

Standing Committee on
Economic Development
and Environment



Report on Bill 78: *Waste Reduction and Resource Recovery Act*

19th Northwest Territories Legislative Assembly

Chair: Mr. Jackie Jacobson

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ECONOMIC DEVELOPMENT AND ENVIRONMENT**

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**STANDING COMMITTEE ON
ECONOMIC DEVELOPMENT AND ENVIRONMENT**

**REPORT ON BILL 78: *WASTE REDUCTION AND RESOURCE RECOVERY
ACT***

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**STANDING COMMITTEE ON
ECONOMIC DEVELOPMENT AND ENVIRONMENT**

**REPORT ON BILL 78: *WASTE REDUCTION AND RESOURCE RECOVERY
ACT***

INTRODUCTION

Bill 78: *Waste Reduction and Resource Recovery Act*ⁱ (Bill 78) received second reading on March 29, 2023, and was referred to the Standing Committee on Economic Development and Environment (Committee) for review. Bill 78 repeals and replaces the *Waste Reduction and Recovery Act (Act)*, which has only had minor amendments since coming into force in 2003.

Bill 78 is intended to improve how the Government of the Northwest Territories (GNWT) manages waste reduction and resource recovery in the NWT by broadening the regulatory framework in accordance with GNWT's June 2019 *Waste Resource Management Strategy and Implementation Plan*,ⁱⁱ which set out the goals of preventing waste at the source, diverting waste from disposal, and improving "waste disposal facilities and practices."ⁱⁱⁱ

The new *Act* changes the following:

- Enables any new regulations required to implement amendments.
- Enables Extended Producer Responsibility (EPR) programs, which could shift responsibility for managing the disposal phase of consumer products and packaging from communities and taxpayers to producers.
- Clarifies Environment Fund contributions, disbursements, and administration.
- Expands the Minister's authority to appoint officers, to delegate responsibilities, to enter into agreements, and to create landfill disposal bans.
- Extends how long prosecution can happen after an alleged offense.
- Updates and modernizes enforcement and inspection provisions.
- Enables more responsive surcharges and fees through Ministerial Regulations.
- Redefines and clarifies terminology.^{iv}

COMMITTEE CONSIDERED PUBLIC INPUT

Committee sought public feedback on Bill 78 with a public notice and targeted engagement letters. On June 1, 2023, Committee held a public hearing in Yellowknife to review Bill 78.^v At that meeting, Committee heard remarks from the Minister of Environment and Climate Change and his staff.

One area of concern identified was the need to provide clarity and certainty with respect to the Minister's authority to enter into waste management agreements, and where information about these agreements would be publicly available. The Minister and his staff committed to look at these practices and to make information available on a website maintained by the department.

Committee initially expressed concerns about how EPR programs and other waste reduction initiatives might impact small communities in the NWT and questioned whether subsidies would cover the cost for implementation. The department says it consulted Indigenous Governments during the engagement process. Committee previously sent stakeholder letters to small communities and Indigenous Governments. Committee was pleased to hear that small communities are represented on the Waste Reduction and Recovery Advisory Committee and that new initiatives would be a net benefit to small communities. The department is already actively working to reduce the build-up of materials in landfills that may later be prohibited by new regulations. The Minister commented that the new *Act* will have no impact on Indigenous Land Rights or self-government agreement. Staff also noted that Indigenous Governments and small communities would be consulted during the development of regulations under the new *Act*.

Committee also raised concerns about bottle recycling, particularly establishing a new, satellite recycling facility in downtown Yellowknife. Committee asked questions about staffing the new depot, having cash on site for patrons, its location, and the feasibility of adding more recycling and waste disposal initiatives (i.e., removing tires from the waste cycle through EPR programs). Committee welcomed more of these initiatives.

Recommendation 1: Standing Committee on Economic Development and Environment recommends that the GNWT and the Department of Environment and Climate Change continue their efforts toward opening a second recycling facility in Yellowknife to improve access for residents and increase waste recovery. The Department should continue to explore new technology and methods towards waste reduction, diversion and recycling while creating local employment. Committee, therefore, further recommends that this second recycling facility be a staffed site with cash available to pay patrons.

Typically, Committee includes a recommendation in each report requesting a response from government within 120 days. The recommendation is then moved as a motion in the House and Cabinet is required to respond. However, since the 19th Legislative Assembly will dissolve in less than 120 days, Committee requests that the government provide a public response to this report at the earliest opportunity.

Committee also asked questions about whether the GNWT was investigating the disposal of industrial waste at accepted waste sites and how new initiatives might benefit the Remediation Economy.

Committee discussed seeking public input and the need for engagement before the creation of regulations under the new *Act*. For instance, Committee expressed an interest in more reporting and the need for transparency regarding the Environment Fund, as well as practical concerns about how EPR programs might affect residents trying to recycle tires for example, and whether they would have to bring that tire to a store rather than their local Solid Waste Facility.

After careful consideration, Committee supported five motions amending Bill 78. Committee negotiated the exact wording with the GNWT.

COMMITTEE AMENDED FIVE CLAUSES

Motions 1, 2, and 4

Both Committee and the GNWT supported the idea of making the Minister's delegated responsibilities and agreements public and that it was practical to publish agreements on the department's website. Committee and the GNWT agreed to add language after clauses 4(2), 4(5), and 16(3) regarding public notice. These changes would make public notice requirements mandatory for disposal bans and consistent with the provisions for public notice on prohibited materials.

Three motions reflecting these changes were passed and received concurrence from the Minister at the clause-by-clause review.

Motion 3

Committee recognizes that Waste Reduction and Recovery Advisory Committee plays an important role in bringing together various voices from communities, the private sector and the public about waste management initiatives. Committee discussed these bodies with the Minister at the Public Hearing and was of the view that the continuation of the current Committee should be a requirement and not at the discretion of the Minister. Committee and the GNWT agreed that changing the word "may" to "shall" in clause 5 would require the continuation of the Advisory Committees, their function, and the appointment of members. Committee agreed with the Department that the Minister should have the authority to establish more than one Advisory Committee. A motion reflecting these changes was passed at the clause-by-clause review and received Ministerial concurrence.

Motion 5

Committee is of the view that the Environment Fund is an important mechanism for cost recovery, encouraging better waste management, and creation of local employment but that there should be greater accountability through publication of a summary of its financial position. Following Committee's discussion of the Environment Fund and

finances at the Public Hearing, Committee and the GNWT agreed to adding language after clause 17 about audited financial statements and publishing these on the department's website. A motion reflecting this change was passed at the clause-by-clause review and received Ministerial concurrence.

CONCLUSION

On July 5, 2023, Committee held a clause-by-clause review.^{vi} Committee passed the motions to report Bill 78, as amended, to the Legislative Assembly as ready for consideration in Committee of the Whole (the Motions are found in Appendix A).

In the House on September XX, Bill 78: *Waste Reduction and Resource Recovery Act*, will be orally reported as ready for further consideration in Committee of the Whole. This concludes Standing Committee's review of Bill 78: *Waste Reduction and Resource Recovery Act*.

ENDNOTES

ⁱ Bill 78 is available at: https://www.ntassembly.ca/sites/assembly/files/bill_78.pdf

ⁱⁱ The Northwest Territories Waste Resource Management Strategy and Implementation Plan is available here: https://www.gov.nt.ca/ecc/sites/ecc/files/resources/waste_strategy_plan.pdf.

ⁱⁱⁱ Northwest Territories Waste Resource Management Strategy and Implementation Plan, 2019, pp. 20-24. Bill 78 updates the existing legislation and will allow the GNWT to bring forward corresponding regulations (these new regulations are still forthcoming but are preceded by the 2005 [Beverage Container Regulations](#), the 2009 [Single-use Retail Bag Regulations](#), and the 2015 [Electronics Recycling Program Regulations](#).)

^{iv} A plain language summary of Bill 77 is available at: https://www.ntassembly.ca/sites/assembly/files/td_908-192.pdf

^v Northwest Territories Legislative Assembly, YouTube channel, Standing Committee on Economic Development and Environment, Public Hearing regarding Bill 78, https://www.youtube.com/watch?v=yP8pb2SS-G8&list=PLZiv8ITEMg4fo9S_DcYUrTOdWdSmNYj4D&index=13.

^{vi} Northwest Territories Legislative Assembly, YouTube channel, Standing Committee on Economic Development and Environment

APPENDIX

5022\LJ\ML\DW\DRAFT#03\JUNE 27, 2023\MOTIONS\SECOND.19\ Motion 1 - Subclause 4(2.1) - Agreements
MEM/DW/27 JUN 2023/ÉB. 2

MOTION

WASTE REDUCTION
AND RESOURCE RECOVERY ACT

That Bill 78 be amended by adding the following after subclause 4(2):

(2.1) Where an agreement is entered into under subsection (1), the Minister shall make the following information available to the public by publishing it on a website maintained by the department responsible for the administration of this Act:

- (a) the name of the person or entity with whom the agreement has been entered into;
- (b) the powers, duties or functions that have been delegated to that person or entity under the agreement.

Delegation
to be made
public

MOTION

LOI SUR LA RÉDUCTION DES DÉCHETS
ET LA RÉCUPÉRATION DES RESSOURCES

Il est proposé que le projet de loi 78 soit modifié par insertion, après le paragraphe 4(2), de ce qui suit :

(2.1) Lorsqu'une entente est conclue en vertu du paragraphe (1), le ministre rend les renseignements suivants accessibles au public en les publiant sur un site Web géré par le ministère responsable de l'administration de la présente loi :

- a) le nom de la personne ou de l'entité avec qui l'entente a été conclue;
- b) les pouvoirs ou les attributions ayant été délégués à la personne ou à l'entité aux termes de l'entente.

Obligation
de rendre
accessible
au public

5022\LJ\ML\DW\DRAFT#01\JUNE 27, 2023\MOTIONS\SECOND.19\Motion 2 - Subclause 4(5.1) - Agreements
MEM/DW/27 JUIN 2023/ÉB. 1

MOTION

WASTE REDUCTION
AND RESOURCE RECOVERY ACT

That Bill 78 be amended by adding the following after subclause 4(5):

Agreements
to be made
public

(5.1) Where an agreement is entered into under subsection (4) or (5), the Minister shall make the agreement available to the public by publishing it on a website maintained by the department responsible for the administration of this Act.

MOTION

LOI SUR LA RÉDUCTION DES DÉCHETS
ET LA RÉCUPÉRATION DES RESSOURCES

Il est proposé que le projet de loi 78 soit modifié par insertion, après le paragraphe 4(5), de ce qui suit :

(5.1) Lorsqu'une entente est conclue en vertu du paragraphe (4) ou (5), le ministre la rend accessible au public en la publiant sur un site Web géré par le ministère responsable de l'administration de la présente loi.

Obligation de
rendre
accessible
au public

5022\LJ\ML\DW\DRAFT#02\JUNE 14, 2023\MOTIONS\SECOND.19\ Motion 3 - Clause 5 - Advisory Committee ASZ/MEM/DW/25 JUIN 2023/ÉB. 1

MOTION

WASTE REDUCTION
AND RESOURCE RECOVERY ACT

That Bill 78 be amended by deleting clause 5 and the heading immediately preceding that clause and substituting the following:

Advisory Committees

Establishment of Advisory Committees 5. (1) The Minister shall establish one or more Advisory Committees to provide advice and assistance relating to the establishment and operation of programs, systems or activities in respect of waste reduction or resource recovery.

Appointment of members (2) The Minister shall
(a) appoint members to an Advisory Committee established under subsection (1); and
(b) designate a chairperson for the Advisory Committee from among its members.

Functions of Advisory Committee (3) The Minister may specify the functions that an Advisory Committee is to perform and the manner in which the functions are to be performed.

MOTION

LOI SUR LA RÉDUCTION DES DÉCHETS
ET LA RÉCUPÉRATION DES RESSOURCES

Il est proposé que le projet de loi 78 soit modifié par suppression de l'article 5 et de l'intertitre qui précède immédiatement cet article, et par substitution de ce qui suit :

Comités consultatifs

5. (1) Le ministre constitue un ou plusieurs comités consultatifs qui fournissent des conseils au sujet de l'établissement et l'exploitation de programmes, de systèmes ou d'activités ayant trait à la réduction des déchets ou la récupération des ressources. Constitution des comités consultatifs

(2) Le ministre :
a) nomme les membres du comité consultatif constitué en vertu du paragraphe (1);
b) désigne, parmi les membres du comité consultatif, un président. Nomination des membres

(3) Le ministre peut préciser les fonctions d'un comité consultatif ainsi que les modalités selon lesquelles les fonctions doivent être exercées. Fonctions du comité consultatif

5022\LJ\ML\DW\DRAFT#02\JUNE 14, 2023\MOTIONS\SECOND.19\ Motion 4 - Clause 16.1 -
 Notice of Regulations ASZ/MEM/DW/25 JUIN 2023/ÉB. 1

MOTION

WASTE REDUCTION
 AND RESOURCE RECOVERY ACT

That Bill 78 be amended by deleting subclause 16(3) and substituting the following:

Public Notice of Disposal Bans or
 Prohibited Material

Public notice
 of disposal
 bans or
 prohibited
 material

16.1. If the Commissioner in Executive Council makes regulations under subsection 15(1) or 16(1), the Minister shall cause a notice of the regulations to be given

- (a) by means of publication on a website commonly accessed in the Northwest Territories or in a newspaper broadly circulated in the Northwest Territories;
- (b) by radio or television broadcasts; or
- (c) by a combination of these media.

MOTION

LOI SUR LA RÉDUCTION DES DÉCHETS
 ET LA RÉCUPÉRATION DES RESSOURCES

Il est proposé que le projet de loi 78 soit modifié par suppression du paragraphe 16(3) et par substitution de ce qui suit :

Avis au sujet des interdictions
 ou des matériaux interdits

16.1. Si le commissaire en Conseil exécutif prend un règlement en vertu du paragraphe 15(1) ou 16(1), le ministre fait émettre un avis annonçant le règlement à l'aide de l'une ou l'autre des méthodes suivantes :

- a) la publication sur un site Web qui est fréquemment consulté dans les Territoires du Nord-Ouest ou dans un journal à diffusion générale dans les Territoires du Nord-Ouest;
- b) la diffusion à la radio ou à la télévision;
- c) une combinaison de ces médias.

Avis au sujet
 des
 interdictions
 ou des
 matériaux
 interdits

5022\LJ\ML\DW\DRAFT#03\JUNE 27, 2023\MOTIONS\SECOND.19\ Motion 5 - Clause 17.1 - Audited Financial Statements ASZ/MEM/DW/27 JUIN 2023/ÉB. 2

MOTION

WASTE REDUCTION
AND RESOURCE RECOVERY ACT

That Bill 78 be amended by adding the following after section 17:

Definitions

17.1. (1) In this section,

"fiscal year" means the period beginning on April 1 in one year and ending on March 31 in the next year; (*exercice*)

"Public Accounts" means the Public Accounts as defined in subsection 1(1) of the *Financial Administration Act*. (*comptes publics*)

Audited financial statements

(2) The Minister shall, on or before December 31 following the end of each fiscal year, make available to the public the audited financial statements of the Environment Fund that are to form part of the Public Accounts for that year, by publishing the financial statements on a website maintained by the department responsible for the administration of this Act.

MOTION

LOI SUR LA RÉDUCTION DES DÉCHETS
ET LA RÉCUPÉRATION DES RESSOURCES

Il est proposé que le projet de loi 78 soit modifié par insertion, après l'article 17, de ce qui suit :

17.1. (1) Les définitions suivantes s'appliquent au présent article. Définitions

«comptes publics» Les comptes publics au sens du paragraphe 1(1) de la *Loi sur la gestion des finances publiques*. (*Public Accounts*)

«exercice» s'entend de la période commençant le 1^{er} avril d'une année et se terminant le 31 mars de l'année suivante. (*fiscal year*)

(2) Le ministre, au plus tard le 31 décembre suivant la fin de chaque exercice, rend les états financiers vérifiés du Fonds environnemental qui font partie des comptes publics pour cet exercice disponibles au public en les publiant sur un site Web géré par le ministre responsable de l'administration de la présente loi. États financiers vérifiés