

2021-12-10

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This Bill would provide for the capture, collection, treatment and reuse of wastewater to be used for various purposes.

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BARBADOS

A Bill entitled

An Act to provide for the capture, collection, treatment and reuse of wastewater to be used for various purposes.

ENACTED by the Parliament of Barbados as follows:

PART I

PRELIMINARY

Short title

1. This Act may be cited as the *Water Reuse Act, 2021*.

Interpretation

2. In this Act,

“agricultural wastewater” means

- (a) the excess water that runs off the field or other areas during surface irrigation or watering areas containing salts, nutrients, pesticides, herbicides and other agricultural chemicals from the fields;
- (b) the water effluent high in organic matter from crops, processing plants and businesses preparing processed food, operated by and for farmers, usually in centralized facilities; or
- (c) the wastewater produced from caring for and slaughtering farm animals;

“black water” means wastewater including human faeces or excrement with paper and urine;

“brown water” means wastewater and paper mixed with human faeces or excrement;

“Committee” means the Water Reuse Committee established under section 4;

“Director” means the public office established under the *Public Service Act*, Cap. 29 for the purpose of managing the Environmental Protection Department;

“domestic wastewater” means yellow water, brown water, black water and grey water generated as wastewater from the kitchen, shower, wash basin, toilet and laundry in a household or other similar building;

“edible crops” means crops for human consumption;

“effluent” means any liquid, other than storm water or uncontaminated water, solid or gas containing organic, inorganic, animal, vegetable or mineral matter in solution or in suspension;

“Environmental Health Officer I” means the public office established under the *Public Service Act, Cap. 29*;

“Environmental Health Officer II” means the public office established under the *Public Service Act, Cap. 29*;

“Environmental Inspector I” means the public office established under the *Public Service Act, Cap. 29*;

“Environmental Inspector II” means the public office established under the *Public Service Act, Cap. 29*;

“Environmental Protection Department” means the department established under the *Public Service (General) Order, 2020 (S.I. 2020 No. 41)*;

“grey water” means wastewater used in the kitchen, bathroom sinks, shower, and laundry in a household or other similar building;

“industrial wastewater” means wastewater containing toxic or non-toxic chemical compounds or biological matter

- (a) generated in the manufacturing process or industrial processes as means of cooling during the manufacturing process or industrial process;
- (b) generated in the production process which is later separated; or
- (c) generated in office buildings, stores, shops and commercial centres;

“inspector” means

- (a) the Director;
- (b) the Senior Environmental Inspector;
- (c) an Environmental Inspector I;
- (d) an Environmental Inspector II;
- (e) an Environmental Health Officer I;
- (f) an Environmental Health Officer II; or
- (g) an Environmental Protection Officer;

“Minister” means the Minister with responsibility for the environment;

“non-potable” means water made from reclaimed water which is not treated to a standard to be used as potable water;

“potable water” means water which is of a standard of treatment or quality which makes it suitable for domestic use or human consumption;

“public officer” has the meaning assigned to it under section 2 of the *Public Service Act*, Cap. 29;

“reclaimed water” means water collected from agriculture wastewater, industrial water, domestic waste water or surface run-off which is treated or processed for the use of the public or for use in a manner which may affect or impact the public;

“Senior Environmental Inspector” means the public office established under the *Public Service Act*, Cap. 29;

“surface run-off” means water from precipitation running over the landscape;

“night soil” has the meaning assigned to it by regulation 2 of the *Health Services (Disposal of Offensive Matter) Regulations, 1969* (S.I. 1969 No. 160);

“yellow water” means wastewater mixed with human urine;

“wastewater” means

- (a) agricultural wastewater;
- (b) domestic wastewater;
- (c) industrial wastewater;
- (d) effluent; and
- (e) surface run-off.

“wastewater treatment permit” means the permit granted under section 11 for a person to operate a wastewater treatment plant and to use that plant for the discharge of wastewater as well as for the treatment of such wastewater or reclaimed water to produce non-potable water for sale to person pursuant to this Act.

Environmental Protection Department

3.(1) The Director of the Environmental Protection Department and the staff thereof shall generally administer this Act.

(2) The Director and the staff of the Environmental Protection Department shall

- (a) do all such things as appear to be necessary or expedient for the purpose of the efficient administration of this Act;
- (b) monitor persons granted permits and otherwise to determine whether an infringement of the Act has occurred; and
- (c) ensure compliance with the provisions of this Act.

PART II

WATER REUSE COMMITTEE AND RELATED MATTERS

Establishment of the Committee

4.(1) There is hereby established a Committee to be known as the Water Reuse Committee.

(2) The provisions of the *First Schedule* shall have effect with respect to the constitution and management of the Water Reuse Committee and otherwise in relation thereto.

Functions of the Committee

5. The functions of the Water Reuse Committee are to
- (a) consider and make determinations or decisions with respect to an application for a wastewater treatment permit;
 - (b) determine the suitability of certain premises and the structures thereon for a wastewater treatment permit;
 - (c) require the Director to issue a wastewater treatment permit;
 - (d) monitor a person granted a wastewater treatment permit to ensure compliance with the terms and conditions of wastewater treatment permit issued to that person; and
 - (e) inquire into complaints made against any person granted a wastewater treatment permit.

Powers of the Committee

6. The Water Reuse Committee may
- (a) require a person to appear before the Committee to answer questions, produce reports or produce documents in respect of an application for a wastewater treatment permit;

- (b) require the production of any report or document where it is reasonably believed to contain information relevant to the application for a wastewater treatment permit and take and keep copies thereof;
- (c) make inquiries of any person, whether orally or in writing with respect to an application for a wastewater treatment permit or in relation to premises subject to a wastewater treatment permit or with respect to any matter related to this Act; or
- (d) require any person to appear before the Committee to answer questions or produce documents in respect of a complaint made to the Committee.

Disclosure of interest

7.(1) A member of the Committee who directly or indirectly has an interest in any wastewater treatment permit or other matter whatsoever which falls to be considered by the Committee, shall disclose the nature of his interest to the other members of the Committee at a meeting of the Committee, and the disclosure shall be recorded in the minutes taken at that meeting of the Committee, and that member shall not take part in any deliberation or decision of the Committee relating to the licence or other matter.

(2) A disclosure made by a member of the Committee under subsection (1), to the effect that he is a director or shareholder, or has a significant economic relationship with a specific company, firm or other person or is to be regarded as interested in any contract which is made with the company, firm or other person shall, for the purposes of subsection (1), be a sufficient disclosure of his interest in relation to any contract so made.

(3) No action, suit, prosecution or other proceedings shall be brought or instituted personally against any member of the Committee in respect of any act done *bona fide* in pursuance of their duties, functions or in execution of this Act.

Obligation to secrecy

8.(1) Every public officer or person having an official duty or being employed in the administration of this Act shall regard as confidential, any

information given to that person for the purposes of this Act, including any information contained in databases, registers, records or documents kept for the purposes of this Act and used by that person in the performance of his duties.

(2) Notwithstanding subsection (1), a public officer or person may disclose information in any of the following circumstances

- (a) pursuant to an order of the Court;
- (b) to any person or an employee of the Government of Barbados, where the public officer or person is authorised or required to do so in the performance of his duties;
- (c) where disclosure is permitted under any other enactment; or
- (d) where the person to whom the confidential information relates consents to the disclosure.

(3) A person who receives information pursuant to subsection (2) shall regard and deal with that information as confidential.

(4) A person who contravenes this section is guilty of an offence and is liable on summary conviction to a fine of \$3 500 or to imprisonment for a term of one year.

Directions of the Minister

9. The Minister may give directions of a general nature as to the policy to be followed by the Director and the Committee in the performance of their functions under this Act, as appear to the Minister to be necessary in the public interest, and the Director and the Committee shall comply with those directions.

Powers of an inspector

10.(1) An inspector may

- (a) enter and inspect any premises for the purposes of investigating or assessing an application for a wastewater treatment permit, where required to do so by the Director;

- (b) enter and search any premises subject to a wastewater treatment permit at anytime for the purposes of assessing compliance or any infringement with the provisions of this Act;
- (c) take a sample from any system subject to a wastewater treatment permit;
- (d) stop and search any vehicle on premises in respect of which a wastewater treatment permit has been granted;
- (e) require the production of any report or any document which is reasonably believed to contain information relevant to wastewater treatment permit; or
- (f) exercise any other power related to inspection or investigation granted under this Act.

(2) An inspector may require a police officer to be present, where the inspector acts in accordance with paragraph (b) of subsection (1) and that police officer shall assist the inspector in the search of the premises.

(3) An inspector exercising powers under this section shall identify himself by the production of the identification issued to him by the Minister.

(4) For the purposes of this section,
“search” includes taking a copy of any document, taking a photograph or taking a video or a voice recording or anything related thereto; or

“vehicle” means a septic tank or any other similar motor vehicle which is used to transport wastewater, reclaimed water or non-potable water.

Inspections

11.(1) The Director may on the advice of the Committee or otherwise require an inspection to assess an application or at anytime to ensure compliance with the Act.

(2) An inspector may, for the purposes of assessing an application or compliance with the requirements of this Act, enter onto any premises or enter

into any private road connected therewith and make such examinations, investigations, inspections or other studies as he considers necessary.

(3) The Director may on the request of the Committee send a person possessing a particular expertise, who is not a public officer, to assess or inspect any premises in respect of an application, and that expert shall

- (a) be given an instrument in writing from the Minister identifying him;
- (b) only enter the premises with an inspector; and
- (c) submit a report to the Committee.

(4) An inspector shall submit a written report within 21 days of an inspection to the Director and that report shall

- (a) make a recommendation with respect to the application for a permit, where relevant;
- (b) state whether person granted the permit is in compliance with the law, or state specific the breaches of the Act or terms or conditions of a licence;
- (c) state what actions need to be taken to correct the breach, if any, and the date by which the required action must be completed;
- (d) state the date of the re-inspection to assess compliance; or
- (e) recommend the required action to be taken where a re-inspection reveals non-compliance;

(5) A person shall not hinder an inspector, an authorised officer or an expert appointed under this Act

- (a) in the performance of his duties;
- (b) by giving false information or misleading declarations;
- (c) by bribing the inspector, authorised officer or expert; or
- (d) by refusing to provide information, reports or documents, required under this Act.

(6) A person who contravenes subsection (5) is guilty of an offence and is liable on summary conviction to a fine of \$50 000 or to imprisonment for 5 years or to both.

PART III

PERMIT APPLICATION AND ADMINISTRATION

Wastewater treatment permit

12.(1) A person seeking to operate a waste water treatment plant to treat wastewater or reclaimed water may use

- (a) agricultural wastewater;
- (b) industrial wastewater;
- (c) domestic wastewater; or
- (d) surface runoff,

to provide a source of water which is to be sold for non-potable domestic or household use, commercial use, agricultural use or for industrial use and for uses related thereto.

(2) A person seeking to operate under subsection (1) shall obtain a wastewater treatment permit.

(3) The Director, with the approval of the Committee, shall issue guidelines for persons seeking to apply for a wastewater treatment permit, and those guidelines shall give information with respect to the application process, inclusive of the documents to be submitted with the application, and information on the process for issuing a waste water treatment permit.

(4) The Committee shall not consider an application where the person has not complied with the guidelines issued by the Director, and that person shall be notified of that fact in writing.

- (5) A person seeking a wastewater treatment permit shall apply in such form as the Committee requires, pay the application fee specified in the *Second Schedule* and submit such information with the application as the Committee may require.
- (6) An application under this section as well as the relevant documents may be submitted
 - (a) in an electronic format for the attention of the Director; or
 - (b) by delivering the application and the relevant documents to the office of the Environmental Protection Department for the attention of the Director.
- (7) Where the Director receives an application under subsection (5), that application and all of the required documents shall be sent to the Committee, and the Committee shall review the application and all required documentation and make a determination or decision on the application.
- (8) The Committee may decide to
 - (a) suspend the consideration of the application until the matters identified by the Committee as requiring rectification are addressed to the satisfaction of the Committee;
 - (b) approve the application and grant the permit; or
 - (c) deny the application.
- (9) Where the Committee suspends consideration of an application, it shall notify the person in writing of the matters which must be rectified for the applicant to qualify for a wastewater treatment permit.
- (10) The Committee shall notify an applicant in writing of a decision to deny or approve an application in writing, and where the decision is to grant the wastewater treatment permit, the notice shall state that the wastewater treatment permit will be issued on the payment of the fee specified in the *Second Schedule* and the waste water treatment permit shall be issued to that person in the form set out as Form 1 in the *Third Schedule*.

- (11) The Director shall, on behalf of the Committee, issue a wastewater treatment permit granted by the Committee.
- (12) A wastewater treatment permit issued in accordance with this section shall be subject to such terms or conditions as the Committee specifies in that permit.
- (13) A wastewater treatment permit granted under this section, is not transferable, and may be renewed on a further application made under this section, and that application may be made at least one month before the expiration of the permit.
- (14) A person who contravenes subsection (2) is guilty of an offence and is liable on summary conviction to a fine of \$ 200 000, or to imprisonment for a term of 10 years or to both
- (15) A person who sells or shares non-potable water produced from wastewater or reclaimed water without a wastewater treatment permit is guilty of an offence and is liable on summary conviction to a fine of \$ 200 000, or to imprisonment for a term of 10 years or to both.

Uses of non-potable water

- 13.(1)** A person may use non-potable water from a wastewater treatment plant for
- (a) domestic or household needs such as the flushing of water closets, for the watering or irrigation for ornamental plants or trees and household gardens and the cleaning of outdoor surfaces and for related uses;
 - (b) commercial uses such as the cleaning of outdoor surfaces, the flushing of water closets, the irrigation and watering of ornamental plants or trees and for related uses;
 - (c) agricultural uses such as the watering or irrigation of edible crops or ornamental plants or trees and cleaning of outdoor surfaces and animal pens, coops or holding areas and for related uses;

Registers

14.(1) The Director shall keep for the use of the Committee, a register to be known as the “Wastewater Register”, and that register shall contain the following particulars:

- (a) the name, address and contact number of a person granted a wastewater treatment permit;
- (b) the number of the wastewater treatment permit issued to that person;
- (c) the date the wastewater treatment permit was issued as well as the date of expiration;
- (d) the company name, company registration number, registered business address of the company and the name of the Directors of the company; and
- (e) specify the periods of suspension of the permit and the date of revocation of the permit.

(2) The Director shall publish in the *Official Gazette*, a list of the persons granted a wastewater treatment permit, as well as the registered business address of that person.

Warning or caution letters

15.(1) In circumstances where an inspection reveals an area of concern which was the subject of a prior request for redress or rectification, the Director may issue a written warning to the person issued the wastewater treatment permit requiring that the area of concern be addressed within a specified time period.

(2) The warning in writing issued under subsection (1) shall

- (a) state the area of concern;
- (b) give details of prior written requests for the redress of the area of concern;

- (c) indicate what needs to be rectified and the date by which compliance is required; and
 - (d) state the number of times written requests were sent to the permit holder requesting the redress of the area of concern; and
 - (e) state the result of noncompliance such as suspension or cancellation.
- (3) A person issued a wastewater treatment permit who rectifies the areas of concern before the period stated in subsection (2)(c) may request a re-inspection and pay the re-inspection fee specified in the *Second Schedule*, and that inspection shall be done in accordance with this Act.
- (4) Where the Director issues more than one warning under subsection (1), he may revoke or suspend the wastewater treatment permit .

Revocation and Suspension of licence

16.(1) The Director may with immediate effect, suspend or revoke a wastewater treatment permit where

- (a) the person granted the wastewater treatment permit fails or refuses to comply with this Act or with any request or direction given by notice in writing under this Act;
- (b) the person granted the wastewater treatment permit is convicted of an offence under this Act;
- (c) there is a direct or indirect danger to the health or safety of persons using the non-potable water from a wastewater treatment plant, and the relevant authorities have given the necessary notifications under the *Health Services Act*, Cap. 44, *Safety and Health at Work Act*, Cap. 356 or under any other relevant enactment;
- (d) the person granted the wastewater treatment permit has altered operations in such a manner that it no longer complies with the wastewater treatment permit issued to that person; or

- (e) the person granted the wastewater treatment permit, his agent or his employee refuses to permit an inspection in accordance with the Act.
- (2) Where the Director determines that it is necessary to suspend or revoke a wastewater treatment permit, he shall issue notice of that fact in writing to the person granted the permit, and that notice shall state
 - (a) the reason for the suspension or revocation, and where the issue can be rectified, a time period by which the matter should be rectified or the suspension or revocation take effect; or
 - (b) that the person has 10 days from the date of the notice of the suspension or revocation to submit reasons to the Director why the permit should not be suspended or revoked.
- (3) Where a suitable explanation has not been received from the person granted the wastewater treatment permit, at the end of the time period mentioned in subsection (2), the permit may be revoked or suspended, and the person shall be notified in writing.
- (4) Where the Minister revokes or suspends a wastewater treatment permit, the Minister shall publish a notice of the suspension or revocation in the *Official Gazette*, and where the publication relates to a suspension, it shall state the period of the suspension.
- (5) Where a wastewater treatment permit is revoked or suspended under this section, no person shall perform any of actions or activities authorised by the permit.
- (6) A person who contravenes subsection (5) is guilty of an offence and is liable on summary conviction to a fine of \$250 000 or to imprisonment for 10 years or to both.

Amendment of Permit

- 17.(1)** The Director may amend a wastewater treatment permit to
- (a) change the particulars in a permit where the person granted the permit has changed the address of the business, changed the company name or changed the registered business name;
 - (b) change the particulars in a permit where the person granted the permit has changed their name or changed their residential address; or
 - (c) amend the terms or conditions under which the permit is granted.
- (2) The Director may require information or documents to confirm the information under subsection (1).
- (3) Where the Director acts under subsection (1)(c), he shall not amend a wastewater treatment permit without giving the person written notice of the intended action and the reason for it, and an opportunity to make representations in relation thereto.

Display of Permit

- 18.(1)** A person granted a wastewater treatment permit may display a copy of that permit in a conspicuous place on the premises where he operates his business, and shall where the permit is not displayed, ensure that the permit is available to be inspected on request.
- (2) The Director shall publish in the *Official Gazette* by the 31st of January each year a list of persons issued a permit under this Act.

Duty due to suspension or revocation

- 19.(1)** In circumstances where the Director suspends or revokes a wastewater treatment permit the person granted that permit shall discontinue the activity to which the permit relates.

(2) A person who contravenes subsection (1) is guilty of an offence and is liable on summary conviction to a fine of \$ 250 000 or to imprisonment for 10 years or to both.

PART IV

MISCELLANEOUS

Amendment of Schedule

20. The Minister may by an order amend the *Schedules*.

General Offences

21.(1) Any person who

- (a) distributes, produces, treats or sells non-potable water without a wastewater treatment permit;
- (b) fails to register a person who purchases non-potable water;
- (c) allows water to be available for domestic use or human consumption which is not suitable for domestic use or human consumption;
- (d) uses non-potable water as potable water in a manner that may endanger members of the public;
- (e) fails to comply with the terms and conditions of a wastewater treatment permit; or
- (f) uses night soil, yellow water, black water or brown water to water, irrigate or treat edible crops which are to be sold or which are sold or given to any person for use or consumption by that person or another person

is guilty of an offence.

(2) A person who contravenes subsection (1) is guilty of an offence and is liable on summary conviction to a fine of \$500 000 or to imprisonment for 5 years or to both.

Offence continuing after conviction

22. Where a person is convicted under this Act, and the contravention continues after conviction, then, unless he has a reasonable excuse for the continued contravention, he is guilty of a further offence under this Act and may, on conviction, be penalized in accordance with section 21(2).

Regulations

23.(1) The Minister may make regulations prescribing

- (a) the standards of treatment to be applied to obtain non-potable water from wastewater or reclaimed water;
- (b) standards for the treatment of wastewater or reclaimed water to be used by a wastewater treatment plant;
- (c) the standards to be used to construct retaining walls, storage tanks, buildings and other relevant structures to be used with respect to storage, treatment of wastewater or reclaimed water;
- (d) the standards to be applied in plumbing works, such as colour coding or labelling and other related matters for the use of reclaimed water;
- (e) mechanisms and standards to be applied to wastewater discharge as well as the manner of wastewater or reclaimed water discharge;
- (f) tests to be used internally by a person granted a wastewater treatment permit and the form and procedure for submission of the testing information to the Water Reuse Committee or the Director;
- (g) the safe operating procedures for persons granted a wastewater treatment permit under the Act;

- (h) the forms and types training and certification which a person issued wastewater treatment permit must ensure among employees;
 - (i) such fees and forms as may be required; or
 - (j) administrative penalties to assist with ensuring compliance with the Act; or
 - (k) generally, for giving effect to this Act.
- (2) Where the regulations made under this Act create an offence, the regulations may provide for such offences to be tried summarily or on indictment and the regulations may prescribe the following penalties:
- (a) in the case of an offence triable summarily, a fine of \$500 000 or imprisonment for a term of 5 years or to both; or
 - (b) in the case of an offence triable on indictment, a fine of \$1 000 000 or imprisonment for a term of 8 years or to both.

Act binds the State

- 24.** This Act binds the State.

Commencement

- 25.** This Act shall come into force on a day to be fixed by proclamation.

FIRST SCHEDULE

(Section 3)

Constitution of the Water Reuse Committee

1. The Water Reuse Committee shall comprise 7 persons and be composed in the manner specified in paragraph 2.
2. The Water Reuse Committee shall consist of the following:
 - (a) Chief Medical Officer, *ex officio* or his nominee;
 - (b) Director, *ex officio* or his nominee;
 - (c) Solicitor General, *ex officio* or his nominee;
 - (d) Director, Coastal Zone Management Unit *ex officio* or his nominee;
 - (e) Chief Agricultural Officer, *ex officio* or his nominee;
 - (f) Director, Government Analytical Services *ex officio* or his nominee; and
 - (h) Chief Town Planner *ex officio* or his nominee.
3. The Director shall be the Chairman and the Chairman may at any time summon a meeting of the Committee.
4. The Chief Medical Officer shall be the Deputy Chairman for the purposes of the Committee and shall in the absence of the Chairman function as the chairman of the Committee.
5. The Minister shall assign a public officer from the Ministry with responsibility for water reuse, as secretary to the Committee to assist the Committee with such clerical and secretarial duties as may be required.
6. Five members of the Committee shall form a quorum, and, subject to this Act, the Committee may regulate its own procedure and proceedings.

7. (1) Subject paragraph 3, the Committee shall meet at such times as may be necessary or expedient for the transaction of its business.
- (2) Subject paragraph 8, the Committee shall meet at such places as may be necessary or expedient for the transaction of its business.
- (3) The public officer assigned under paragraph 5 shall ensure that proper minutes are kept for each meeting and that these minutes are confirmed and approved verbally or in writing at each subsequent meeting or confirmed prior to such a meeting by an electronic means that the Committee permits by agreement.
- (4) The decisions of the Committee shall be by a majority of votes and, in addition to an original vote, the person presiding as chairman at a meeting shall have a casting vote in any case in which the voting is equal.
- (5) The validity of the proceedings of the Committee shall not be affected by any vacancy amongst the members of the Committee.
8. The Committee shall be subject to such directions of a general character in respect of the policy and practice to be followed in the exercise of its functions under the Act as the Minister may give.

SECOND SCHEDULE*(Sections 10, 11 and 15)*

<i>Application Fees and Permit Fees</i>	
Application fee for a Wastewater Treatment Permit	\$50.00
Grant of a Wastewater Treatment Permit	\$200.00
Re-inspection fee	\$150.00

THIRD SCHEDULE

(Section 11)



Water Reuse Act, 2021

FORM 1

WASTEWATER TREATMENT PERMIT

Permit Number: _____

[company incorporated (insert company number) / registered business (insert certificate number)]
with a business [address of business or individual].

IS HEREBY AUTHORISED by the Water Reuse Committee to operate [type of business] in
accordance with section 10 of the *Water Reuse Act, 2021*.

This wastewater treatment permit is valid for one year commencing on the [date] day of [month]
[year].

TERMS AND CONDITIONS OF THE PERMIT

This wastewater treatment permit is subject to the following terms and conditions:

This licence expires on the ____day of _____,20

Dated the ____day of _____,20

Director

Chairman

Water Reuse Committee