



BERMUDA

PUBLIC HEALTH AMENDMENT (NO. 2) ACT 2020

2020 : 24

WHEREAS it is expedient to amend the Public Health Act 1949;

Be it enacted by The Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and the House of Assembly of Bermuda, and by the authority of the same, as follows:

Citation

1 This Act, which amends the Public Health Act 1949 ("the principal Act"), may be cited as the Public Health Amendment (No. 2) Act 2020.

Amends section 66

2 In section 66(1) of the principal Act, after the definition of "communicable disease of the second category", insert—

"public health emergency order" means an order declaring a public health emergency under section 107A(1);".

Inserts sections 107A and 107B

3 In Part V of the principal Act, insert after section 107—

"Order declaring public health emergency

107A (1) If, after consultation with the Chief Medical Officer, it appears to the Minister that—

- (a) a communicable disease that poses a severe threat to public health exists in any part of Bermuda; or

- (b) there is an immediate risk of an outbreak of such disease in any part of Bermuda,

and that it is necessary in the interests of public health to take extraordinary measures to prevent, control or suppress the disease, the Minister may by order (a “public health emergency order”) subject to the negative resolution procedure, declare a public health emergency.

(2) Subject to subsection (3), a public health emergency order shall have effect for a period not exceeding 30 days.

(3) A public health emergency order may before it ceases to have effect be extended for further periods not exceeding 60 days (beginning on the date on which it would otherwise cease to have effect) at a time.

(4) Any extension under subsection (3) shall be made by order subject to the affirmative resolution procedure.

Regulations in public health emergency

107B (1) Regulations under this section may be made, and shall have effect, only during a period in which there is in force a public health emergency order.

(2) The Governor, on the advice of the Minister, may make such regulations as appear to him to be necessary for the prevention, control or suppression of a communicable disease in respect of which a public health emergency order is in force, and such regulations may, in particular—

- (a) prescribe measures that a person is required to take to protect public health in specified places or circumstances;
- (b) restrict a person, at any time or during such times as may be specified in the regulations, from being outside his home or from being in any other place;
- (c) prescribe any other measures necessary to prevent, control or suppress the spread of the disease;
- (d) provide for guidance to be issued by the Minister on precautions to be taken and procedures to be followed for the prevention, control or suppression of the disease.

(3) Regulations under this section may be made so as to apply—

- (a) to a person, class of persons, or persons generally;
- (b) to such places, parts of Bermuda or circumstances as may be specified therein,

and different provision may be made in respect of different persons, places, parts of Bermuda and circumstances.

(4) Regulations made under this section shall have effect notwithstanding anything inconsistent therewith contained in any provision of law (other than a

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provision of the Constitution); and any such provision of law which may be inconsistent with any such regulations, to the extent of such inconsistency, shall have no effect so long as such regulations are in force.

(5) For the avoidance of doubt, in subsection (4), “any such provision of law” includes any provision of the Human Rights Act 1981.

(6) Any regulations made under this section in force immediately before a public health emergency order ceases to be in force shall cease to have effect as from the date of the public health emergency order ceasing to be in force without prejudice to anything previously done or omitted to be done thereunder.

(7) For the avoidance of doubt, sections 171 (general provisions relating to regulations) and 172 (provisions relating to making of regulations) apply to regulations under this section.

(8) Any guidance and any revisions made from time to time to such guidance—

(a) shall be published on www.gov.bm or in a manner approved by the Minister as appropriate in the Minister’s opinion to bring it to the attention of persons likely to be affected by it;

(b) is not a statutory instrument, and the Statutory Instruments Act 1977 shall not apply to it.

(9) In determining whether a person has committed an offence under regulations made under this section, a court may consider whether an accused person has followed any relevant guidance that was current at the time of the commission of the offence.

(10) In this section—

“communicable disease” means a communicable disease of the first category or a communicable disease of the second category;

“guidance” means guidance referred to in subsection (2)(d).”.

[Assent Date: 29 June 2020]

[Operative Date: 29 June 2020]