established and charged with the administration of the fund under the regulations;

the fund shall be used to provide or pay for the following in accordance with the regulations:

- (c) establishing and administering waste reduction and prevention programs;
- (d) education programs for the purpose of waste reduction and prevention;
- (e) expenditures incurred in the collection, transportation, storage, processing and disposal of the waste for the purposes of waste reduction and prevention programs;
- (f) research and development activities related to waste reduction and prevention;
- (g) promotion and development of activities and economic instruments to encourage waste reduction and prevention;
- (h) promotion and development for marketing of the products resulting from recycling;
- (i) the appropriate disposal of designated material;
- (j) salaries and other costs of the management board or other body charged with the administration of the fund;
- (k) salaries and other costs of the government for the administration and enforcement of this Act and the regulations as they relate to the responsibilities of the management board or other body under this Act and the regulations respecting waste reduction and prevention;

(l) such other activities in relation to waste reduction and prevention as are prescribed by regulation.

S.M. 1994, c. 22, s. 8.

15 Repealed.

S.M. 1994, c. 22, s. 8.

16 Repealed.

S.M. 1994, c. 22, s. 8.

Powers of environment officers

17 For the purpose of enforcing and administering this Act, an environment officer may at any reasonable time, and where requested upon presentation of an identification card issued by the minister,

- (a) without a warrant, enter any building, vehicle or other place and make such inspections as may be reasonably required to determine compliance with this Act or the regulations;
- (b) require the production of any record that the environment officer reasonably considers necessary for the purpose of enforcing and administering this Act or the regulations; and
- (c) examine and make copies of any record referred to in clause (b).

Entry with order

18(1) Where a justice is satisfied by information under oath that there are reasonable grounds for believing that it is necessary for an environment officer to enter any building, vehicle or other place for the enforcement of this Act or the regulations, and

- (a) a reasonable, unsuccessful effort to effect entry without the use of force has been made; or
- (b) there are reasonable grounds for believing that entry would be denied without a warrant;

the justice may at any time, and where necessary upon ex parte application, issue an order authorizing an environment officer, and such other persons as may be named therein, with such peace officers as are required to assist, to enter the building, vehicle or other place and to take any action that an environment officer may take under section 17.

Warrant to enter and seize

18(2) A justice who is satisfied by information under oath that there are reasonable and probable grounds for believing that

- (a) a violation of this Act or the regulations has occurred or is occurring; and
- (b) there is to be found in any building, vehicle or other place in the province a record or other thing that affords evidence of the violation;

may at any time, and where necessary upon ex parte application, issue a warrant authorizing an environment officer, and such other persons as may be named therein, with such peace officers as are required to assist, to enter and search the building, vehicle or other place for the record or thing, and to seize it and bring it before a justice, or report on it to a justice, to be dealt with according to law.

Assistance to environment officers

18.1(1) The person in charge of a building, vehicle or other place referred to in clause 17(a) and any other person found in that place who is under that person's direction shall

- (a) give the environment officer all reasonable assistance to enable the environment officer to carry out his or her functions under this Act; and

(b) furnish the environment officer with any information he or she may reasonably require for the enforcement and administration of this Act or the regulations.

Obstruction of environment officers

18.1(2) No person shall hinder, obstruct or interfere with an environment officer in the carrying out of his or her functions under this Act.

S.M. 1994, c. 22, s. 9.

Offences

19 A person who contravenes this Act or the regulations is guilty of an offence.

S.M. 1994, c. 22, s. 10.

Penalties

20(1) Every person who is guilty of an offence under this Act is liable, on summary conviction, to a fine of not more than \$25,000. or to imprisonment for a term of not more than one year, or to both and where the person is a corporation, to a fine of not more than \$250,000.

Additional penalty

20(2) A judge may, in addition to any penalty imposed under subsection (1), require the convicted person to pay an additional fine that takes into account

(a) any monetary benefit, or estimated monetary benefit, that accrues to the convicted person as a result of the offence; and

(b) any environmental damage that results from the commission of the offence, and the cost or estimated cost of rectifying the environmental damage.

Offence by director of corporation

21 Any officer, director or agent of a corporation who directs, authorizes, assents to, acquiesces in or participates in the commission of an offence is a party to and guilty of the offence and is liable on conviction to the penalties set out in section 20.

Regulations

22(1) The Lieutenant Governor in Council may make regulations

(a) defining "retailer" for the purposes of this Act or any regulation under this Act including defining it to include any other person who provides a designated material for use in Manitoba;

(b) prescribing activities for the purpose of the definition of "recycle";

(c) designating designated material for the purpose of this Act and creating different classes of designated material for different purposes;

(d) prohibiting and regulating the manufacture, distribution or sale of specified designated material;

(e) providing for a system of licensing of retailers and persons who manufacture or distribute or wish to manufacture or distribute a designated material in Manitoba and respecting requirements for licensing and all matters related to the system of licensing including the fees for application for a licence and the issue, suspension and cancellation of licences;

(f) respecting the insurance to be carried or the security to be given by a manufacturer or distributor of designated material or by a retailer, including the forfeiture of the security and the disposition of the proceeds of insurance or security;

(g) respecting the development and implementation of a waste reduction and prevention plan for designated material by manufacturers or distributors of the designated material or by any other person;

(h) respecting the establishment and operation of waste reduction and prevention programs;

- (i) requiring and respecting the recycling of designated material;
- (j) respecting WRAP levies and additional WRAP levies, including regulations
 - (i) establishing, or providing for the manner of establishing, the classes of designated material for which WRAP levies and additional WRAP levies are payable,
 - (ii) prescribing the amounts of WRAP levies and additional WRAP levies or the method of determining them and the circumstances in which additional WRAP levies are payable,
 - (iii) prescribing the amounts of penalties to be paid on WRAP levies and additional WRAP levies that are paid late, or the method of determining their amount, and
 - (iv) providing for the manner in which and the times at which WRAP levies and additional WRAP levies are to be collected, paid or refunded, and for the remittance of those levies;
- (k) requiring manufacturers, distributors or retailers of designated material to collect the designated material, and specifying the manner in which the collection is to be carried out;
- (l) respecting the manner in which designated material is to be stored, collected, transported and recycled;
- (m) respecting a system of deposits and refunds on designated material, including regulations
 - (i) establishing, or providing for the manner of establishing, the classes of designated material in respect of which deposits and refunds are payable,
 - (ii) prescribing the amount of the deposits, refunds and handling fees, or the method of determining them,
 - (iii) respecting the payment of deposits, refunds and handling fees,
 - (iv) respecting the disposition of unrefunded deposits, and
 - (v) providing for all matters related to the system of deposits and refunds;
- (n) respecting the establishment and operation of depots, including the qualifications of persons who may operate them;
- (o) respecting the amount and kind of designated material a retailer is required to accept at the retailer's place of business for recycling;
- (p) specifying designated material for which payment must be made by a retailer or depot operator on its return for recycling;
- (q) requiring a retailer or depot operator to pay a specified amount for designated material returned for recycling;
- (r) requiring manufacturers or distributors to pay depot operators and retailers in respect of the collection of designated material, and prescribing the amount of the payments or the manner in which they are to be calculated;
- (s) respecting the keeping, submission and inspection of records;
- (t) respecting the provision of information, reports and returns in respect of designated material;
- (u) governing the packaging and labelling of designated material;
- (v) governing the content of recycled material required in commodities;
- (w) respecting the use of packaging materials;
- (x) providing for the establishment of a management board or other body, as a corporation or otherwise, for any purpose in connection with a regulation under this subsection and governing its operation and the application of *The Corporations Act* to a management board or other body that is incorporated;

(y) authorizing a management board or other body established under regulations under clause (x) to make by-laws, and respecting the subject-matters on which such by-laws may be made, including

(i) the conduct of its business and affairs, and

(ii) any matter on which a regulation may be made under this subsection;

(z) establishing an industry operated WRAP fund to be administered by a management board or other body established under clause (x) and governing its operation, transfer and winding-up;

(aa) respecting the salaries and costs of government for the purpose of clause 14(k);

(bb) prescribing other activities in relation to waste reduction and prevention for the purpose of clause 14(l);

(cc) defining any word or expression used but not defined in this Act;

(dd) respecting any matter the Lieutenant Governor in Council considers necessary or advisable to carry out the intent and purpose of this Act.

Public consultation in regulation development

22(2) Except in circumstances considered by the minister to be of an emergency nature, in the development of regulations under this Act, the minister, in the case of a regulation proposed to be made by the Lieutenant Governor in Council, and a management board or other body established under clause (1)(x) in the case of a by-law proposed to be made under clause (1)(y), shall provide an opportunity for public consultation and seek advice and recommendations regarding the proposed regulations.

Standards adopted by regulation

22(3) A regulation made under subsection (1) may adopt or incorporate by reference a code, standard or body of rules established by another jurisdiction or recognized organization, and the standard may be adopted or incorporated by reference as amended from time to time.

WRAP levies not public money

22(4) WRAP levies and additional WRAP levies under clause (1)(j) that are paid or remitted to an industry operated WRAP fund are not public moneys within the meaning of *The Financial Administration Act*.

S.M. 1994, c. 22, s. 11.

Regulations applicable to part of province

23 The Lieutenant Governor in Council may make regulations with respect to the whole or any part of the province.

Crown bound

24 The Crown is bound by the provisions of this Act.

Citation

25 This Act may be cited as *The Waste Reduction and Prevention Act* and may be published in *The Continuing Consolidation of the Statutes of Manitoba* under that title and may be referred to as chapter W40 of those Statutes.

S.M. 1994, c. 22, s. 12.

NOTE: S.M. 1989-90, c. 60 was proclaimed in force August 31, 1990.