



BERMUDA

PUBLIC HEALTH ACT 1949

1949 : 24

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PART I
PRELIMINARY

Division of Act into Parts

1 *[omitted]*

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Interpretation

- 2 (1) In this Act, unless the context otherwise requires—
- “authorized officer”—
- (a) in relation to a Municipality, means any person authorized by the Municipality in writing, either generally or specially, to act in matters of any specified kind, or in any specified matter;
 - (b) in all other cases, means a person authorized in accordance with subsection (2);
- “building” includes any house, outhouse, shed, wall or fence;
- “Chief Environmental Health Officer” means the holder of the public office of Chief Environmental Health Officer and includes a person appointed to act in such office;
- “the Chief Medical Officer” means the person performing the functions of Chief Medical Officer of the Ministry, and any reference to the Chief Medical Officer in relation to any function to be performed by the Chief Medical Officer under this Act or any regulations made thereunder shall include a reference to any person authorized by the Minister to perform that function;
- “the Department” means the Department of Health;
- “Director” means the Director of the Department of Health;
- “dwelling-house” means a building or part of a building in which people live or which is physically capable of being used for human habitation; and, where the context allows, includes a ship or boat or a temporary or moveable erection or a vehicle used for human habitation;
- “food” includes any articles used for food or drink by man, any article which ordinarily enters into or is used in the composition or preparation of human food, any flavouring matters and condiments, and ice; but does not include drugs or water;
- “functions” includes powers and duties;
- “Government Medical Officer” means a person appointed to be a Medical Officer in the Department and includes the Chief Medical Officer;
- “the Minister” means the Minister for the time being responsible for health and related matters;
- “occupier”, in relation to any premises, includes any person in actual occupation thereof without regard to the title under which he is the occupier;
- “officer” includes servant;
- “owner”, in relation to any premises, includes the person for the time being receiving (other than as a mere collector) the rent of the premises, whether on

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his own account or as agent or trustee for some other person, and also includes the person who would so receive the rent if the premises were let;

“Public Health Officer” means a person appointed to be a Government Medical Officer, Chief Environmental Health Officer or a Environmental Health Officer of the Department;

“prejudicial to health” means injurious, or likely to cause injury, to health; and cognate expressions shall be construed accordingly;

“premises” includes messuages, buildings and lands; and also includes, where the context allows, a ship or boat and a temporary or moveable erection or vehicle used for human habitation;

“school” includes a Sunday school;

“vermin” includes rats, mice, flies, mosquitoes, fleas, lice and bugs, and, in its application to insects and parasites, includes their eggs, larvae and pupae; and “verminous” shall be construed accordingly.

(2) Any function conferred on the Minister by this Act or any regulations made thereunder may be exercised by the Minister or such officer of the Department as may, from time to time, be authorized by the Minister to perform that function.

(3) Any expenses incurred by the Minister in the performance of functions conferred on him by this Act shall be paid out of funds appropriated by the Legislature for the purposes of the Department.

[Section 2 subsection (1) definition "Director" inserted and "Public Health Officer" amended by 2016 : 12 s. 2 effective 28 March 2016; subsection (1) definition "authorized officer" deleted and substituted by 2016 : 46 s. 2 effective 27 July 2016; Section 2 subsection (1) definition "Chief Medical Officer" amended, and definition "Chief Environmental Health Officer" inserted by 2018 : 66 s. 2 effective 10 January 2019]

Application of Act; effect of municipal ordinances

3 (1) Except as hereinafter in this Act provided, this Act shall have effect throughout Bermuda and accordingly—

(a) no provision in any ordinance made under the Municipalities Act 1923 [*title 4 item 1*]; and

(b) no provision in any regulation or order made by a Municipality under the Public Health Act 1937,

whether made before or after 5 August 1949, shall have any effect in so far as such provision is at variance with any of the provisions of this Act, or any regulations made thereunder.

(2) Nothing in this Act shall absolve any person from any liability that he may incur by virtue of any other Act or at common law.

Municipalities to comply with directions of Minister

4 (1) Where—

- (a) a Municipality exercises any power conferred upon it by this Act or any power conferred upon it by any other Act (being a power the exercise of which is related to or affects the purposes of this Act) or omits to exercise any such power, and
- (b) the Minister is satisfied that the exercise of the power or the manner in which the power is exercised or the omission to exercise the power is or is likely to be prejudicial to the public health,

the Minister may give to the Municipality such general or special directions as may seem to him proper in the circumstances and, subject as hereinafter provided, the Municipality shall comply with any such directions:

Provided that where a Municipality is aggrieved by any such directions the Municipality may within fourteen days after the receipt of the directions appeal to the Governor who may give such directions as may seem to him to be proper in the circumstances; and any directions so given by the Governor annulling or modifying the directions given by the Minister shall be substituted for the directions which were the subject of the appeal.

(2) Every officer of a Municipality shall, in respect of matters within his municipal area, aid in carrying out and giving effect to the provisions and objects of this Act.

(2a) If any contravention of this Act or of any regulations, orders or directions made in pursuance thereof becomes known to an officer of the Municipality, he shall forthwith report the matter to the appropriate authority of the Municipality concerned who shall thereupon report the same to the Minister or to a Public Health Officer.

PART II

AUTHORITIES FOR EXECUTION OF ACT

5 *[repealed by 1972:3]*

6 *[repealed by 1972:3]*

General functions of Minister

7 The general functions of the Minister shall be the functions hereinafter in this section specified—

- (a) the Minister shall exercise a general supervision and control over all matters concerning or connected with the public health;
- (b) the Minister shall cause to be made such inquiries as thinks he expedient in respect of any matters concerning or connected with the public health, or in relation to any matters in respect of which his sanction, approval or consent, or the sanction, approval or consent of any Public Health Officer, is required by this Act;

- (c) the Minister, in respect of matters connected with the public health, shall cause such statistical data to be obtained and recorded, and such records or reports to be published, as he may think expedient;
- (d) the Minister, in conjunction with such Departments of the Government of Bermuda as may be appropriate, shall arrange for and coordinate the teaching of subjects connected with public or personal health, sanitation and hygiene in schools and other educational institutions, and may from time to time arrange for the dissemination of information connected with public or personal health, sanitation and hygiene in such manner as he may think expedient.

8 *[repealed by 1972:3]*

Powers and duties of Municipalities

9 (1) Subject and without prejudice to Part I, the powers and duties hereinafter mentioned in this section shall be conferred or imposed upon a Municipality—

- (a) the Municipality may exercise the powers and shall perform the duties conferred or imposed upon it by virtue of Part III;
- (b) the Municipality, in respect of matters concerning the public health in relation to its municipal area, shall act as an advisory body to the Minister, and shall make such recommendations to the Minister for the preservation and improvement of the public health within that area as the Municipality may from time to time consider expedient;
- (c) the Municipality may make and may amend, vary or revoke ordinances for regulating the execution or administration in detail of any of the functions which, by virtue of this Act, the Municipality is authorized or required to perform, so, however, that the conditions set out in section 38(3) of the Municipalities Act 1923 [*title 4 item 1*], shall apply in relation to any such ordinance.

(2) Officers of a Municipality shall have, as respect any functions exercisable by the Municipality under this Act, the like powers and duties as officers of the Department exercising like functions.

(3) Subject to sections 3, 4, 12, 13 and 32, nothing in this Act shall derogate from or abridge any powers or duties conferred or imposed upon a Municipality by or under any other Act.

Duties of Police officers

10 Every police officer shall aid and assist generally in carrying out the provisions and objects of this Act; and if any contravention of this Act or of any regulations, orders or direction made in pursuance thereof becomes known to any police officer, he shall forthwith report the contravention or failure to a Public Health Officer.

PART III
SANITATION AND WATER SUPPLY

Interpretation of Part III; saving

11 (1) In this Part—

“cesspool” includes a settlement tank or other tank for the reception or disposal of offensive matter from buildings;

“closet” means a sanitary convenience for the reception of faecal or urinary matter;

“house refuse” includes ashes, cinders, rubbish, garbage or filth, but does not include trade refuse or garden rubbish;

“pollution”, in relation to water, means—

- (i) pollution by reason of the presence of the dead body of any animal, bird or reptile, or of any faecal matter or filth;
- (ii) pollution by reason of the presence of an amount of vegetation or fungus which, in the opinion of a Public Health Officer, renders the use of the water prejudicial to health; and
- (iii) pollution by reason of a bacteriological or chemical content which, in the opinion of a Public Health Officer, renders the use of the water prejudicial to health;

and cognate expressions shall be construed accordingly:

“scavenger” means a person employed by a Municipality or contracting with the Minister or a Municipality to collect and dispose of refuse or other matter under this Part;

“water closet” means a closet which has a separate fixed receptacle connected to a drainage system and separate provision for flushing from a supply of clean water whether by the operation of a mechanism or by automatic action.

(2) Nothing in this Part derogates from the Quarantine Act 2017, or the Fumigation (Control) Act 1945 [*title 11 item 7*], or the Pharmacy and Poisons Act 1979 [*title 11 item 5*].

[Section 11 subsection (2) amended by 2017 : 11 s. 17 effective 24 April 2017]

Power to inspect sewerage undertakings

12 (1) Subject to this Part, where it appears to a Public Health Officer to be necessary, in the interests of the public health or in the interests of the health of any person, to inspect any premises vested in, or under the control of, a Municipality or of any other person, (being premises appurtenant to any sewerage undertaking), the Public Health Officer may, if authorized in writing by the Director, at all reasonable hours, enter and inspect the premises, and any works thereon or therein constructed or used.

(2) A Municipality or such other person as aforesaid, and its or his officers and servants, shall aid and assist such Public Health Officer in making the inspection, and shall

allow him to inspect any apparatus and things used in connection with any sewerage undertaking and any records, books or plans relating to the sewerage undertaking, or to any works connected therewith.

(3) Any person who contravenes any of the foregoing provisions of this section commits an offence against this Act.

(4) Without prejudice to anything in section 13, where it appears to the Minister that by reason of—

- (a) any inadequacy in the existing works; or
- (b) any defect in the existing works,

the operation of a sewerage undertaking by any person other than a Municipality is, or is likely to become, prejudicial to the public health, the Minister may by order require the owner of the undertaking to execute such works as appear to the Minister necessary for ensuring the safe and proper operation of the undertaking.

(5) The provisions of Part XI with respect to appeals against, and the enforcement of orders requiring the execution of works shall apply in relation to any order made under subsection (4).

(6) In this section—

- (a) “sewerage undertaking” means an undertaking for the sewerage of, or for the disposal of sewage from, any premises owned by a person other than the person who is the owner of the undertaking; and
- (b) any reference to “execution of works,” in relation to a sewerage undertaking, shall include a reference to the provision of apparatus, equipment or staff; and any reference to the application of Part XI shall be construed accordingly.

[Section 12 subsection (1) amended by 2016 : 12 s. 3 effective 28 March 2016]

Operation and maintenance of sewerage system by Municipality

13 Notwithstanding any thing in any Act relating to the operation or maintenance of any sewerage system by either Municipality with respect to any sewerage system maintained or operated by a Municipality—

- (a) no extension or reduction of the sewerage system, and no alteration in the methods employed for the conveyance, pumping or disposal of sewage, shall be undertaken without the prior consent of the Minister; and
- (b) the operation or maintenance of the sewerage system by the Municipality shall be deemed to be in exercise of a power conferred upon the Municipality under this Act, and section 4 shall apply accordingly in relation to the Municipality’s exercise of, or omission to exercise, such power:

Provided that—

- (i) For the purposes of this section the installation of a connection between an existing sewerage system and any premises shall not be regarded as an extension, nor shall the removal of a connection be considered a reduction, of that sewerage system; and
- (ii) nothing in this section shall preclude a Municipality from executing ordinary maintenance or repair works in respect of an existing sewerage system.

Regulations; sewerage systems

14 (1) Provision may be made by regulations made under this Act for prohibiting or restricting the introduction into any sewerage system of any articles or substances, including chemicals, acids, petrol and other inflammable liquids, which are liable—

- (a) to damage the system; or
- (b) to block the system; or
- (c) when introduced into the system, to be prejudicial to the public health.

(2) Regulations made under subsection (1) may, for the purposes set out therein, make provision for—

- (a) the installation, maintenance and inspection of any device or equipment;
- (b) the discharge or disposal of any articles or substances that are prohibited or restricted from being introduced into any sewerage system; and
- (c) the issuance, by an authorized officer, of any directions necessary to give effect to paragraphs (a) and (b).

(3) Subject to subsections (4) to (10), the Minister may impose a civil penalty on any person who fails to comply with any requirement or contravenes any prohibition or restriction imposed by, or directions given under, regulations made under this section.

(4) Regulations made under this section shall set out the civil penalty and the procedure under which a civil penalty may be imposed.

(5) The amount of a civil penalty imposed by regulations made under this section shall be—

- (a) \$720 for a first violation; or
- (b) \$1,500 for a second or subsequent violation within a period of three years, beginning with the date of the previous violation.

(6) Where a civil penalty is imposed on a person by regulations made under this section, the person—

- (a) may appeal to the Supreme Court against the decision to impose the civil penalty;
- (b) shall not also be prosecuted for an offence under those regulations in respect of the same contravention.

(7) Any civil penalties imposed by regulations made under this section—

- (a) shall be paid into the Consolidated Fund;
- (b) if unpaid within the period prescribed in those regulations, may be recovered as a debt owing in any court of competent jurisdiction.

(8) The Minister may, by instrument in writing published in the Gazette, and subject to such conditions, directions, reservations and restrictions as the Minister thinks fit, delegate his power to impose a civil penalty under this section to—

- (a) a public officer; or
- (b) in the case of a municipal area, a Municipality.

(9) Any instrument made under subsection (8) shall not be subject to section 6 of the Statutory Instruments Act 1977.

(10) In this section, “sewerage system” includes any sewer, main, pipe, drain, pumping station and shaft and any apparatus or thing forming part of or used or connected therewith.

(11) A contravention of any regulations made under this section shall, for the purposes of Part IV, be deemed to be a nuisance.

[Section 14 subsections (2) - (11) inserted by 2016 : 46 s. 3 effective 27 July 2016]

Regulations; sanitary installations in buildings

15 (1) Without prejudice to any provisions of any Act, or of any statutory instruments for the time being relating to the provision of sanitary installation in buildings, or in connection with buildings, provision may be made by regulations made under this Act—

- (a) for requiring buildings to be provided with necessary drains, and for requiring the connection of such drains to cesspools or to sewerage systems, and for making special provisions in respect of buildings in combination;
- (b) for restricting the types of closets and connected installations which may lawfully be installed or maintained in, or in connection with, buildings;
- (c) for requiring the provision of sufficient closet accommodation in dwelling-houses, where—
 - (i) persons are employed in, or attend at, a building; or
 - (ii) a building is used as a place of public resort,the installation of sufficient closet accommodation in or in connection with the building;
- (d) for prescribing the manner in which closets are to be installed in buildings;
- (e) for prescribing the location of closets in, or in connection with, buildings in relation to other buildings or to other parts of the same building in which the closets are situated ;

- (f) for prescribing the manner in which crude sewage may be disposed of from buildings;
- (g) for prescribing the manner in which cesspools are to be constructed and equipped, and for prescribing the location of cesspools in relation to dwelling-houses and other buildings, and in relation to water tanks and highways;
- (h) for prescribing the care and proper use of closets and cesspools;
- (i) for prescribing the conditions subject to which temporary closets may be erected and used;
- (j) for regulating, restricting or prohibiting the discharge of sewage into the sea or into the waters of any harbour, bay, sound or pond;
- (k) for requiring the cleansing of unwholesome closets, for requiring the removal of faecal matter or sewage which has overflowed from any cesspool, and for requiring the periodical inspection, emptying and cleansing of cesspools.

(2) A contravention of any regulations made under this section shall, for the purposes of Part IV, be deemed to be a nuisance.

Power of Minister to alter drainage system of premises

16 (1) Where any premises have a drain communicating with a sewerage system or with a cesspool, but—

- (a) that system of drainage, though sufficient for the effectual drainage of the premises, is not adapted to the general sewerage system of the district, or
- (b) is, in the opinion of the Minister, otherwise objectionable,

the Minister may, (at his own expense and on condition that he first provides in a position equally convenient to the owner of the premises a drain equally effectual for the drainage thereof and communicating with a sewer), close the existing drain and fill up the cesspool, if any, and do any work necessary for that purpose in conformity with this Act.

(2) If the Minister proposes to execute any work under this section he shall give notice of his proposals to the owner of the premises in question and, if the owner is aggrieved thereby, as regards either the position or the sufficiency of the drain proposed to be provided for the drainage of the premises, he may appeal to a court of summary jurisdiction in accordance with section 190.

Power of Minister to require closets to be replaced

17 (1) Where it appears to the Minister—

- (a) that any building is without sufficient closet accommodation; or
- (b) that any closet provided for or in connection with a building is in such a state as to be prejudicial to health and cannot without reconstruction be put into a satisfactory condition,

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the Minister may by order require the owner of the building to provide the building with such closets or such additional closets or such substituted closets as appear to the Minister necessary.

(2) The provisions of Part XI with respect to appeals against, and the enforcement of orders requiring the execution of works shall apply in relation to any order made under this section.

Care of closets

18 (1) The occupier of any building in, or in connection with which, a water closet or an earth closet is provided—

- (a) shall, in the case of a water closet, cause the flushing apparatus thereof to be kept supplied with water sufficient for flushing; and
- (b) shall, in the case of an earth closet, cause it to be kept supplied with dry earth or other suitable deodorizing material.

(2) Any person who fails to comply with any of the foregoing provisions of this section commits an offence against this Act:

Punishment on summary conviction: a fine of \$500.

(3) A failure to comply with any of the provisions of subsection (1) shall, for the purposes of Part IV, be deemed to be a nuisance.

[Section 18 subsection (2) amended by 2016 : 12 s. 10 effective 28 March 2016]

Care of closet used in common.

19 Where a closet is used in common by the members of two or more families—

- (a) if any person damages or improperly fouls the closet, or anything used in connection therewith, or wilfully or by negligence causes an obstruction in the drain (if any) therefrom, he commits an offence against this Act:

Punishment on summary conviction: a fine of \$500.

- (b) if the closet, or the approach thereto, is, for want of proper cleansing or attention, in such a condition as to be insanitary, such of the persons having the use thereof in common as are in default, or, in the absence of satisfactory proof as to which of them is in default, each of them, commits an offence against this Act:

Punishment on summary conviction: a fine of \$500 and in the case of a continuing offence a further fine of \$100 for every day during which the offence continues after the conviction therefor.

[Section 19 amended by 2016 : 12 s. 10 effective 28 March 2016]

Drainage of yards

20 (1) If any court or yard appurtenant to, or any passage giving access to, a building is not so formed, flagged, asphalted or paved, or is not provided with such works on, above

or below its surface, as to allow of the satisfactory drainage of its surface or subsoil to a proper outfall, the Minister may by order require the owner or occupier of the building to execute such works as appear to the Minister necessary to remedy the defect.

(2) The provisions of Part XI with respect to appeals against, and the enforcement of orders requiring the execution of works shall apply in relation to any order made under this section.

(3) The foregoing provisions of this section shall apply in relation to any court, yard, or passage which is used in common by the occupiers of two or more houses, but which is not a highway.

Ventilation of buildings

21 (1) Without prejudice to any provision in any Act, or in any statutory instrument for the time being relating to the provision of adequate means of ventilating buildings, provision may be made by regulations made under this Act—

- (a) for requiring buildings to be provided with adequate means of ventilation;
- (b) for restricting ventilation inlets from opening on to, or close to, any drainage or sewerage system;
- (c) for prescribing methods of ventilation and for regulating the installation of ventilating systems in buildings.

(2) A contravention of any regulations made under this section shall, for the purposes of Part IV, be deemed to be a nuisance.

Power of Minister to require adequate means of ventilation to be provided

22 (1) If it appears to the Minister that any building is without adequate means of ventilation, the Minister may by order require the owner of the building to provide the building with such means of ventilation as appears to the Minister necessary.

(2) The provisions of Part XI with respect to appeals against, and the enforcement of, orders requiring the execution of works shall apply in relation to any order made under this section.

Tanks and catchments for buildings

23 Any building which is used—

- (a) for human occupation, whether as a dwelling-house, school, place of employment or otherwise; or
- (b) as a manufactory of food or drink; or
- (c) as a place for the service of food or drink to customers therein,

shall be provided with a tank or tanks and a catchment for securing the supply and storage of rain water for the use of persons occupying or using the building or for any processes of manufacture as aforesaid carried out therein.

Storage capacity of tanks and dimensions of catchments.

24 (1) The storage capacity of a tank or tanks provided in respect of a building mentioned in section 23 shall be not less than the capacity (hereinafter in this Part referred to as the "prescribed capacity") prescribed in respect of such building by regulations made under this Part.

(2) The area of a catchment provided in respect of any such tank or tanks as aforesaid shall be not less than the area (hereinafter this Part referred to as the "prescribed area") prescribed in respect of a catchment by regulations made as aforesaid.

Regulations; tanks and catchments.

25 Provision may be made by regulations made under this Act—

- (a) for prescribing the capacity of any tank or tanks used for the storage of water for use in buildings of particular classes or types;
- (b) for prescribing the area of catchments installed in connection with a tank or tanks as aforesaid;
- (c) for prescribing appliances, piping, screening materials and fittings to be used in conjunction with the installation of tanks and catchments;
- (d) for prescribing methods of ventilating tanks;
- (e) for prohibiting the use of any paint which contains a toxic substance upon any tank used for the storage of water or upon any catchment installed in connection with such a tank and for regulating or prohibiting the sale of any such paint intended for such use or which may be so used.

Power of Minister to require adequate catchments and tanks to be provided.

26 (1) Where it appears to the Minister, with respect to any building to which section 23 applies—

- (a) that there is no tank, or that there is a tank having a storage capacity less than the prescribed capacity; or
- (b) that there is no catchment, or that there is a catchment having an area less than the prescribed area; or
- (c) that there is no adequate connection between the catchment and the tank, or that the connection is defective; or
- (d) that any tank or catchment is in such a state as to be prejudicial to health and cannot without reconstruction be put into a satisfactory condition,

the Minister may by order require the owner of the building to provide the building with such tanks, catchments and connections as appear to the Minister necessary.

(2) The provisions of Part XI with respect to appeals against, and the enforcement of, orders requiring the execution of works shall apply in relation to any order made under this section.

Maintenance of catchments and tanks

- 27 (1) With respect to the maintenance of catchments and tanks—
- (a) a catchment shall be kept in good repair, clear of rubbish and fungus growth, and shall, if constructed of stone or concrete or if faced with cement, be kept whitewashed;
 - (b) a tank shall be kept in good repair, free from leaks;
 - (c) all gutterings, connecting pipes, ventilators and overflow pipes connected with a catchment or with a tank shall be kept in good repair and free from obstruction;
 - (d) all doors and screens connected with a tank—
 - (i) shall be kept in good repair; and
 - (ii) shall, except when necessary for entry to, or inspection of, the tank, or for the replacement or repair of the door or screen, be kept closed, so as to prevent access to the water of mosquitoes or other vermin or filth.
- (2) Any person who contravenes any of the foregoing provisions of this section commits an offence against this Act.
- (3) A contravention of any of the foregoing provisions of subsection (1) shall, for the purposes of Part IV, be deemed to be a nuisance.

Power of Public Health Officer where water in tank polluted

- 28 (1) Where the water in a tank appears to a Public Health Officer to be polluted or to be in danger of pollution, the Public Health Officer may by order require—
- (a) that the tank be temporarily closed and that during such closure no water shall be used for any purpose; or
 - (b) that the tank be emptied and cleansed; or
 - (c) that the water be chlorinated or otherwise disinfected, or the Public Health Officer may make such other order as, in the interests of health, appears to him expedient in the circumstances.
- (2) Any person who contravenes any such order made as aforesaid commits an offence against this Act.
- (3) Any person who is aggrieved by an order made under this section may appeal to a court of summary jurisdiction in accordance with section 190 but the order shall be deemed to have effect and shall be duly complied with by the appellant pending the determination of the appeal.

Restriction on use of water from wells

- 29 (1) No person shall use, or cause or allow to be used, any water drawn or piped from any well or boring, or from any stream, pond or lake—
- (a) for drinking; or

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- (b) for any process connected with the preparation or manufacture of any food or drink:

Provided that a Public Health Officer may grant, subject to such conditions as he may think fit to impose, an annual permit authorizing the use of such water for either such purpose.

- (2) Any person who contravenes any of the foregoing provisions of this section, or any condition imposed in a permit issued thereunder, commits an offence against this Act.

Coverings to wells

30 (1) All wells or borings shall be provided with such wellheads and shall be so covered as to be adequately protected—

- (a) from pollution by animals or filth; and
- (b) from access by mosquitoes.

(2) Any person who causes or allows a well or boring to be inadequately protected commits an offence against this Act.

(3) A contravention of any of the provisions of subsection (1) shall, for the purposes of Part IV, be deemed to be a nuisance.

Pollution of water

31 (1) No person—

- (a) shall wilfully pollute or allow to become polluted any water in a tank or well, the water from which is used for drinking or for any process connected with preparation or manufacture of any food or drink; or
- (b) shall use any polluted water for drinking or for any process connected with the preparation or manufacture of any food or drink.

(2) Any person who contravenes this section commits an offence against this Act.

(3) A contravention of subsection (1)(a) shall, for the purposes of Part IV, be deemed to be a nuisance.

Power of Public Health Officer to inspect undertaking for water supply

32 (1) Without prejudice to any other provision of this Part, where it appears to a Public Health Officer to be necessary in the interests of the public health or in the interests of the health of any person, to inspect any premises vested in or under the control of a Municipality or of any other person, (being premises appurtenant to any undertaking for water supply), he may, at all reasonable hours, enter and inspect the premises and any waterworks thereon or therein constructed or used for the purposes of the undertaking.

(2) A Municipality or such other person as aforesaid and its or his officers and servants shall aid and assist such Public Health Officer in making the inspection, and shall allow the Public Health Officer to inspect any apparatus and things used in connection with

any such undertaking and to inspect any records, books or plans relating to the undertaking or to any works connected therewith.

(3) Any person who contravenes any of the foregoing provisions of this section commits an offence against this Act.

(4) In this section—

- (a) “undertaking for water supply” means an undertaking for the supply or distribution of water, whether or not for gain, to any premises owned by a person other than the person who is the owner of the undertaking; and
- (b) “waterworks” includes springs, wells, pumps, reservoirs, cisterns, tanks, aqueducts, cuts, sluices, mains, pipes, engines and any machinery, lands, buildings and other things for supplying, or used for supplying, water, or used for the protection of sources of water supply.

Powers of Minister in respect of private water undertakings

33 (1) Notwithstanding anything in the Watlington Waterworks Act 1932 [*The Watlington Waterworks Act is a Private Act*], or in any other Act relating to any private water undertaking, the Minister may, without prejudice to any other provision of this Part, exercise such functions in respect of a private water undertaking as are specified in this section.

(2) Provision may be made by regulations made under this Act in respect of a private water undertaking—

- (a) for ensuring the purity of water supplied by the undertaking, having regard to the use to which the water will be put;
- (b) for prescribing the nature of tests, and their frequency, for the purpose of ascertaining the purity of such water;
- (c) for regulating the manner in which reservoirs, wells, mains, cisterns, tanks, aqueducts, cuts, sluices, pipes and other things for supplying, or used for supplying, water, are constructed and maintained;
- (d) for protecting sources of water supply;
- (e) for prohibiting the supply of polluted water;
- (f) for preventing waste, undue consumption or misuse of water.

(3) Where it appears to the Minister that by reason of—

- (a) any inadequacy in the existing works; or
- (b) any defect in the existing works,

the supply of water by a private water undertaking is, or is likely to become, prejudicial to health, the Minister may by order require the owner of the undertaking to execute such works as appear to the Minister necessary for ensuring the safe and proper supply of water by the undertaking.

(4) The provisions of Part XI with respect to appeals against, and the enforcement of, orders requiring the execution of work shall apply in relation to any order made under subsection (3).

(5) Where a Municipality operates any undertaking for the sale or supply of water, the operation of the undertaking shall be deemed to be in exercise of a power conferred upon the Municipality under this Act, and section 4 shall apply accordingly in relation to the Municipality's exercise of, or omission to exercise, such power.

(6) In this section—

- (a) "private water undertaking" means any undertaking—
 - (i) for the purpose of selling water or of distributing water for gain; and
 - (ii) which is not owned or operated by any Government Department or by a Municipality;
- (b) any reference to "execution of works", in relation to any private water undertaking, or to any cognate expression, shall include a reference to the provision of apparatus, equipment or staff; and any reference to the application of Part XI shall be construed accordingly.

Collection of house refuse

34 The Minister or, as respects its municipal area, a Municipality, shall carry out the collection and disposal of house refuse.

Undertaking by Minister or Municipalities of additional services

35 The Minister or, as respects its municipal area, a Municipality, may undertake any of the following matters—

- (a) the cleansing of streets and highways;
- (b) the emptying and cleansing of cesspools;
- (c) the erection in streets of receptacles for rubbish;
- (d) the provision of convenient lots of land for the disposal of offensive matter, house refuse or other filth and rubbish; and
- (e) the provision of plant or apparatus for treating or disposing of offensive matter, house refuse and other filth and rubbish.

Refuse to become property of Minister or Municipality on collection or deposit

36 Any offensive matter, house refuse or other filth and rubbish—

- (a) which is collected by the Minister, or, as the case may be, by a Municipality; or
- (b) which is deposited by any person on land provided for that purpose by the Minister or a Municipality under section 35(d),

shall, upon being so collected or deposited, become the property of the Minister or the Municipality, as the case may be, and the Minister or the Municipality shall have power to sell or otherwise dispose of the same in such manner as they think proper.

Prohibition of engaging in business of collecting refuse

37 (1) No person, other than a scavenger, shall, except with the permission of the Minister, engage in the business of collecting or removing house refuse.

(2) Any person who contravenes this section commits an offence against this Act.

Regulations; collection of refuse

38 (1) Provision may be made by regulations made under this Act for regulating the collection and disposal of house refuse and other offensive matter; and, without prejudice to the generality of the foregoing provision, regulations made as aforesaid may provide—

- (a) for prescribing the method to be employed for the storage, collection and disposal of house refuse, the manner in which and the times at which house refuse shall be put out for collection, and the type of receptacle to be used by householders and other persons for that purpose;
- (b) for restricting the accumulation of house refuse on premises and in public places and for prescribing the duties of occupiers of premises and other persons with regard thereto;
- (c) for prescribing or authorizing methods for the emptying and cleansing of cesspools, types of vehicles to be used for the carrying of offensive matter, the times at which cesspools may be emptied and the hours during which offensive matter may be transported;
- (d) for prescribing the conditions under which persons may deposit offensive matter, house refuse and other rubbish on land provided for that purpose by the Minister or a Municipality, and for prescribing charges, if any, that may be made for such deposit.

(2) A contravention of any regulations made under subsection (1) shall, for the purposes of Part IV, be deemed to be a nuisance.

Prohibition of interference with refuse

39 (1) No person other than a scavenger shall sort over or disturb the contents of any receptacle for rubbish placed in a street or forecourt for the purpose of removing its contents, or shall sort over or disturb any rubbish or other matter deposited in a place provided under this Part for the deposit of refuse.

(2) Any person who contravenes any of the foregoing provisions of this section commits an offence against this Act:

Punishment on summary conviction: a fine of \$500.

[Section 39 subsection (2) amended by 2016 : 12 s. 10 effective 28 March 2016]

Obstructing scavengers

40 (1) No person shall—

- (a) refuse to permit a scavenger to collect or dispose of such house refuse or other matter as he is duly authorized to do; or
- (b) obstruct a scavenger in the performance of his duty.

(2) Any person who contravenes any of the foregoing provisions of this section commits an offence against this Act.

Removal of trade refuse

41 (1) The Minister, or, as respects its municipal area, a Municipality, may undertake the removal of trade refuse, or any particular kind of trade refuse, from premises; and if the Minister, or a Municipality, has so undertaken the Minister or the Municipality, as the case may be, shall, at the request of the occupier of the premises, remove from his premises any trade refuse to which the undertaking relates; and if, without reasonable excuse, the Minister or Municipality fail to do so within seven days after the request, the occupier may recover from the Minister or Municipality, as the case may be, in the manner provided in Part XI, the sum of \$75 for every day during which the default continues after the expiration of such period of seven days.

(2) The Minister or a Municipality may make reasonable charges for removing trade refuse under this section.

(3) Any question arising under this section as to whether any refuse is trade refuse, or is trade refuse to which the Minister's, or, as the case may be, the Municipality's, undertaking relates, or as to the reasonableness of any charges made by them, may, on the application of either party, be determined by a court of summary jurisdiction.

(4) In this section "trade refuse" means refuse or rubbish which results from the exercise of any trade, business, manufacture or process other than a trade, business, manufacture or process carried on as an occupation on premises used primarily as a dwelling-house.

[Section 41 subsection (1) amended by 2016 : 12 s. 10 effective 28 March 2016]

42 *[repealed by 1971:116]*

Power of Municipality to raise sanitary rate

43 (1) Notwithstanding anything in the Municipalities Act 1923 *[title 4 item 1]*, a Municipality shall have power to raise annually by means of an equal rate (hereinafter in this section referred to as a "sanitary rate") on all real and personal property within its municipal area such sums as may be necessary for the performance of its functions under this Part.

(2) Any such sanitary rate may be sued for and recovered in the manner prescribed for the collection of municipal rates by the Municipalities Act 1923 *[title 4 item 1]*.

Provision of public sanitary conveniences

44 (1) The Minister or, as respects its municipal area, a Municipality, may provide public sanitary conveniences in proper and convenient situations.

- (2) Provision may be made by regulations made under this Act—
- (a) for regulating the conduct of persons using public sanitary conveniences;
 - (b) with respect to the charging of fees for the use of public sanitary conveniences, other than urinals; and
 - (c) for prescribing the hours during which public sanitary conveniences may be used.
- (3) In this section “sanitary convenience” includes a lavatory.

Declaration of premises to be verminous premises

45 (1) Where a Public Health Officer is satisfied—

- (a) that vermin are present on any premises; and
- (b) that the presence of the vermin is prejudicial to health,

he may declare the premises to be verminous premises.

(2) Verminous premises shall, for the purposes of Part IV, be deemed to be a nuisance.

Cleansing of verminous premises

46 (1) Where premises have been declared to be verminous premises—

- (a) a Public Health Officer, or any person authorized by him in that behalf, may, subject to section 176 enter the premises and, without charge to the owner or occupier, take steps—
 - (i) to destroy the vermin; and
 - (ii) to destroy or make inaccessible the breeding place of the vermin; and
 - (iii) to render the premises inaccessible to vermin; or
- (b) the Minister may by order require the owner or the occupier of the premises, or both the owner and the occupier, to carry out to the satisfaction of a Public Health Officer, within a reasonable time specified in the order, any or all of the works specified in paragraph (a).

(2) The provisions of Part XI with respect to appeals against, and the enforcement of, orders requiring the execution of works shall apply in relation to any order made under this section.

Attendance of verminous persons to be cleansed

47 (1) Where any person, or the clothing of any person, is in such a verminous state as to be likely to spread disease, a Government Medical Officer may by written order direct

that person to attend at such time and place as may be specified in the order and to undergo such cleansing as will, in the opinion of the Government Medical Officer, free him and his clothing from vermin.

(2) Where a person fails to comply with an order as aforesaid, without prejudice to any punishment to which that person may be liable in respect of the failure to comply, a court of summary jurisdiction may make an order for his removal to a place at which he can be cleansed and for his detention thereat for such period and subject to such conditions as may be specified in the order.

(3) The cleansing of females under this section shall be effected only by a Government Medical Officer or by a woman duly authorized by the Minister.

(4) No charge shall be made in respect of the cleansing of a person or of his clothing, or of his removal to or maintenance at any place under this section.

(5) Any person who wilfully disobeys or obstructs the execution of any order made under this section commits an offence against this Act.

Treatment of articles infested with vermin

48 Where it appears to a Public Health Officer that any article in any dwelling-house is infested with vermin, or by reason of its having been used by, or having been in contact with, any person infested with vermin, is likely to be so infested, the Public Health Officer may cause the article to be cleansed, disinfected or destroyed, and if necessary for that purpose to be removed from the premises.

Power of Minister to provide cleansing stations

49 The Minister may provide such cleansing stations and attendants therefor as appear to the Minister necessary for the exercise of his powers under those provisions of this Part which relate to vermin.

Regulations; destruction of vermin

50 Provision may be made by regulations made under this Act—

- (a) for prescribing methods for destroying vermin, with special reference to rats and mosquitoes;
- (b) for prescribing methods for rendering premises inaccessible to vermin and for the destruction of the breeding places of vermin;
- (c) for prescribing generally steps to be taken by owners and occupiers of premises to maintain the premises free of vermin.

PART IV

NUISANCES AND OFFENSIVE TRADES

Nuisances generally

51 (1) The matters specified in the First Schedule are statutory nuisances.

- (2) For the purposes of this Part a nuisance shall be deemed to include—
- (a) any contravention of any provisions of this Part, or of any regulations made thereunder;
 - (b) any contravention of any provision of this Act where the contravention is declared, for the purposes of this Part, to be a nuisance;
 - (c) any act not warranted by law or any omission to discharge a legal duty, where the act or omission as aforesaid affects or is liable to affect prejudicially the public health; and
 - (d) without prejudice to the generality of the foregoing provisions of this section, any statutory nuisance.

Duty to prevent nuisance

52 No person shall cause a nuisance or shall allow any nuisance to exist on any premises owned or occupied by him or of which he is in charge.

Author of nuisance

53 For the purposes of this Part, the author of a nuisance shall be deemed to include—

- (a) the person by whose act, default or sufferance the nuisance is caused, exists or is continued, whether that person is the owner or occupier of the premises upon which the nuisance occurs or is both the owner and the occupier or is any other person; and
- (b) any other person who aids that person in causing the nuisance; and
- (c) any other person who procures that person to cause the nuisance.

Order of Minister requiring abatement of nuisance

54 (1) Subject as hereinafter provided, the Minister, if satisfied of the existence of a nuisance, may make an order and cause it to be served—

- (a) on the author of the nuisance; or
- (b) where the author of the nuisance, not being the owner of the premises on which the nuisance exists, cannot be found, then on the owner of the premises; or
- (c) where the author of the nuisance, not being the occupier of the premises on which the nuisance exists, cannot be found, then on the occupier of the premises; or
- (d) where the author of the nuisance, not being either the owner or the occupier of the premises on which the nuisance exists, cannot be found, then on either the owner or the occupier of the premises:

Provided that—

- (i) where the nuisance arises from any want or defect of a structural character, or where the premises are unoccupied, the order shall be served on the owner;
 - (ii) where the author of the nuisance cannot be found and where it appears to the Minister that the nuisance does not arise or continue by the act, default or sufferance of the occupier of the premises, the Minister may himself abate the nuisance and may do what is necessary to prevent the recurrence thereof.
- (2) An order made under subsection (1) may include—
- (a) a requirement that the person on whom it is served shall abate the nuisance within a reasonable time to be specified in the order; and
 - (b) a requirement for the execution by such person of any work which the Minister considers to be reasonably required to abate or to prevent a recurrence of the nuisance.

Complaint to court of summary jurisdiction

55 (1) Where—

- (a) a person, on whom an order of the Minister to abate a nuisance has been served as aforesaid, fails to comply with any of the requirements of the order within the time specified therein; or
- (b) the nuisance, although abated since the service of the order of the Minister is, in the opinion of the Minister, likely to recur on the same premises,

the Minister may cause a complaint relating to such nuisance to be made before a court of summary jurisdiction; and the court may thereupon issue a summons requiring the person on whom the order of the Minister was served to appear before it.

(2) If the court is satisfied that the alleged nuisance exists, or that although abated it is likely to recur on the same premises, the court may make an order against the person summoned to appear before it—

- (a) requiring compliance with all or any of the requirements of the order of the Minister or the abatement of the nuisance by other means within a time specified in the order of the court and directing the execution of any works necessary for that purpose; or
 - (b) prohibiting the recurrence of the nuisance and directing the execution of any works necessary to prevent the recurrence; or
 - (c) both requiring abatement and prohibiting the recurrence of the nuisance.
- (3) Without prejudice to anything in subsection (2), the court—
- (a) may include in an order made as aforesaid the imposition of a fine not exceeding \$2,500 dollars on the person against whom it makes the order; and

- (b) may give directions as to the payment of all costs incurred up to the conclusion of the hearing or making of the order for the abatement or prevention of the recurrence of the nuisance.

(4) Before the court makes any order as aforesaid, it may, if it thinks fit, adjourn the hearing or further hearing of the summons until an inspection, investigation or analysis in respect of the alleged nuisance has been made by some person competent to do so, and the court may direct the payment of any costs incurred in making such inspection, investigation or analysis in like manner as though they were costs payable under subsection (3).

(5) Without prejudice to any of the foregoing provisions of this section, where a nuisance is such as to render a dwelling-house unfit, in the opinion of the court, for human habitation, the court—

- (a) may make an order (hereinafter in this Act referred to as a closing order) prohibiting the use of the premises as a dwelling-house; and
- (b) may order that no rent shall be payable by or on behalf of the occupier of the dwelling-house in respect of the period in which the closing order exists;

and upon the court being satisfied that the premises have been rendered fit for use as a dwelling-house the court may revoke the closing order and declare the dwelling-house habitable, and from the date thereof the dwelling-house may be let or inhabited.

[Section 55 subsection (3) amended by 2016 : 12 s. 10 effective 28 March 2016]

Punishment where order not complied with

56 (1) Subject to subsection (3), any person who fails to comply with an order (not being a closing order), or any requirement in such an order, made by a court of summary jurisdiction under section 55 shall, unless he satisfies the court that he has used all due diligence to remove the nuisance or otherwise to comply with the order, commits an offence against this Act:

Punishment on summary conviction: a fine of \$2,000 for each day during which the default continues.

(2) Where a person fails to comply with an order (not being a closing order) made by a court of summary jurisdiction under section 55, a Public Health Officer or any other person authorized by the Minister in that behalf may in such case enter the premises to which any such order of the court relates, and may abate the nuisance and do whatever is necessary for the due execution of the order, and the Minister may recover in the manner provided in Part XI the expenses incurred from the person on whom the order was made.

(3) Without prejudice to anything in the foregoing provisions of this section, any person who wilfully acts in contravention of a closing order made under section 55 commits an offence against this Act:

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Punishment on summary conviction: a fine of \$500 for each day during which the contravention continues.

[Section 56 subsections (1) and (3) amended by 2016 : 12 s. 10 effective 28 March 2016]

Demolition orders

57 (1) Where, in the opinion of the Minister, a nuisance exists in respect of a building which is, in the opinion of the member, so dilapidated or so defectively constructed or so situated that repairs to or alterations of the building are not likely to remove the nuisance, the Minister may apply to a court of summary jurisdiction for a demolition order.

(2) Upon the court being satisfied that a nuisance exists with respect to a building and that repairs to or alterations of the building are not likely to remove the nuisance, the court may order the owner thereof to commence to demolish the building or any part thereof on or before a specified day, being a day at least one month from the date of issuing the order (hereinafter in this Act referred to as a "demolition order"), and may order the owner to complete the demolition and to remove the materials which comprised the building before another specified day:

Provided that before any such demolition order is made, notice of the application for such order shall be served on the owner of the building who may attend and give evidence at the hearing of the application by the court.

(3) The court shall give notice to the occupier of the building in respect of which a demolition order has been made requiring him to move therefrom within a time to be specified in the notice; and any person who fails to comply with the notice or enters the building without lawful excuse after the date fixed in the notice commits an offence against this Act.

(4) Section 55(3) and (4) and section 56(1) and (2) shall apply in relation to a demolition order as though it were an order made under section 55.

Nuisances caused by two or more persons

58 (1) Where any nuisance which can be dealt with in the manner provided in this Part appears to be wholly or partly caused by the acts or defaults of two or more persons, the Minister may take proceedings against any one or any two or more of such persons and any one or more of such persons—

- (a) may be ordered to abate the nuisance, so far as it appears to the court to be caused by his or their acts or defaults; or
- (b) may be prohibited from continuing any acts or defaults which contribute to the nuisance; or
- (c) may be fined or otherwise dealt with notwithstanding that the acts or defaults of any one of such persons would not separately have caused a nuisance;

and the costs arising from such proceedings may be apportioned in such manner as appears to the court of summary jurisdiction to be fair and reasonable.

(2) Proceedings under subsection (1) shall not abate by reason only of the death of any of the persons included therein, but may be carried on as if the deceased person had not been originally so included.

(3) Where some only of the persons by whose act or default any nuisance has been caused or partly caused have been proceeded against in pursuance of this Part, they shall, without prejudice to any other remedy, be entitled to recover from any other persons who were not so proceeded against, and by whose act or default the nuisance was caused or partly caused, a proportionate part of the costs of and incidental to such proceedings and of the costs of abating such nuisance and of any fine and costs ordered to be paid in such proceedings.

Closing notice

58A (1) Notwithstanding any provision in this Act, where the Minister on consideration of a report from any of his officers or other information in his possession is satisfied that any premises or part thereof is in such a state as to be a danger to the health or safety or to both health and safety of persons using the premises or part thereof, he may in the interests of the public serve a closing notice upon the owner or the occupier of the premises in respect of the premises or part thereof.

(2) A closing notice shall be a notice prohibiting the use of the premises or part thereof in respect of which the notice is made for any purpose other than a purpose approved by the Minister.

(3) Any person who knows that a closing notice has become operative and uses the premises or part thereof in contravention of the notice or permits them to be so used, commits an offence:

Punishment on summary conviction: imprisonment for 6 months or a fine of \$10,000 or both such imprisonment and fine; and a further fine of \$1,000 for every day on which he so uses them or part thereof or permits them or part thereof to be so used after conviction.

(4) The approval of the Minister under subsection (2) shall not be unreasonably withheld and if the Minister is satisfied that the danger to the health or safety or to both health and safety of persons using the premises or part thereof is removed he shall determine the closing notice.

(5) Any person aggrieved by—

- (a) the withholding of approval by the Minister of any use of the premises or part thereof to which the closing notice relates; or
- (b) a refusal by the Minister to determine the closing notice,

may appeal to the Magistrates' Court and on any such appeal the Court may make such order as it thinks fit.

(6) The procedure in respect of an appeal under this section shall be by way of complaint for an order.

(7) An appeal under this section shall be brought within twenty-eight days after the withholding of approval or the refusal, as the case may be, and for the purposes of this subsection the making of the complaint is deemed to be the bringing of the appeal.

(8) The bringing of an appeal under this section shall not have the effect of suspending the operation of the closing notice.

Appeal to Supreme Court; section 58A

58B An appeal lies to the Supreme Court against an order, determination or other decision of the Magistrates' Court under section 58A.

Procedure where author of nuisance cannot be found

59 Where it appears to the court of summary jurisdiction that—

- (a) the author of any nuisance; or
- (b) the owner or occupier of the premises on which a nuisance exists,

is not known or cannot be found, the court may forthwith make an order requiring the Minister to execute any works required to abate the nuisance and prevent its recurrence; and section 61(3) shall apply accordingly in respect of the costs of executing such works,

Sale of things removed in abating nuisance

60 (1) Any materials or articles removed by or on behalf of the Minister in connection with the abatement of any nuisance or in connection with the demolition of any premises in pursuance of this Part may be sold by the Minister, and the money arising from the sale may be retained by the Minister and applied in payment or part payment of the expenses incurred by him in connection with the abatement of the nuisance, or of the demolition as aforesaid, and the surplus (if any) shall be paid, on demand, to the owner of the materials or articles if he establishes a claim thereto within one year from the date of the sale; and in default of such claim the surplus shall be paid into the Consolidated Fund and become part of the general revenue.

(2) Nothing in this section shall derogate from any power of the Minister under this Part to compel the payment of so much of the expenses of abating a nuisance or otherwise incurred by the Minister in executing works in connection therewith as may remain due to the Minister after the application of the proceeds of any such sale as aforesaid.

Costs and expenses

61 (1) All reasonable costs and expenses incurred—

- (a) in serving an order of the Minister; or
- (b) in making a complaint or obtaining an order from a court of summary jurisdiction under this Part; or
- (c) in carrying such order of the court into effect,

shall be deemed to be money paid for the use of and at the request of the person on whom the order is made; or, if no order is made by a court but if a nuisance is proved to have

existed when the order of the Minister was served on the complaint being made, then such costs and expenses incurred as aforesaid shall be deemed to be money paid for the use of and at the request of the author of the nuisance.

(2) Any costs and expenses incurred as aforesaid may be recovered in the manner provided in Part XI, and the court shall have power to apportion such costs and expenses in such manner as appears to it just.

(3) Where—

- (a) in accordance with this Part, the Minister has himself abated a nuisance or done what is necessary to prevent a recurrence thereof, or have demolished any premises; and
- (b) the owner or occupier of the premises cannot be found, or does not appear or pay the expenses thereby incurred within six months after the completion of the abatement, demolition or other works connected therewith,

the court may, upon application by the Minister, order the premises in respect of which the work has been done, or any part thereof, or any movable property found therein, to be sold; and the amount realized by such sale shall be applied in defraying the costs and expenses as aforesaid, and the surplus, if any, shall be paid, on demand, to the owner of the premises if he establishes a claim thereto within one year from the date of the sale; and in default of any such claim the surplus shall be paid into the Consolidated Fund and become part of the general revenue.

Powers of entry to detect nuisance

62 (1) Subject to section 176 an authorized officer may enter at any reasonable time any building or premises for the purpose of examining as to the existence of any nuisance thereon; and an authorized officer may, if necessary, open up the ground of such premises and cause the drains to be tested, or such other work to be done as appears to him necessary for the effectual examination of the premises.

(2) Where after an examination carried out under this section no nuisance is found to exist the Minister shall restore the premises at the public expense, and shall pay reasonable compensation to any person who, as a result of the examination, has suffered loss or damage.

(3) Any person who is aggrieved by the amount of compensation tendered to him by the Minister in pursuance of subsection (2) may appeal to a court of summary jurisdiction in accordance with section 190.

Restriction on establishment of offensive trade

63 (1) Any person who on any premises establishes, without the consent of the Minister, any offensive trade as defined in subsection (1a) commits an offence against this Act:

Punishment on summary conviction: a fine of \$10,000.

(1a) For the purposes of this section, “offensive trade” means any of the following trades, businesses or manufactures—

- (a) the trade or business of a blood boiler, blood drier, bone boiler, fat extractor, fat melter, fellmonger, glue maker, gut scraper, rag and bone dealer, size maker, soap boiler, tallow melter, tanner or tripe boiler; or
- (b) any other trade, business or manufacture which the Minister, by order published in the Gazette, declares to be an offensive trade.

(2) Any person who on any premises carries on an offensive trade established without such consent, if any, as at the date of the establishment of the trade was required by subsection (1), commits an offence against this Act; and if after conviction he carries on the trade he commits an offence against this Act:

Punishment on summary conviction: a fine of \$1,000 for each day during which the offence continues.

(3) Any consent of the Minister under this section to the establishment of an offensive trade may be given so as to authorize the carrying on of the trade for a limited period specified in the consent, and for such extension of that period as may from time to time be granted by the Minister, or for the carrying on of the trade subject to such restrictions in the interests of the public health as the Minister may think fit to impose; and any person who carries on the trade after the expiration of the period so specified, or any such extension thereof or in contravention of any such restriction, as the case may be, commits an offence against this Act:

Punishment on summary conviction: a fine of \$1,000 for each day during which he so carries on the trade after notice from the Minister stating that the period, or, as the case may be, the period as extended, has expired, or stating that he is carrying on the trade in contravention of the restriction.

(4) Any person—

- (a) who is aggrieved by a refusal of the Minister to consent under this section to the establishment of an offensive trade; or
- (b) who is aggrieved by any time limit attached to a consent; or
- (c) who is aggrieved by a refusal of the Minister to extend such a time limit; or
- (d) who is aggrieved by any restriction imposed under subsection (3),

may appeal to a court of summary jurisdiction in accordance with section 190.

(5) An order made under subsection (1)(b) may declare a trade, business, or manufacture to be an offensive trade if established or carried on in a municipal area or in a specified part thereof, or in any specified part or district of Bermuda; and, where an order made under subsection (1)(b) is so limited, any reference in the foregoing provisions of this section to premises shall, in relation to the trade, business or manufacture in question, be construed as a reference to premises within that municipal area or specified part thereof, or in that specified part or district of Bermuda.

(6) For the purposes of this section, a trade, business or manufacture shall be deemed to be established not only when it is established in the first instance, but also—

- (a) when it is transferred or extended from any premises to other premises; or
- (b) when it is resumed on any premises on which it was previously carried on, after it has been discontinued on those premises for more than one year; or
- (c) when the buildings in which it is carried on are enlarged;

but a change in the ownership or occupation of the premises on which a trade, business or manufacture is carried on, or the rebuilding of the buildings in which it is carried on when those buildings have been wholly or partially pulled down or burnt down, without any extension of the total floor space thereof, shall, for the purposes of this section, not be deemed to be an establishment of the trade, business or manufacture.

[Section 63 subsections (1) - (3) amended by 2016 : 12 s. 10 effective 28 March 2016]

Regulations; offensive trades

64 Provision may be made by regulations made under this Act for preventing or mitigating any noxious or injurious effects of any trade, business or manufacture which is an offensive trade within the meaning of section 63, established either with or without the consent of the Minister and either before or after 5 August 1949; and such regulations may provide for the inspection of premises upon which an offensive trade is carried on.

Saving of rights under other Acts or at common law

65 The provisions of this Part are in addition to and do not derogate from or abridge any right, remedy or proceedings under any other Act, or at common law or in equity:

Provided that no person shall be punished twice in respect of the same act or default.

PART V

COMMUNICABLE DISEASES

Interpretation of Part V; and saving

66 (1) In this Part—

“communicable disease” means a communicable disease of the first category, a communicable disease of the second category, and a sexual or a venereal disease;

“communicable disease of the first category” means any of the following diseases—

actinomycosis, anthrax, cholera, conjunctivitis (acute of the newborn), coronavirus (COVID-19), diphtheria, dysentery (amoebic or bacillary), encephalitis (infectious), glanders, hepatitis (infectious), jaundice (haemorrhagic), leprosy, measles, meningococcal disease, plague, pneumonic

plague, poliomyelitis, psittacosis, rabies, rift valley fever, severe acute respiratory syndrome (SARS), smallpox, streptococcal infections (respiratory, puerperal and others), trachoma, tuberculosis, typhoid or paratyphoid fevers, typhus and other rickettsial diseases, undulant fever, viral haemorrhagic fevers (ebola, lassa, marburg), west nile fever, whooping cough and zika virus;

“communicable disease of the second category” means any of the following diseases—

chickenpox, dengue, German measles (rubella), influenza, malaria, mumps, pneumonia (acute lobar or atypical primary), puerperal fever, relapsing fever, tetanus and yellow fever;

“sexual disease” means a disease specified in subsection (2) of section 324 of the Criminal Code ;

“venereal disease” means any of the following diseases in a communicable form—

gonorrhoea, syphilis, chancroid, lymphogranuloma venereum and granuloma inguinale.

(2) Nothing in this Part shall derogate from any liability under Part XI with respect to the notification of cases of food poisoning.

(3) Nothing in this Part shall derogate from any provision of the Quarantine Act 2017, or of the Fumigation (Control) Act 1945 [*title 11 item 7*], or of any Act replacing any of those Acts.

[Section 66 subsection (1) definition of "communicable disease of the first category" deleted and substituted by 2016 : 12 s. 4 effective 28 March 2016; subsection (3) amended by 2017 : 11 s. 17 effective 24 April 2017; subsection (1) definition "communicable disease of the first category" amended by BR 8 / 2020 para. 2 effective 7 February 2020]

Application of Part V to further diseases

67 (1) Where it appears to the Minister that, for the protection of the public health, this Part should apply in relation to a disease other than a disease included in the definition of a communicable disease (of the first or second category) or of a venereal disease, the Minister may, by order published in the Gazette, amend the provisions of section 66 so as to provide for such a disease as a communicable disease (of the first or second category) or a venereal disease, as the case may be.

(2) The order referred to in subsection (1) is subject to the negative resolution procedure.

[Section 67 repealed and substituted by 2016 : 12 s. 5 effective 28 March 2016]

Notification of communicable disease.

68 (1) Where any inmate of a building is suffering, or is suspected to be suffering, or has died while suffering or suspected to be suffering, from any communicable disease of the first category or any communicable disease of the second category, (unless the building is a hospital or other place in which persons suffering or suspected to be suffering from a communicable disease are received)—

(a) the head of the family to which such inmate (hereinafter in this section referred to as the "patient") belongs, or in the event of his absence or incapacity the nearest relation of the patient resident in the same building, or in the event of the absence or incapacity of such relation, the person principally in charge of or in attendance on the patient, or if there is no such person, the occupier of the building, as soon as he becomes aware or suspects that the patient is suffering from a communicable disease of the first category or a communicable disease of the second category—

(i) shall forthwith give notice thereof orally or in writing to a Government Medical Officer; or

(ii) shall forthwith call in a medical practitioner and place the patient under his care,

and shall also, in the event of the death of the patient, immediately after his death (unless the patient was at the time of his death being attended by a medical practitioner) give notice orally or in writing to a Government Medical Officer, stating the name of the patient, the situation of the building, the communicable disease from which the patient is believed to have been suffering and the day and hour of his death;

(b) every medical practitioner attending on or called in to visit any person shall, as soon as he becomes aware or suspects that that person is, or, in the event of that person's death, was at the time of his death, a patient suffering from a communicable disease of the first or second category, forthwith give notice thereof orally or in writing to a Government Medical Officer; and any such notice shall contain, as far as can be reasonably ascertained, the following particulars—

(i) the name, sex, and age of the patient;

(ii) the situation of the building;

(iii) the communicable disease from which, in the opinion of the medical practitioner, the patient is or has been suffering, or is or has been suspected of suffering; and

(iv) in the event of the patient's death, the date and hour at which he died.

(2) Where any such notice as aforesaid is given in respect of a patient in a building in which he is not ordinarily resident, any such notice shall, in addition to any particulars required under subsection (1), also state the ordinary residence of the patient.

(3) Any person who contravenes any of the foregoing provisions of this section commits an offence against this Act.

Provided that it shall be a defence for any person charged under this section to prove that he had reasonable cause to believe that notice had been duly given by some other person.

(4) *[repealed]*

(5) In this section “occupier”, in relation to a building, includes any person having the charge, management or control of the building, or of the part of the building, in which the patient is; and, in the case of a building which is ordinarily let out in separate tenements, or, in the case of a lodging house the whole of which is ordinarily let to lodgers, includes any person receiving the rent payable by the tenants or lodgers either on his own account or as the agent of another person.

(6) The provisions of this section which relate to notification of the occurrence of communicable disease, or of the death of any person suffering therefrom, shall apply in respect of every ship or aircraft within the territorial limits of Bermuda, and in respect of every shed, tent, van, caravan, or similar structure or vehicle, in like manner as nearly as may be as if it were a building.

(7) Nothing in this section shall derogate from any Act for the time being relating to the registration of deaths.

[Section 68 subsection (4) repealed by 2016 : 12 s. 9 effective 28 March 2016]

Compulsory examination of persons suffering from a communicable disease.

69 (1) Where the Chief Medical Officer has reasonable grounds for suspecting that any person—

- (a) is suffering from a communicable disease;
- (b) is a carrier of a communicable disease; or
- (c) has been in contact with a person suffering from a communicable disease,

the Chief Medical Officer may by written order under his hand direct that person to submit himself to medical examination by a Government Medical Officer at a place and date specified in the order.

(2) The Chief Medical Officer may, if he thinks fit, vary any order made by him under this section by substituting a different place or later date for the place or date originally specified, or by substituting another Government Medical Officer for the Government Medical Officer originally specified.

(2a) The Chief Medical Officer shall if the person to be examined so requests, vary the order by substituting for the Government Medical Officer originally specified a private medical practitioner named by the person to be examined and willing both to undertake the examination and to undertake the treatment of the person for the communicable disease should the examination reveal that he is suffering from, or is a carrier of, that disease.

(3) Any person who fails without reasonable excuse to comply with an order made under this section commits an offence against this Act.

[Section 69 subsection (1) amended by 2016 : 12 s. 6 effective 28 March 2016]

Prohibition of exposing infected person or articles

70 Without prejudice to anything in sections 96 to 99 inclusive (control of venereal disease), any person—

- (a) who knowing or having reasonable cause to believe that he is suffering from any communicable disease exposes other persons to the risk of infection by his presence and conduct, without proper precautions against spreading the disease, in any street, public place, school, shop, place of entertainment, assembly or resort, factory, hotel or public conveyance; or
- (b) who, being in charge of any person whom he knows or has reasonable cause to believe to be suffering from any communicable disease, causes or allows that person to expose other persons to the risk of infection by his presence or conduct in any such place as aforesaid; or
- (c) who gives, lends, sells, transmits or exposes without proper cleansing or disinfection any bedding, clothes, rags or other articles which he suspects or has reasonable cause to believe are infected with any communicable disease, commits an offence against this Act.

Person suffering from communicable disease not to carry on occupation

71 (1) Any person who, knowing or having reasonable cause to believe that he has been exposed to, or is suffering from, a communicable disease, engages in or carries on any trade, business or occupation which he cannot engage in or carry on without risk of spreading the disease commits an offence against this Act.

(2) The person referred to under subsection (1) as exposed to, or suffering from, a communicable disease shall not resume work in the trade, business or occupation which he engages in or carries on until he has received a certificate from a medical practitioner confirming that—

- (a) he has not been infected with the communicable disease, although he was exposed to the disease;
- (b) he has been cured of the communicable disease he was infected with; or
- (c) although he has not been cured of the communicable disease he was infected with, he has become a non-infectious carrier of the communicable disease.

[Section 71 repealed and substituted by 2016 : 12 s. 7 effective 28 March 2016]

Power to order child liable to convey communicable disease not to attend school

72 (1) A person having the care of a school child who is or has been suffering from, or has been exposed to infection by, a communicable disease, shall not, after receiving a notice from a Government Medical Officer or private medical practitioner that the child is not to be sent to school, again send the child to school until he has obtained from a Government Medical Officer a certificate, that in his opinion the child may attend the school without undue risk of communicating the disease to other school children.

(2) No teacher or person in charge of any school shall knowingly allow any school child to attend the school where the attendance is in contravention of subsection (1).

(3) Any person who contravenes any of the foregoing provisions of this section commits an offence against this Act.

PUBLIC HEALTH ACT 1949

Duty of person in charge of school to provide list of school children

73 (1) The person in charge of a school, any school child of which is or has been suffering from a communicable disease, shall, if required by a Government Medical Officer, furnish to the Government Medical Officer within a reasonable time fixed by him a complete list of the names and addresses of the school children in or attending the school, or any specified department or branch of the school.

(2) Any person in charge of a school who fails to comply with any such requirement as aforesaid commits an offence against this Act:

Punishment on summary conviction: a fine of \$1,000.

[Section 73 subsection (2) amended by 2016 : 12 s. 10 effective 28 March 2016]

Restriction on sending or taking infected articles to laundry or to cleaners

74 (1) A person shall not send or take to any laundry for the purpose of being washed, or to any place for the purpose of being cleaned, any article which he suspects or has reasonable cause to believe to be infected with a communicable disease, unless that article has been disinfected by, or to the satisfaction of, a Public Health Officer, or is sent with proper precautions to a laundry for the purpose of disinfection, with notice that it is, or is suspected to be, so infected,

(2) The Minister may pay the expenses of the disinfection of any such article as aforesaid if carried out by him or under the direction of a Public Health Officer.

(3) The occupier of a building in which a person is suffering from a communicable disease shall, if required by the Minister, furnish to him the address of any laundry or other place to which articles from the building have been, or will be, sent during the continuance of the disease for the purpose of being washed or cleaned.

(4) Any person who contravenes any of the foregoing provisions of this section commits an offence against this Act.

Power to prohibit home work on premises where communicable disease exists

75 (1) Where a case of a communicable disease of the first category occurs on any premises, whether the person suffering from the disease has been removed from the premises or not, a Government Medical Officer may make an order forbidding any work to which this section applies to be given out to any person living or working on those premises, or on such part thereof as may be specified in the order, and any order so made may be served on the occupier of any factory or other place from which work is given out, or on any contractor employed by any such occupier.

(2) An order made under this section may be expressed to operate for a specified time or until the premises or any part thereof specified in the order have been disinfected to the satisfaction of a Government Medical Officer, or may be expressed to be inoperative so long as any other reasonable precaution specified in the order is taken.

(3) Any occupier or contractor, being a person on whom an order made under this section has been served, who contravenes any provision of the order commits an offence against this Act.

PUBLIC HEALTH ACT 1949

(4) This section applies to the making, cleaning, washing, altering, ornamenting, finishing or repairing of clothing and furnishings and to any work incidental thereto and to such other classes of work as the Minister may specify by order published in the Gazette.

Restriction on sale of articles by person collecting rags

76 (1) No person who collects or deals in rags, old clothes or similar articles, and no person assisting, or acting on behalf of, any such person as aforesaid shall—

- (a) in or from any shop or premises used for, or in connection with, the business of a dealer in any such articles as aforesaid; or
- (b) while engaged in collecting any such articles as aforesaid,

sell or deliver, whether gratuitously or not, any article of food or drink any person, or any article whatsoever to a child under the age of fourteen years.

(2) Any person who contravenes any of the foregoing provisions of this section commits an offence against this Act:

Punishment on summary conviction: a fine of \$1,000.

[Section 76 subsection (2) amended by 2016 : 12 s. 10 effective 28 March 2016]

Use of library books by persons suffering from certain communicable diseases

77 (1) A person who knows or has reasonable cause to believe that he is suffering from a communicable disease of the first category shall not, without the permission of a Government Medical Officer, take any book, or cause any book to be taken for his use, or use any book taken, from any public or circulating library.

(2) A person shall not without the permission of a Government Medical Officer allow any book which has been taken from a public or circulating library, and is under his control, to be used by any person whom he knows to be suffering from a communicable disease of the first category.

(3) A person shall not return to any public or circulating library a book which he suspects or has reasonable cause to believe to be infected with a communicable disease of the first category, or allow any such book which is under his control to be so returned, but shall give notice to the Minister that the book is, or is suspected to be so infected.

(4) Any person who contravenes any of the foregoing provisions of this section commits an offence against this Act:

Punishment on summary conviction: a fine of \$1,000.

(5) The Director may, on such notice being given, cause the book to be disinfected and returned to the library, or may, if it appears to him to be necessary, cause the book to be destroyed.

[Section 77 subsections (4) and (5) amended by 2016 : 12 s. 3 and 10 effective 28 March 2016]

PUBLIC HEALTH ACT 1949

Infectious matter not be placed in dustbins

78 (1) A person shall not place, or cause or allow to be placed, in a dustbin or ashpit any matter or article which he suspects or has reasonable cause to believe to be infected with a communicable disease and which has not been disinfected.

(2) Any person who contravenes the foregoing provisions of this section commits an offence against this Act:

Punishment on summary conviction: a fine of \$1,000.

(3) The Minister shall give notice of the provisions of this section to the occupier of any building in which he is aware that there is a person suffering from a communicable disease.

[Section 78 subsection (2) amended by 2016 : 12 s. 10 effective 28 March 2016]

Letting of houses or rooms in hotels after recent case of communicable disease

79 (1) Where a person—

(a) who is concerned in the sale or letting of a dwelling-house or part of a dwelling-house or in showing to any person a dwelling-house or part of a dwelling-house with a view to its being sold or let; or

(b) who has recently ceased to occupy a dwelling-house or part of a dwelling-house,

is questioned by any person negotiating for the purchase or lease of the house, or any part thereof, as to whether there is, or has been within the preceding six weeks, in any part of the house a person suffering from a communicable disease of the first or second category, he shall not knowingly make a false answer to that question.

(2) No person shall sell or let any dwelling-house or part of a dwelling-house in which a person has to his knowledge within the previous six weeks been suffering from a communicable disease of the first or second category—

(a) without having the house, or the part of the house, and all articles therein liable to retain infection, disinfected to the satisfaction of a Public Health Officer as testified by a certificate signed by him; or

(b) without the permission in writing of a Government Medical Officer.

(3) No person who is the keeper of a hotel or inn shall allow a room therein in which any person has to his knowledge within the previous six weeks been suffering from a communicable disease of the first or second category to be occupied by any other person—

(a) without having the room and all articles therein liable to retain infection disinfected to the satisfaction of a Public Health Officer as testified by a certificate signed by him; or

(b) without the permission in writing of a Government Medical Officer.

(4) Any person who contravenes any of the foregoing provisions of this section commits an offence against this Act.

PUBLIC HEALTH ACT 1949

Duty of person ceasing to occupy house to disclose to owner any recent case of communicable disease, and to disinfect house

80 (1) If a person ceases to occupy a dwelling-house or part of a dwelling-house in which to his knowledge a person has within six weeks previously been suffering from a communicable disease of the first or second category and that person—

- (a) fails to have the house, or the part of the house, and all articles therein liable to retain infection, disinfected to the satisfaction of a Public Health Officer as testified by a certificate signed by him; or
- (b) fails to give to the owner of the house, or of the part of the house, notice of the previous existence of the disease; or
- (c) on being questioned by the owner of the house as to whether within the preceding six weeks there has been therein any person suffering from any communicable disease, knowingly makes a false answer to such question,

he commits an offence against this Act.

(2) The Minister shall give notice of the provisions of this section to the occupier and also to the owner of any dwelling-house in which he is aware there is a person suffering from a communicable disease of the first or second category.

Use of public conveyances by persons suffering from communicable disease

81 (1) No person who knows or has reasonable cause to believe that he is suffering from a communicable disease of the first category—

- (a) shall enter any public conveyance used for the carriage of persons at separate fares; or
- (b) shall enter any other public conveyance without previously informing the owner or driver thereof that he is, or suspects that he is, so suffering.

(2) No person having the care of a person whom he knows or has reasonable cause to believe is suffering from a communicable disease of the first category shall permit that person to be carried—

- (a) in any public conveyance used for the carriage of persons at separate fares; or
- (b) in any other public conveyance without previously informing the owner or driver thereof that that person is, or is suspected to be, so suffering.

(3) Any person who contravenes any of the foregoing provisions of this section commits an offence against this Act;

Punishment on summary conviction: a fine of \$2,000; and, in addition to any fine imposed, shall be ordered by the court to pay to any person concerned with the conveyance as owner, driver or conductor thereof a sum sufficient to cover any loss and expense incurred by him in connection with the disinfection of the conveyance in pursuance of section 82.

[Section 81 subsection (3) amended by 2016 : 12 s. 10 effective 28 March 2016]

PUBLIC HEALTH ACT 1949

Duty of owner of public conveyance in regard to cases of communicable disease

82 (1) The owner, driver or conductor of a public conveyance used for the carriage of passengers at separate fares shall not convey therein a person whom he has reasonable cause to believe is suffering from a communicable disease of the first category.

(2) Notwithstanding any obligation in law to accept passengers for carriage, the owner or driver of any public conveyance (other than a public conveyance used for the carriage of passengers at separate fares) may refuse to convey therein any person who he has reasonable cause to believe is suffering from a communicable disease of the first category, until he has been paid a sum sufficient to cover any loss and expense which would be incurred by reason of subsection (3).

(3) Where a person believed by the person in charge to be suffering from a communicable disease of the first category is carried in any public conveyance, the person in charge of the public conveyance shall, as soon as practicable, give notice thereof to a Public Health Officer and, before permitting any other person to enter the conveyance, shall cause the conveyance to be disinfected; and any person concerned with the conveyance as owner, driver or conductor thereof may recover in a summary manner from the person so conveyed, or from the person causing that person to be so conveyed, a sufficient sum to cover any loss and expense incurred by him.

(4) Any person who contravenes any of the foregoing provisions of this section commits an offence against this Act:

Punishment on summary conviction: a fine of \$2,000.

(5) The Minister, when so requested by the person in charge of a public conveyance in which a person believed to be suffering from a communicable disease of the first category has been carried, shall provide for the disinfection of the public conveyance, and shall make no charge in respect thereof except in a case where the owner, driver or conductor conveyed a person knowing that he was suffering from such communicable disease.

[Section 82 subsection (4) amended by 2016 : 12 s. 10 effective 28 March 2016]

Maintenance at Government expense of carriers of disease

82A (1) Where a hospital or institution has admitted a person upon the certificate of the Chief Medical Officer—

- (a) that such person is suffering from a communicable disease of the first or second category or is a carrier or contact thereof; and
- (b) that his circumstances are such that proper precautions to prevent the spread of infection cannot be taken, or that such precautions are not being taken; and
- (c) that serious risk of infection is thereby caused to other persons,

such person shall be maintained in such hospital or institution at the cost of the Minister.

(2) Any cost incurred by the Minister under subsection (1) shall be defrayed out of the Consolidated Fund.

(3) For the purposes of this section—

“carrier” means an infected person harbouring a disease who lacks clinical symptoms thereof but who serves as a potential source of infection to other persons;

“contact” means a person who has been in such association with an infected person, infected animal or contaminated environment harbouring a disease as to have had an opportunity to acquire the disease.

Compulsory removal to hospital of persons suffering from communicable disease

83 (1) Where a Justice of the Peace (acting, if he deems it necessary, *ex parte*) is satisfied, on the application of a Government Medical Officer or other medical practitioner, that a person is suffering from a communicable disease of the first or second category and—

- (a) that his circumstances are such that proper precautions to prevent the spread of infection cannot be taken, or that such precautions are not being taken; and
- (b) that serious risk of infection is thereby caused to other persons; and
- (c) that accommodation for him is available in a suitable hospital or institution in Bermuda,

the Justice of the Peace may, with the consent of the superintending body of the hospital or institution, order that person to be removed thereto and to be maintained therein at the cost of the Minister.

(2) An order under this section may be addressed to such officer of the Department as the Justice of the Peace may think expedient; and that officer and any officer of the hospital or institution may do all acts necessary for giving effect to the order.

Power of Minister to remove temporarily inmates of infected house

84 (1) When any communicable disease of the first or second category occurs in a dwelling-house, or where it appears to the Minister necessary in the interests of the public health to disinfect any dwelling-house, the Minister—

- (a) may cause any person who is not himself sick and who consents to leave the house, or whose parent or guardian, where the person is a child, consents to his leaving the house, to be removed therefrom to any temporary shelter or house accommodation provided by the Minister; or
- (b) may cause any such person to be so removed without any consent if a Justice of the Peace (acting, if he deems it necessary, *ex parte*) is satisfied, on the application of a Government Medical Officer, of the necessity for the removal and makes an order for the removal, subject to such conditions, if any, as may be specified in the order.

(2) The Minister shall in every case cause the removal to be effected and the conditions of any order to be fulfilled without charge to the person removed, or, as the case may be, to the parent or guardian of that person.

(3) The Minister may provide temporary shelter or house accommodation for the purpose of giving effect to this section.

Power to prohibit persons from entering room occupied by person suffering from communicable disease

85 (1) Where any person is suffering from a communicable disease of the first or second category, any Government Medical Officer, if it appears to him expedient in the interests of the public health, may prohibit all persons not in attendance on that person from entering the room where that person is lodged.

(2) Any person who contravenes any such prohibition as aforesaid commits an offence against this Act.

Restriction on entry into and exit from infected building

86 (1) Without prejudice to anything in this Part, where a dwelling-house, or any part of a dwelling-house, is occupied by a person suffering from a communicable disease of the first or second category and it appears to a Government Medical Officer that—

- (a) the unrestricted entry and exit of persons; or
- (b) the unrestricted carrying of articles,

into and out of that dwelling-house would constitute a danger to the public health, he may declare the dwelling-house to be an infected house.

(2) The Chief Medical Officer may, in respect of an infected house, restrict the entry and exit of persons, or the carrying of articles, into and out of the house, and shall notify any such restrictions as he may think fit to impose in that behalf—

- (a) by affixing a notice in a prominent position on the house; and
- (b) by delivering a notice to the occupier of the house.

(3) Any person who contravenes any restriction contained in any notice as aforesaid commits an offence against this Act.

Power to restrict use of infected buildings

87 (1) Where any part of a building is used as a dwelling-house, and another part is used as a school, factory, shop, store, public house or place of public resort or meeting, and it appears to a Government Medical Officer—

- (a) that a person suffering from a communicable disease of the first or second category is in that part of the building used as a dwelling-house; and
- (b) that there is a risk of infection of persons using that other part of the building as aforesaid,

he may declare the whole building to be an infected building.

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(2) The Director may, in respect of an infected building, by order require the owner or manager of the school, factory, shop, public house or place of public resort or meeting situated therein to close the school, factory, shop, public house or place of public resort or meeting and to keep it closed—

- (a) until otherwise directed by the Director; or
- (b) until after the removal of all persons suffering from the communicable disease from the building, and until after the efficient cleansing and disinfection of the rooms used by such persons and of the articles therein.

(3) Any person who contravenes any order made by the Director in pursuance of subsection (2) commits an offence against this Act.

(4) Any person who is aggrieved by an order, or a term in an order, made under this section may appeal to a court of summary jurisdiction in accordance with section 190.

[Section 87 subsections (2) and (3) amended by 2016 : 12 s. 3 effective 28 March 2016]

Closing of places of public resort

88 (1) Where it appears to the Minister that—

- (a) a communicable disease of the first or second category exists in any part of Bermuda; or
- (b) there is, in the opinion of the Chief Medical Officer, an immediate risk of an outbreak of such disease in any part of Bermuda,

and that the closing of any school, cinema, church, hotel or other place of public resort or meeting is necessary for checking the spread or the threatened spread of the disease, the Minister may order the manager or other person in charge of that place to close it; and such manager or person in charge shall forthwith comply with that order, and shall continue to comply therewith until otherwise directed by the Minister.

(2) Any person who contravenes an order made under this section commits an offence against this Act.

(3) Any person who is aggrieved by an order made under this section may appeal to a court of summary jurisdiction in accordance with section 190.

[Section 88 subsection (1) repealed and substituted by 2020 : 7 s. 2 effective 16 March 2020]

Prohibition of retaining unburied bodies of persons dying while suffering from communicable disease

89 (1) Notwithstanding anything in Part VII, a Government Medical Officer or other medical practitioner, may, where it appears to him expedient, direct that the body of a person who has died while suffering from any communicable disease shall not be retained unburied or uncremated more than twelve hours elsewhere than in—

- (a) a public mortuary; or
- (b) a room not used at the time as a dwelling place, sleeping place or workroom.

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(2) Any person who contravenes any direction in pursuance of subsection (1) commits an offence against this Act.

(3) Where a contravention occurs of any directions given in pursuance of subsection (1), a Government Medical Officer may order the immediate removal of the body to a mortuary and may order the burial or cremation of the body within a time fixed in the order.

(3a) Where the order made under subsection (3) is not complied with the body shall be buried or cremated under arrangements to be made by the Director.

(3b) Without prejudice to subsection (2) any expenses so incurred may be recovered in the manner provided in Part XI from any person legally liable to pay the expenses of the burial or cremation of the body.

[Section 89 subsection (3a) amended by 2016 : 12 s. 3 effective 28 March 2016]

Restriction on removal of body from hospital

90 (1) Where—

(a) any person dies while suffering from a communicable disease in any hospital or place of temporary accommodation for the sick, and

(b) (i) a Government Medical Officer, or

(ii) the medical superintendent of the hospital, or

(iii) the medical practitioner who treated the person during his last illness,

has certified that in his opinion it is desirable, in order to prevent the risk of communicating the disease or of spreading infection, that the body should not be removed from the hospital or place of temporary accommodation for the sick except for the purpose of being forthwith buried or cremated, no person shall remove the body from the hospital or place of temporary accommodation for the sick except for the purpose of being forthwith buried or cremated.

(1a) When the body is taken out of the hospital or place of temporary accommodation for the sick for that purpose it shall be forthwith taken to some cemetery or other place of burial or cremation, and shall forthwith be there buried or cremated as the case may be.

(2) Any person who contravenes this section commits an offence against this Act.

(3) Nothing in this section shall prevent the removal of a body from a hospital or temporary place of accommodation for the sick to a mortuary.

(3a) A mortuary shall, for the purposes of this section, be deemed to be a part of such hospital or place of temporary accommodation for the sick.

Avoidance of contact with body of person who suffered from a communicable disease

91 (1) A person having the charge or control of premises in which is lying the body of a person who has died while suffering from a communicable disease shall take such steps

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as may be reasonably practicable to prevent persons coming unnecessarily into contact with, or proximity to, the body.

(2) Any person who fails to comply with the foregoing provisions of this section commits an offence against this Act:

Punishment on summary conviction: a fine of \$1,000.

[Section 91 subsection (2) amended by 2016 : 12 s. 10 effective 28 March 2016]

Cleansing and disinfection of premises and articles

92 The Minister may from time to time provide suitable places and such apparatus as he thinks fit for the cleansing and disinfection of premises and vehicles, and of bedding, clothing and other articles, which have been exposed to infection from communicable diseases.

Power of Minister to provide disinfecting station, etc.

93 (1) Where it appears to the Minister that the cleansing and disinfection of any premises, and the disinfection or destruction of any articles therein likely to retain infection, would tend to prevent the spread of any communicable disease by which the public health is liable to be threatened, the Minister shall, after giving not less than twenty-four hours notice to the occupier of the premises, cause an authorized officer to enter the premises and to disinfect or, as the case may require, destroy any such articles therein, unless within twenty-four hours after the receipt of the notice, the occupier of the premises informs the Minister that within a time to be fixed by the notice he will take such steps relating to cleansing and disinfection as are specified therein.

(2) If within twenty-four hours after receipt of the notice the person to whom it is given does not inform the Minister as aforesaid, or if, having so informed the Minister, he fails to take such steps as aforesaid to the satisfaction of a Public Health Officer within the time fixed by the notice, the Minister shall cause the premises to be cleansed and disinfected and the articles to be disinfected or destroyed, as the case may require; and the Minister, if he thinks fit, may recover from that person in the manner provided in Part XI the expenses reasonably incurred by the Minister in so doing.

(3) Where the occupier of any premises is, in the opinion of the Minister, unable through lack of means effectually to take such steps as the Minister considers necessary to give effect to subsection (1), the Minister, without giving such notice as aforesaid but with the consent of the occupier, may take the necessary steps at the expense of the Minister.

(4) For the purposes of this section, the owner of an unoccupied house shall be deemed to be in occupation thereof.

Establishment of temporary isolation hospitals and clinics

94 (1) In the event of any communicable disease occurring that is a public health risk, the Minister may provide from time to time during the existence of the communicable disease temporary clinics and temporary isolation hospitals for the reception or treatment of persons suffering from that or from any other communicable disease.

(2) Provision may be made by regulations made under this Act—

- (a) for regulating the administration of such clinics and isolation hospitals;
- (b) for regulating the conduct of patients received or treated in such clinics or isolation hospitals;
- (c) for prescribing the fees, if any, to be paid by patients received or treated in such clinics or isolation hospitals.

[Section 94 subsection (1) amended by 2017 : 32 s. 4 effective 6 October 2017]

Compulsory removal of tuberculosis patients

95 (1) Where on the application of the Minister a court of summary jurisdiction is satisfied that a person suffering from tuberculosis of the respiratory tract (hereinafter in this section referred to as “the patient”) is in an infectious state and—

- (a) that his circumstances are such that proper precautions to prevent the spread of infection—
 - (i) cannot be taken; or
 - (ii) are not taken; and
- (b) that serious risk of infection is thereby caused to other persons; and
- (c) that accommodation for him is available in a suitable hospital or institution in Bermuda,

the court may, subject to this section, order him to be removed to the hospital or institution and to be detained and maintained therein for such period not exceeding three months as the court thinks fit.

(2) Where, before the expiration of any period for which a patient has been ordered to be detained under this section, a court of summary jurisdiction is satisfied that the conditions which led to the order for the patient’s detention will again exist if he is not detained for a further period, the court may, on the application of the Minister, order his detention for a further period not exceeding three months.

(3) Before making an application for an order either under subsection (1) or subsection (2), the Minister shall give to the patient, or to some person having care of him, not less than three clear days’ notice of the time and place at which the application will be made.

(4) On the hearing of any application under this section, the court, if it thinks it expedient to do so, may require the patient to be examined by such medical practitioner as the court may direct.

(5) Where the court makes any order under this section, and where it appears to the court to be just, the court may direct the Minister—

- (a) to pay the whole, or such part as the court may direct, of the cost of the patient’s maintenance in the hospital or institution; and in the case of an order under subsection (1), the cost of the patient’s removal thereto; and

- (b) to make such contribution as the court may direct towards the maintenance of the dependents, if any, of the patient.

(6) At any time after the expiration of six weeks from the date of an order made under subsection (1), application may be made by an interested person to a court of summary jurisdiction—

- (a) for the rescission of that order if it is still in force; or
- (b) for the rescission of any further order made under subsection (2),

and upon the hearing of any such application the court may by a further order rescind that order:

Provided that not less than three clear days' notice of the place and date of the application shall be given to the Minister by the person making the application, or by a person acting on his behalf.

(7) Any order made under this section may be addressed to the Minister, and any officer of the Department and any officer of the hospital or institution named in such order may do all acts necessary for giving effect to the order.

Persons suffering from venereal disease

96 (1) If any person (other than a child under sixteen years of age) suffering from a venereal disease and knowing or having reason to suspect that he is so suffering—

- (a) knowingly or recklessly does any act whereby the disease is, or is likely to be, communicated to another person; or
- (b) fails within a reasonable time to consult a Government Medical Officer or any other medical practitioner with respect thereto; or
- (c) is treated for the disease by any person other than a medical practitioner,

he commits an offence against this Act.

(2) If any person, not being a medical practitioner, treats any other person for a venereal disease he commits an offence against this Act.

Duties of parent or guardian of child suffering from venereal disease

97 (1) Any person who, being a parent or guardian of a child under sixteen years of age, knows or has reasonable cause to believe that the child is suffering from a venereal disease, shall forthwith consult a Government Medical Officer or any other medical practitioner with respect thereto, and shall cause the child—

- (a) to submit to such treatment; and
- (b) to undertake such precautions against the communication of the disease to other persons; and
- (c) to attend for and submit to such periodical examinations,

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as the Government Medical Officer or other medical practitioner may, for giving effect to this Part, prescribe or direct.

(2) Any person who fails to comply with any of the foregoing provisions of this section commits an offence against this Act.

Employment of persons suffering from venereal disease

98 *[Repealed by 2016 : 12 s. 9]*

[Section 98 repealed by 2016 : 12 s. 9 effective 28 March 2016]

Venereal disease; procedure where person voluntarily examined is found infected

99 (1) Where in accordance with an order made under section 69 a person is examined by a Government Medical Officer and is found to be suffering from a venereal disease, that person shall submit himself to, and carry out satisfactorily, such treatment for the disease, and shall attend for and submit to such periodical examination, as a Government Medical Officer may direct.

(2) Where in accordance with an order made under section 69 a person (hereinafter referred to as "the patient") is examined by a private medical practitioner and is found to be suffering from a venereal disease, the medical practitioner shall comply with the following requirements—

- (a) the medical practitioner shall forthwith both orally and in writing explain to the patient in clear terms the substance and import of the provisions of sections 96 and 98;
- (b) the medical practitioner shall forthwith instruct the patient as to the precautions he should take to prevent the communication of the disease to other persons;
- (c) the medical practitioner shall forthwith report to the Chief Medical Officer particulars of the treatment he is prescribing and of the directions given by him as to the periodical attendance of the patient for further examinations; and where the medical practitioner finds that the patient is free of the venereal disease he shall report the fact to the Chief Medical Officer;
- (d) if the patient fails without reasonable excuse to submit himself to and carry out satisfactorily the treatment prescribed or to attend for and submit himself to periodical examinations as directed by the medical practitioner, the medical practitioner shall forthwith report the failure to the Chief Medical Officer;

and if the medical practitioner fails without reasonable excuse to comply with any such requirement he commits an offence against this Act.

(3) Any person found to be suffering from a venereal disease on a compulsory examination as aforesaid by a Government Medical Officer or private medical practitioner who fails without reasonable excuse to submit himself to and carry out satisfactorily such treatment, or to attend for and submit himself to such periodical examinations, as the

Government Medical Officer, or, as the case may be, the private medical practitioner, may direct, commits an offence against this Act.

(4) Where in accordance with an order made under section 69 a person (hereinafter referred to as "the patient") is examined by a Government Medical Officer or a private medical practitioner and is found to be suffering from a sexual disease, the Officer or medical practitioner shall forthwith both orally and in writing explain to the patient in clear terms the substance and import of section 324 of the Criminal Code ; and, in addition, subsections (1), (2) (except paragraph (a)) and (3) of this section (including the penal provisions of those subsections) shall mutatismutandis apply in relation to that Officer or medical practitioner and that patient as those subsections apply in the case where a person is found to be suffering from a venereal disease.

[Subsection (4) inserted by 1993 : 4 effective 1 June 1993]

Compulsory treatment of venereal disease

100 (1) Where any person, not being a person compulsorily examined in accordance with an order under section 69, is found on examination by a private medical practitioner to be suffering from a venereal disease, with respect to that person (hereinafter referred to as "the patient") the medical practitioner shall comply with the following requirements—

- (a) the medical practitioner shall forthwith both orally and in writing explain to the patient in clear terms the substance and import of the provisions of sections 96 and 98;
- (b) the medical practitioner shall forthwith instruct the patient as to the precautions he should take to prevent the communication of the disease to other persons;
- (c) the medical practitioner shall forthwith report to the Chief Medical Officer particulars of the treatment he is prescribing and of the directions given by him as to the periodical attendance of the patient for further examinations; and when the medical practitioner finds that the patient is free of the venereal disease he shall report the fact to the Chief Medical Officer.
- (d) if the patient refuses to be treated for the disease by the medical practitioner, or fails without reasonable excuse to submit himself to and carry out satisfactorily the treatment prescribed or to attend for and submit himself to periodical examinations as directed by the medical practitioner, the medical practitioner shall forthwith report the refusal or failure, together with the patient's name and address, to the Chief Medical Officer:

Provided that except in the circumstances mentioned in paragraph (d) of this subsection, the medical practitioner shall not disclose the patient's name or address or any other matter or thing likely to reveal the patient's identity, unless he is required to do so under section 102 but shall indicate the patient by some number or symbol in accordance with arrangements to be made by the Chief Medical Officer and communicated by him in writing to the medical practitioner.

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(2) Any medical practitioner who without reasonable excuse fails to comply with any of the foregoing provisions of this section commits an offence against this Act.

(3) Where a person, not being a person compulsorily examined in accordance with an order under section 69 (hereinafter referred to as "the patient"), is found on examination by a private medical practitioner to be suffering from a sexual disease, the medical practitioner shall forthwith both orally and in writing explain to the patient in clear terms the substance and import of section 324 of the Criminal Code ; and, in addition, subsections (1) (except paragraph (a)) and (2) of this section (including the penal provisions of those subsections) shall mutatis mutandis apply in relation to that medical practitioner and that patient as those subsections apply in the case where a person is found to be suffering from a venereal disease.

[Subsection 3 inserted by 1993 : 4 effective 1 June 1993]

Venereal disease; procedure where infected person fails to carry out treatment prescribed by private medical practitioner

101 (1) Where the Chief Medical Officer receives a report made by a private medical practitioner in accordance with section 99(2)(d) or in accordance with section 100(1)(d); whether or not any proceedings have been taken against the person suffering from venereal disease for an offence against this Act, the Chief Medical Officer may by written order under his hand direct the person suffering from venereal disease to submit himself for medical examination by a Government Medical Officer at a place and date specified in the order.

(2) If that person fails without reasonable excuse to comply with such order or to submit himself to and carry out satisfactorily such treatment for the disease, or to attend and submit himself to such periodical examinations, as a Government Medical Officer may direct, he commits an offence against this Act.

Venereal disease; regulations prescribing nature of treatment

102 (1) Provision may be made by regulations made under this Act for specifying the nature of the tests and treatment that should be employed or prescribed with respect to persons (hereinafter referred to as "patients") who are being tested or treated for venereal disease by private medical practitioners; and if, in relation to any particular patient, the Chief Medical Officer is satisfied or has reasonable grounds for suspecting that any such regulations are not being complied with the Chief Medical Officer shall have the like power to make an order in relation to the patient as he has under section 101, and any such order shall have effect as if it were made in consequence of a report made by the private medical practitioner in accordance with section 99(2)(d), or in accordance with section 100(1)(d), and for the purposes of any such order the private medical practitioner shall on the written request of the Chief Medical Officer disclose to the Chief Medical Officer the name and address of the patient.

(2) Any private medical practitioner who fails to disclose to the Chief Medical Officer the name and address of the patient in compliance with such a request as aforesaid commits an offence against this Act.

Venereal disease; immunity from legal proceedings

- 103 (1) No prosecution, action or suit shall be brought or shall lie—
- (a) against any person in respect of anything done by him in good faith in the exercise of any power or the discharge of any duty conferred or imposed upon him by, or in connection with the execution or enforcement of, any of those provisions of this Part relating to the control of venereal disease;
 - (b) against any Government Medical Officer or medical practitioner in respect of information relating to a person (including the person's identity) whom he knows or has reasonable ground for suspecting to be suffering from a venereal disease and given by him in good faith to the medical superintendent of any hospital, diagnostic facility, infirmary, clinic or similar institution in which the person is to be an inmate or is to be treated (whether for venereal disease or not), or to any dentist, nurse, or midwife by whom the person is to be cared for or treated;
 - (c) against any person suffering from a venereal disease in respect of any information relating to the source or suspected source of his infection given by him in good faith,—
 - (i) to a Government Medical Officer;
 - (ii) to a private medical practitioner by whom he is being treated;
 - (iii) in the case of a member of the armed forces, to a medical officer of the force in which the informant is serving;
 - (d) against any private medical practitioner in respect of the communication by him to a Government Medical Officer of information given to him as mentioned in paragraph (c);
 - (e) against any medical officer of the armed forces in respect of the communication by him in good faith to a Government Medical Officer or, in the course of his duty, to another medical officer or other member of the armed forces of any information obtained as mentioned in paragraph (c), whether the information was originally given to him or to another medical officer of the armed forces.
- (2) In this section—
- (a) “armed forces” means any of Her Majesty’s Forces or of the United States Forces;
 - (b) “medical officer,” used in relation to the armed forces, means a medical officer holding a commission therein.

[Section 103 subsection (1)(b) amended by 1999:22 s.2 effective 9 July 1999; and by 1999:28 s.27 & Sch effective 27 April 2001]

Venereal disease; obligation of secrecy

104 (1) Subject to section 103 but without prejudice to the effect of the proviso to section 100(1) no person who is engaged in or employed in connection with the execution or enforcement of those provisions of this Part relating to the control of venereal disease shall disclose to any person who is not so engaged or employed the name or any information as to the identity of any person who is or has been suspected or has been found to be suffering from a venereal disease.

(2) Any person who contravenes the foregoing provisions of this section commits an offence against this Act.

Venereal disease; punishment for false information

105 (1) Any person who, under colour of making any report or giving any information required or authorized or privileged by those provisions of this Part relating to the control of venereal disease, makes any false statement which he knows or has reasonable cause to believe to be false, being a statement in which there is an imputation that a person, named or indicated therein, is suffering from a venereal disease, commits an offence against this Act:

Punishment on summary conviction: imprisonment for 6 months or a fine of \$10,000 or both such imprisonment and fine:

Provided that no prosecution shall be instituted under this section except with the consent or on the complaint of the person in respect of whom the imputation is made.

(2) Nothing in this section shall affect the right of any person in respect of whom such an imputation as aforesaid is made to institute proceedings otherwise than in accordance with this section:

Provided that no person shall be punished twice for the same act or omission.

[Section 105 subsection (1) amended by 2016 : 12 s. 10 effective 28 March 2016]

Venereal disease; court proceedings in camera

106 In any prosecution instituted under sections 96 to 105 (control of venereal disease) the court may, if it thinks fit, direct that no person shall be present during the proceedings, other than the parties to the case, their attorneys and counsel and other persons directly concerned in the case.

Regulations relating to communicable diseases generally

107 Provision may be made by regulations made under this Act for implementing and giving effect to this Part; and without prejudice to the generality of the foregoing provision such regulations may provide—

- (a) for requiring the isolation of, or precautions to be taken by, persons suffering from, or who are carriers of, or are suspected of being carriers of, any communicable disease, or who have been in contact with any person suffering from a communicable disease;

- (b) for giving effect generally to those provisions of this Part which relate to the examination of persons who are suspected of suffering from or who are suspected of being carriers of a communicable disease, and for empowering Government Medical Officers and other medical practitioners carrying out examinations as aforesaid to require specimens of blood, faeces, sputum, urine and other bodily secretions or matter from such persons;
- (c) for regulating the manner in which cleansing and disinfection of premises and vehicles, and of bedding, clothing and other articles, is to be carried out, and for regulating the manner in which infected articles are to be destroyed;
- (d) for regulating, and for imposing conditions and restrictions upon, the manner in which the bodies of persons who have died while suffering from a communicable disease are to be prepared for burial or cremation.

PART VI
VACCINATION

Interpretation of Part VI

108 In this Part—

“lymph” means calves’ lymph prepared for the purposes of vaccination against smallpox;

“parent” in relation to a child, includes the person for the time being having the custody of the child;

“successful vaccination” means vaccination which has produced one or more Jennerian vesicles; and cognate expressions shall be construed accordingly.

[Section 108 “parent” substituted by 2002:36 s.8 & Sch effective 19 January 2004]

Public vaccinators and supply of lymph

109 (1) Every Government Medical Officer and every other medical practitioner shall, for the purposes of this Part, be a public vaccinator.

(2) The Minister shall make such arrangements as may from time to time be necessary for the supply of lymph to public vaccinators.

Duty of parents to take child to public vaccinator for vaccination

110 (1) Subject as hereinafter in this Part provided, the parent of every child in Bermuda shall take or cause such child to be taken within one year of its birth to a public vaccinator to be vaccinated.

(2) A public vaccinator to whom a child is taken as aforesaid shall with all reasonable despatch, and subject to the conditions hereinafter mentioned, proceed to vaccinate the child.

(3) Nothing in this section shall exempt any parent, where a public vaccinator is unable for any reason to vaccinate a child, from taking or causing the child to be taken to the same or another public vaccinator within one year of its birth.

(4) Any person who fails to comply with any of the foregoing provisions of this section commits an offence against this Act.

Examination of child after vaccination

111 (1) On the eighth day after the vaccination of a child the child's parent shall take or cause the child again to be taken to the public vaccinator who performed the vaccination for inspection at such time and place as the public vaccinator may have appointed,

(2) Where, upon such inspection as aforesaid the vaccination is found, in the opinion of the public vaccinator, to be unsuccessful, the parent shall, if the public vaccinator so directs, cause the child to be forthwith vaccinated again and afterwards inspected as on the previous occasion.

(3) Where, upon such inspection as aforesaid, the vaccination is found, in the opinion of the public vaccinator, to be successful, the public vaccinator shall complete and deliver to the parent a certificate in the prescribed form.

(4) Any person who fails to comply with any of the foregoing provisions of this section commits an offence against this Act.

Procedure where child is unfit for vaccination

112 Where a public vaccinator finds, as a result of any inspection of any child taken to him, that the child—

- (a) is, after he has three times unsuccessfully vaccinated the child, insusceptible of successful vaccination; or
- (b) has already had smallpox; or
- (c) has already been successfully vaccinated,

in any such case the public vaccinator shall complete and deliver to the parent a certificate in the prescribed form, and the parent shall thenceforth not be required to cause the child to be vaccinated and no public vaccinator shall be required to vaccinate the child.

Procedure where child immune from smallpox

113 (1) Where a public vaccinator is of opinion that a child taken to him for vaccination is not physically fit to be vaccinated, he shall forthwith complete and deliver to the parent a certificate in the prescribed form.

(2) Any certificate as aforesaid shall remain in force for three months only, but shall be renewable for a like period from time to time, until such time as a public vaccinator considers the child to be physically fit for vaccination, when the child shall with all reasonable despatch be vaccinated; and with respect to any such vaccination this Part shall apply in like manner as though it were a vaccination carried out in pursuance of section 110.

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Duty of Government Medical Officer to vaccinate any person

114 (1) A public vaccinator, being a Government Medical Officer, shall, on application, vaccinate or revaccinate any person at any time or place appointed for the purpose; and upon performing such vaccination the Government Medical Officer shall appoint a time and place for such person again to attend, such time being as far as practicable the eighth day after vaccination.

(2) Any person—

- (a) who, without reasonable excuse, fails to attend at the place and time appointed by the Government Medical Officer subsequent to vaccination; or
- (b) who, without reasonable excuse, refuses to allow the Government Medical Officer to ascertain the result of the vaccination,

commits an offence against this Act:

Punishment on summary conviction: a fine of \$500.

[Section 114 subsection (2) amended by 2016 : 12 s. 10 effective 28 March 2016]

Conscientious objector

115 (1) Notwithstanding anything in sections 108 to 114, a parent shall not be required to submit a child for vaccination or be liable to any punishment for a failure to comply with any of such provisions if, within eight months of the birth of the child, he makes declaration that he conscientiously believes that vaccination would be prejudicial to the health of the child.

(2) Such declaration shall—

- (a) be in the prescribed form;
- (b) be sworn before a Justice of the Peace;
- (c) be of no effect until it is delivered or sent by registered post to the Director.

[Section 115 subsection (2) amended by 2016 : 12 s. 3 and 8 effective 28 March 2016]

Compulsory vaccination

116 (1) Notwithstanding anything in sections 108 to 115—

- (a) Where it appears to the Minister that an outbreak of smallpox is imminent or has occurred or is likely to become epidemic, the Minister may by special notice to a person, or by general notice in the Gazette, direct any person or class of persons to be vaccinated, subject to such conditions as may be specified in the notice; and
- (b) Where any prisoner or other person or patient is admitted into any prison or any institution wholly kept up at the public expense in Bermuda, he shall be examined as soon as possible after admission by the medical officer of such prison or institution, and if it appears to the medical officer that such prisoner, person or patient—

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- (i) has not had smallpox; and
- (ii) has not been already successfully vaccinated, the medical officer shall, if he is in a fit state of health vaccinate him forthwith.

(2) Any person, being a person—

- (a) in respect of whom a special or general direction has been made in pursuance of subsection (1)(a); or
- (b) being a prisoner, person or patient mentioned in subsection (1)(b),

who fails to comply with any such direction or who refuses to comply with any directions given by a public vaccinator or medical officer in connection with this section, commits an offence against this Act.

Remuneration of public vaccinator

117 (1) No charge shall be payable to any public vaccinator by any person, or by the parent of any child, in respect of the vaccination of the person or child or in respect of an examination or delivery of any certificate connected therewith.

(2) *[repealed]*

[Section 117 subsection (2) repealed by 2016 : 12 s. 9 effective 28 March 2016]

Punishment for inoculation with variolous matter

118 Any person who produces, or attempts to produce—

- (a) by inoculation with variolous matter; or
- (b) by exposure to variolous matter, or to any matter, article or thing impregnated with variolous matter; or
- (c) by any other means whatsoever,

the disease of smallpox in any person commits an offence against this Act:

Punishment on conviction on indictment: imprisonment for 5 years.

Regulations; vaccination

119 Provision may be made by regulations made under this Act—

- (a) for controlling the supply of lymph to public vaccinators;
- (b) for prescribing methods to be employed by public vaccinators in carrying out vaccination;
- (c) for prescribing and regulating the rendering of returns to be made by public vaccinators of persons vaccinated or examined by them.

PART VII
BURIALS, CREMATIONS AND CEMETERIES

Interpretation of Part VII; and saving

120 (1) In this Part—

“burial,” in relation to human remains, includes placing in a vault; and cognate expressions shall be construed accordingly;

“cemetery” means a place in which for the time being it is lawful to bury human remains;

“crematorium” means a place established under this Part for the burning of human remains; and “cremated” and other cognate expressions shall be construed accordingly;

“disinterment,” in relation to human remains, includes removing from a vault; and cognate expressions shall be construed accordingly;

“human remains” includes the body or remains of a dead person or of a stillborn child, but does not include the ashes of a dead person or stillborn child whose body has been cremated.

(2) Nothing in this Part shall derogate from any provision of the Coroners Act 1938 [*title 8 item 81*], or of any Act replacing that Act, or of any Act for the time being relating to the registration of deaths.

Appointment of places to be cemeteries

121 (1) The Minister may from time to time by notice in the Gazette appoint places to be cemeteries.

(2) It is hereby declared that, for the purposes of this Part, any place lawfully used for the burial of human remains on 5 August 1949 shall be deemed to be a cemetery, and shall accordingly be subject to this Part.

Discontinuance of places as cemeteries

122 (1) Where it appears to the Minister that, for the protection of the public health, burials in any cemetery should be discontinued, either wholly or subject to any exception or qualification, the Minister by notice in the Gazette may order that after a date to be specified in the notice the burial of human remains in that cemetery shall be discontinued, either wholly or subject to any exception or qualification specified in the notice.

(2) No person, after the date specified in any such notice for the discontinuance of burials as aforesaid, shall bury or attempt to bury any human remains in any former cemetery in contravention of any order made by the Minister under subsection (1).

(3) Any person who contravenes subsection (2) commits an offence against this Act.

Prohibition of burials in places other than cemeteries

123 (1) Without prejudice to section 122, and subject as hereinafter provided, no person shall bury or attempt to bury any human remains in any place which is not a cemetery:

Provided that the Minister by special licence in writing may authorize the burial of human remains in any place which is not a cemetery, where—

- (a) in the opinion of the Minister the burial will not be prejudicial to the public health; and
- (b) the burial is not in a place which was formerly a cemetery and in respect of which an order has been made under section 122 requiring the discontinuance of burials therein.

(2) Any person who contravenes any of the foregoing provisions of this section commits an offence against this Act.

Duty to dispose of human remains within certain times

124 (1) Without prejudice to anything in Part V relating to the disposal of the bodies of persons who have died while suffering from a communicable disease, and subject as hereinafter provided, a person having the custody of any human remains shall cause the remains to be disposed of within the following times—

- (a) where death occurs in Bermuda, within forty-eight hours after death; or
- (b) where death occurs outside Bermuda, within forty-eight hours after the remains have been brought into Bermuda; or
- (c) where human remains are exhumed under this Part, within forty-eight hours after exhumation:

Provided that the Director or a Coroner, by written notice to the person having the custody of any human remains, may require or allow the remains, or any part thereof, to remain undisposed of for such time as may be specified in the notice.

(2) Any person who contravenes any of the provisions of subsection (1), or with any requirement duly made thereunder, commits an offence against this Act.

(3) In this section, “disposed of,” in relation to human remains, means—

- (a) buried in accordance with this Part; or
- (b) cremated in accordance with this Part; or
- (c) removed out of Bermuda.

[Section 124 subsection (1) amended by 2016 : 12 s. 3 effective 28 March 2016]

Power of Minister to established crematorium

125 The Minister may establish a crematorium in Bermuda.

Disposal of human remains in crematorium

126 (1) Human remains may be burned in a crematorium subject to such conditions as may from time to time be prescribed by regulations made under this Act.

(2) Any person who knowingly carries out or procures or takes part in the burning of any human remains except in a crematorium and except in accordance with any regulations made under this Part, commits an offence against this Act:

Punishment on summary conviction: imprisonment for 6 months or a fine of \$10,000 or both such imprisonment and fine.

(3) Any person who wilfully makes any false declaration or representation, or who signs or utters any false certificate with a view to procuring the burning of any human remains, commits an offence against this Act:

Punishment on conviction on indictment: imprisonment for 2 years.

(4) Any person who, with intent to conceal the commission of any offence or to impede the prosecution of any offender, procures or attempts to procure the cremation of any human remains, or who, with such intent, makes any false declaration or gives any certificate required under this or any other Act, or under any regulation made thereunder, commits an offence against this Act:

Punishment on conviction on indictment: imprisonment for 5 years.

[Section 126 subsection (2) amended by 2016 : 12 s. 10 effective 28 March 2016]

Power of Director to permit disinterment of human remains

127 (1) Subject as hereinafter provided, the Director, on application made to him, may grant permission by writing under his hand, subject to such conditions as he may think fit to impose, for the disinterment of the human remains of any person buried within Bermuda in order that such remains—

- (a) may be cremated in Bermuda; or
- (b) may again be buried at some other place within Bermuda; or
- (c) may be removed out of Bermuda:

Provided that the Director shall not grant any such permission as aforesaid unless he is satisfied—

- (i) that the applicant is by reason of kinship, connection by marriage or friendship with the deceased, or is by reason of any other grounds a fit and proper person to make the application; and
- (ii) that the disinterment can be effected without danger to the public health; and
- (iii) that having regard to all the circumstances of the case it is expedient to grant such permission.

[Section 127 amended by 2016 : 12 s. 3 effective 28 March 2016]

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Power of Governor to direct or permit disinterment of human remains

128 The Governor, acting in his discretion in any case where he thinks it in the public interest to do so—

- (a) may direct, by order in writing under his hand, the disinterment of the human remains of any person buried in Bermuda; or
- (b) may grant permission, by writing under his hand, on application made to him, and subject to such conditions as he may think fit to impose, for the disinterment of the human remains of any person buried in Bermuda,

in order that such remains—

- (i) may be examined;
- (ii) may have any organs or parts removed for inspection or analysis.

Duties of person to whom permission to disinter is granted

129 (1) Every permission granted in pursuance of section 127 or 138 shall be granted either to the applicant, if he is able and intends to supervise the disinterment, or to some other person nominated by him, who is able and willing to supervise the disinterment.

(2) Every permission as aforesaid shall state the name of the person to whom it is granted, and shall specify any conditions subject to which it is granted; and it shall be deemed to be such a condition that the person to whom it is granted shall personally supervise the disinterment.

(3) In this section “disinterment”, in addition to the meaning assigned to it in section 120, also includes the subsequent conveyance and custody of the human remains until such time as they are disposed of in a manner specified in section 124(3), or are duly received on board a ship or aircraft in order to be removed from Bermuda.

Prohibition of disinterment without permission

130 Any person who without permission granted under section 127 or 128 disinters any human remains commits an offence against this Act:

Punishment on conviction on indictment: imprisonment for one year.

Compliance with conditions specified in permission to disinter

131 Any person who, being a person to whom permission for the disinterment of any human remains has been duly granted, contravenes any condition imposed by any term of the permission, or fails to take reasonable steps to ensure that any such condition is complied with, commits an offence against this Act.

Regulations; burials

132 Provision may be made by regulations made under this Act—

- (a) for prescribing the manner in which human remains shall be treated and coffined before they are disposed of in a manner mentioned in section 124(3);

- (b) for regulating the depth at which coffins shall be buried in graves;
- (c) for prescribing generally conditions under which vaults may be used for the burial of human remains;
- (d) for prescribing in what cases, and at what places and subject to what conditions, cremations may take place; for regulating the disposal of the ashes; and for prescribing the fees (if any) to be paid in respect of cremation;
- (e) for prescribing conditions under which disinterment, the conveyance and custody of human remains after disinterment, and their subsequent disposal, shall take place.

Regulations; undertakers

133 Provision may be made by regulations made under this Act—

- (a) for licensing and registering persons engaged in the occupation of an undertaker and for preventing unlicensed persons from being so engaged; and
- (b) for prescribing the precautions to be taken by undertakers and by persons employed by them against the spread of infection and for securing the cleansing and disinfection of any premises used by an undertaker for the purposes of his occupation, and for securing the cleanliness, disinfection and proper storage of instruments, apparatus, linen and other articles used in connection therewith.

Provision of mortuaries; regulations

134 (1) The Minister may from time to time provide—

- (a) mortuaries for the reception of dead bodies before burial or cremation; and
- (b) post mortem rooms for the reception of dead bodies during the time required to conduct any post mortem examination ordered by a Coroner or other duly authorized person.

(2) Provision may be made by regulations made under this Act with respect to the use of mortuaries and post mortem rooms and for prescribing the fees (if any) which may be charged in respect of such use.

PART VIII

OVER CROWDING OF DWELLING-HOUSES AND CONTROL OF ROOMING-HOUSES

[Part VIII re-titled by 2001:16 s.2 effective 31 May 2002]

Interpretation of Part VIII

135 In this Part, and in the Second Schedule—

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“dwelling-house” means any premises used as a separate dwelling by persons ordinarily resident in Bermuda;

“room” does not include any room of a type not normally used either as a living-room or as a bedroom;

“rooming-house” means a house in which 5 or more rooms are provided for the purpose of accommodating only persons who are ordinarily resident in Bermuda who, on payment of a charge, are allowed to occupy a room for the purpose of sleeping or eating;

“suitable alternative accommodation” means, in relation to the occupier of a dwelling-house, another dwelling-house as to which the following conditions are satisfied—

- (i) the other dwelling-house must be a house in which the occupier and his family can live without causing it to be overcrowded;
- (ii) the other dwelling-house must be suited to the needs of the occupier and his family as respects security of tenure and proximity to place of work and otherwise, and its price, or as the case may be, its rent, must be suited to his means.

[Section 135 “common lodging-house”, “hotel” and proviso deleted, “rooming house” inserted by 2001:16 s.3 effective 31 May 2002]

Appointed day for operation of overcrowding provisions of this Part

136 (1) The Governor, after consultation with the Minister, may by order published in the Gazette appoint a day for the purpose of the coming into operation of the provisions of this Part relating to the overcrowding of dwelling-houses, and such day is hereinafter in this Part referred to as “the appointed day”; and the Governor may fix different days for different purposes and for the application of different provisions of this Part and in respect of different districts or localities in Bermuda.

(2) The affirmative resolution procedure shall apply to an order made under this section.

[No day had, as at 31 July 1971, been appointed under section 136]

Definition of overcrowding

137 (1) For the purposes of this Part of this Act a dwelling-house shall be deemed to be overcrowded at any time when the number of persons sleeping in the house either—

- (a) is such that any two of those persons, being persons ten years of age or more of opposite sexes and not living together as husband and wife, must sleep in the same room; or
- (b) is, in relation to the number and floor area of the rooms of which the house consists, in excess of the permitted number of persons as defined in the Second Schedule.

(2) In determining for the purposes of this section the number of persons sleeping in a house, no account shall be taken of a child under one year of age, and a child who has attained one year of age and is under ten years of age shall be reckoned as one-half of a unit.

Offences

138 (1) Subject to this Part, after the appointed day [*under section 136*] the occupier of a dwelling-house shall not cause or allow the house to be overcrowded.

(2) Any person who contravenes the foregoing provision of this section commits an offence against this Act:

Punishment on summary conviction: a fine of \$1,000 and in the case of a continuing offence a further fine of \$200 in respect of every day subsequent to the day on which he is convicted during which the offence continues.

(3) Notwithstanding anything in subsection (2), it shall be a defence for an occupier of a dwelling-house charged with an offence under that subsection in respect of the overcrowding of the house—

- (a) to prove that the persons sleeping in the house are persons who were living there on the appointed day [*under section 136*] and thereafter continuously lived there, or are children born after that day of any of those persons, and also to prove—
 - (i) that he has taken reasonable steps to secure suitable alternative accommodation, but that suitable alternative accommodation has not become available to him after the appointed day [*under section 136*]; or
 - (ii) that there is living in the house some person who is not a member of his family, that the overcrowding is attributable to that person, and that it has not been practicable having regard to all the circumstances (including the availability of suitable alternative accommodation for that person) for him, since that date, to require that person's removal from the house; or
- (b) to prove that the overcrowding in respect of which he is charged came about by reason only of a child attaining one of the ages referred to in section 137, and that all the persons sleeping in the house are persons who were living there on the date when the child attained that age and thereafter continuously lived there, or are children born after that date of any of those persons, and also to prove—
 - (i) that he has taken reasonable steps since the date on which the child attained that age to secure suitable alternative accommodation, but that suitable alternative accommodation has not become available to him after that date; or
 - (ii) that there is living in the house some person who is not a member of his family, that the overcrowding is attributable to that person, and that it has not been practicable having regard to all the circumstances

(including the availability of suitable alternative accommodation for that person) for him since that date, to require that person's removal from the house.

(4) Where the persons sleeping in an overcrowded house include a member of the occupier's family who does not live there but is sleeping there temporarily, the occupier shall not be guilty of an offence under this section in respect of the overcrowding of the house unless the circumstances are such that he would be so guilty if that member of the family were not sleeping in the house.

[Section 138 subsection (2) amended by 2016 : 12 s. 10 effective 28 March 2016]

Power of Governor to increase the permitted number temporarily to meet exceptional conditions

139 (1) Where, on the representation of the Minister, the Governor is satisfied that dwelling-houses comprising only a few rooms, or comprising rooms of exceptional floor area, constitute so large a proportion of the housing accommodation in any part or district of Bermuda that the application of the Second Schedule throughout that part or district immediately after the appointed day *[under section 136]* would be impracticable, he may direct that, in relation to those houses or to such of them as are of a specified type, such provisions shall, during such period, not exceeding three years from the coming into operation of the directions, as may be specified therein, have effect subject to such modifications (for increasing the permitted number of persons or otherwise) as may be specified in the directions, and the directions may specify different modifications in relation to houses of different types.

(2) The Governor may, after consultation with the Minister revoke any such directions as aforesaid, or may vary the directions either as respects the modifications specified therein or as respects the houses to which the modifications apply or as regards both.

Power of member to authorize temporary use of houses by persons in excess of permitted number

140 (1) Where, as a result of a sudden emergency affecting the availability of dwelling-houses, it appears to the Minister to be expedient to do so, he may, on the application of the occupier or intending occupier of a dwelling-house, authorize him to allow to sleep in the house such number of persons in excess of the permitted number as may be specified in the authority.

(2) An authority granted under this section shall be in the prescribed form, and may be granted either unconditionally or subject to any conditions specified therein.

(3) An authority granted under this section shall, unless previously revoked, continue to have effect for such period (not exceeding three months) as may be specified therein, but may be revoked by the Minister at his discretion by means of a notice in writing served upon the occupier and specifying a period (not being less than one month from the date of the service of the notice) at the expiration of which the authority is to cease to have effect.

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(4) The occupier of a dwelling-house shall not be guilty of an offence under section 138 by reason of anything done by him in accordance with an authority granted to him under this section.

Regulations; floor space

141 Provision may be made by regulations made under this Act for determining what sub-divisions of rooms are, for the purposes of this Part, to be considered to be rooms, and for prescribing the manner in which the floor area of a room is to be ascertained for the purposes of the Second Schedule; and regulations made as aforesaid may provide for the exclusion from computation, or for the bringing into computation at a reduced figure, of floor space in any part of a room which is of less than a specified height.

Powers and duties of Minister in disseminating and providing information regarding overcrowding

142 (1) The Minister may from time to time and in such manner as he thinks expedient publish information in simple form for the assistance of occupiers and landlords of dwelling-houses as to their rights and duties under the provisions of this Part relating to overcrowding and as to the enforcement thereof.

(2) It shall be the duty of the Minister, upon the application of the occupier of a dwelling-house, to inform him in writing of the number of persons constituting the permitted number in relation to the house.

(3) A certificate of the Minister stating the number and floor area of the rooms in a dwelling-house, and that the floor areas thereof have been ascertained in the prescribed manner, shall be, prima facie, evidence of the facts stated therein.

Duty of landlord to inform Minister of overcrowding

143 (1) Subject as hereinafter provided, where after the appointed day [*under section 136*] it comes to the knowledge of the landlord of a dwelling-house which is let to any person, or to the knowledge of his agent, that the dwelling-house is overcrowded, the landlord or his agent, as the case may be, shall within seven days after the fact first comes to his knowledge give notice thereof to the Minister:

Provided that this section shall not apply to overcrowding which has been notified to the occupier of the dwelling-house by the Minister, or is constituted by the use of the house for sleeping by such number of persons as the occupier is authorized to permit to sleep there by virtue of an authority granted under section 140.

(2) Any person who fails to comply with any of the foregoing provisions of this section commits an offence against this Act:

Punishment on summary conviction: a fine of \$500.

[Section 143 subsection (2) amended by 2016 : 12 s. 10 effective 28 March 2016]

Enforcement

144 (1) Without prejudice to any of the foregoing provisions of this Part, where the occupier of a dwelling-house is convicted of an offence against section 138 the court before which he is convicted and where it appears just in the circumstances—

- (a) may make an order requiring any person living in that dwelling-house to cease to live therein in circumstances whereby the house becomes or remains overcrowded; or
- (b) may, where the dwelling-house is rented from a landlord, make an order giving vacant possession of the house to the landlord:

Provided that either such order shall be expressed to be effective on and after such date not less than fourteen nor more than twenty-eight days after it is made, as the court may determine.

(2) Any person who contravenes any order made under subsection (1) commits an offence against this Act.

(3) Any expenses incurred by the Minister in securing the giving of possession of a dwelling-house to a landlord under subsection (1) may be recovered by the Minister summarily from him as a civil debt.

Power of Minister to require statement as to number of persons sleeping in dwelling-house

145 (1) For the purpose of enabling the Minister to discharge his duties under sections 135 to 144, the Minister may serve notice on the occupier of a dwelling-house requiring him to furnish him within seven days with a statement in writing showing the number, ages and sexes of the persons sleeping in the house.

- (2) Any person—
 - (a) who fails to comply with any such requirement; or
 - (b) who furnishes a statement which is to his knowledge false in a material particular,

commits an offence against this Act:

Punishment on summary conviction: a fine of \$1,000.

[Section 145 subsection (2) amended by 2016 : 12 s. 10 effective 28 March 2016]

Registration of rooming-houses

146 (1) The Minister shall maintain a register of rooming-houses in such form as he may determine.

(2) Upon registration of a rooming-house the Minister shall issue a certificate of registration in which he shall specify the maximum number of persons who may be received as guests or lodgers in the rooming-house.

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(3) If the Minister refuses to register or renew the registration of a rooming-house, he shall, if required by the applicant for registration or renewal of registration, deliver to him a statement in writing of the grounds on which his application is refused.

(4) Any person aggrieved by the refusal of the Minister to grant or refuse registration may appeal to a court of summary jurisdiction in accordance with section 190.

[Section 146 repealed and replaced by 2001:16 s.4 effective 31 May 2002]

Regulations

147 (1) The Minister may make regulations—

- (a) prescribing the manner in which applications for registration and renewal of registration of a rooming-house shall be made;
- (b) prescribing minimum standards with respect to the—
 - (i) structural stability,
 - (ii) sanitary conditions,
 - (iii) lighting and ventilation,
 - (iv) cleanliness,
 - (v) bathroom facilities,
 - (vi) common areas and corridors,
 - (vii) water supply,of a rooming-house in order to qualify for registration;
- (c) regulating the management of rooming-houses and requiring details of the operator to be registered;
- (d) providing for the inspection of rooming-houses by public health officers;
- (e) prescribing the period during which registration remains in force.

(2) Fees for the issue or renewal of registration of a rooming-house shall be as prescribed under the Government Fees Act 1965.

[Section 147 repealed and replaced by 2001:16 s.4 effective 31 May 2002]

Offences

148 (1) No person shall—

- (a) operate a rooming-house unless that rooming-house is registered; or
- (b) receive as guests or lodgers in the rooming-house persons in excess of the maximum number specified in the certificate of registration.

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(2) Any person who contravenes subsection (1) is guilty of an offence and is liable on summary conviction to a fine of \$3,000.

[Section 148 repealed and replaced by 2001:16 s.4 effective 31 May 2002]

Disqualification

149 Where the operator of a rooming-house is convicted of an offence under section 148 or any regulations made under this Act, the court by which he is convicted may cancel his registration and may order that he be disqualified from registration for such period as the court thinks fit.

[Section 149 repealed and replaced by 2001:16 s.4 effective 31 May 2002]

150 *[Section 150 repealed by 2001:16 s.4 effective 31 May 2002]*

151 *[Section 151 repealed by 2001:16 s.4 effective 31 May 2002]*

PART IX

PRODUCTION, PREPARATION AND SALE OF FOOD

Interpretation of Part IX; and saving

152 (1) In this Part—

“dairy” includes any farm, cowshed, milk store, milk shop, or other place from which milk is supplied for sale, or in which milk is kept or used for purposes of sale or manufacture into butter, cheese, dried milk or condensed milk for sale, and includes any place in which vessels used in connection with the sale of milk are kept, but does not include a shop from which milk is supplied only in properly closed and unopened receptacles in which the milk was delivered to the shop, or a shop or other place in which milk is sold for consumption on the premises only;

“dairyman” includes any occupier of a dairy, any cow keeper and any purveyor of milk from a dairy, whether by wholesale or retail;

“milk” includes cream, skimmed milk and separated milk.

(2) Every animal or article (whether solid or liquid) which is intended as food for human consumption and which—

- (a) is offered as a prize or reward in connection with any entertainment at any gathering or assembly or in any premises to which the public are admitted, whether on payment of money or for other consideration or not; or
- (b) is offered as a prize or reward or is given away for the purpose of advertisement or in furtherance of any trade or business; or
- (c) is exposed or deposited on any premises for the purpose of being so offered or given away as aforesaid,

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shall be deemed, for the purposes of this Part, to be sold or exposed for sale or deposited for the purpose of sale or of preparation for sale, as the case may be.

In this subsection "entertainment" includes any exhibition, performance, amusement, game, sport or trial of skill.

(3) Nothing in this Part shall derogate from the Agriculture Act 1930 [*title 25 item 1*], or any regulation made thereunder.

Power of Public Health Officer to inspect and take samples of food intended for human consumption

153 (1) A Public Health Officer may at all reasonable times inspect and examine any food intended for human consumption—

- (a) which is sold or exposed for sale; or
- (b) which is deposited in any place for the purpose of sale or of preparation for sale.

(2) For the purposes of this section a Public Health Officer may take a reasonable sample of any food intended for human consumption for the purpose of examining the sample or of submitting it to analysis.

Condemnation of food unfit for human consumption

154 (1) If as a result of the examination or analysis of any sample of food taken in pursuance of section 153, a Public Health Officer is of the opinion that the food in question is diseased, or unsound or unwholesome or adulterated or otherwise unfit for human consumption, he may seize the food from which the sample was taken and carry it away, or order it to be destroyed in such manner as he may think fit to direct:

Provided that a person aggrieved by the exercise of any power by a Public Health Officer acting in pursuance of this section may apply for compensation to a court of summary jurisdiction; and if the court finds that the article of food in question was not diseased, unsound, unwholesome, adulterated or otherwise unfit for human consumption, the court may order the Minister to pay to that person such compensation as the court, in the circumstances thinks just.

(2) Any person who contravenes an order, or any condition in an order, made by a Public Health Officer under this section commits an offence against this Act.

Prohibition of sale of food unfit for human consumption

155 (1) Without prejudice to anything in section 154, no person shall sell, or expose for sale, or prepare, store or have in his possession or under his control any food intended for human consumption which is diseased, unsound, unwholesome, adulterated or otherwise unfit for human consumption.

(2) Any person who contravenes any of the foregoing provisions of this section commits an offence against this Act.

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(3) Without prejudice to any power conferred upon a Public Health Officer under this Part, upon the conviction of a person under this section in respect of any food, the court by which he is convicted may order the destruction of that food.

Regulations relating to food generally

156 Provision may be made by regulations made under this Act—

- (a) without prejudice to anything in section 157 or in section 158, for regulating, controlling and inspecting the production, preparation, manufacture, importation, storage, packaging, labelling, handling and transmission of any food intended for human consumption;
- (b) for regulating the capture, collection and disposal of any fats, oils and grease that may result from the production, preparation or manufacture of food; and
- (c) for prohibiting or restricting the sale of any food in respect of which the requirements of any such regulations are not fulfilled or have not been duly carried out.

[Section 156 amended by 2002:28 effective 15 May 2003; repealed and replaced by 2016 : 46 s. 4 effective 27 July 2016]

Regulations; animals slaughtered for human consumption

157 Provision may be made by regulations made under this Act for ensuring that animals about to be slaughtered as food for human consumption are, as respects public health, in a fit condition for slaughter; and, without prejudice to the generality of the foregoing provision, such regulations may provide—

- (a) for specifying diseases of animals deemed to render the meat of animals infected therewith unfit for human consumption;
- (b) for prescribing sanitary methods of slaughtering animals, and of dressing and handling carcasses;
- (c) for inspecting animals, and the carcasses of animals, intended for human consumption; and
- (d) for regulating the marking of carcasses or parts of carcasses, and for prohibiting the sale of carcasses which have not been duly marked.

Regulations; production of milk

158 (1) Provision may be made by regulations made under this Act for ensuring the quality and purity of milk used or intended to be used for human consumption; and, without prejudice to the generality of the foregoing provision, such regulations may provide—

- (a) for requiring the registration with the Minister of all persons engaged in the occupation of dairyman, and for requiring the registration of dairies, for prescribing the manner in which registration may be effected and revoked,

and for preventing unregistered persons from being so engaged and unregistered dairies from being carried on;

- (b) with respect to the inspection of cattle and goats in any dairy;
 - (c) with respect to the inspection of dairies and of persons employed in or about dairies who have access to milk or to churns or other milk receptacles;
 - (d) for prescribing and regulating the construction, lighting, ventilation, drainage and water supply of dairies, and the cleansing of dairies, and for securing the cleanliness of vessels and other apparatus used therein;
 - (e) for securing the cleanliness of milk shops, milk stores and vehicles and vessels used by dairymen for delivering milk for sale;
 - (f) for prescribing the precautions to be taken for protecting milk against infection or contamination, with special reference to the pasteurization of milk;
 - (g) for preventing danger to the health of any person arising out of the sale of milk for human consumption or from the use of milk in the manufacture of products for human consumption;
 - (h) for regulating the cooling, conveyance and distribution of milk intended for human consumption, or for use in the manufacture of products for human consumption;
 - (i) for prescribing or regulating the labelling, marking or identification and the sealing or closing of churns, vessels and other receptacles containing milk for human consumption or used for the conveyance of such milk;
 - (j) for prohibiting the addition of colouring matter to milk; and for prohibiting or regulating the addition of skimmed or separated milk or water or any other substance to milk intended for sale for human consumption, or the abstraction therefrom of butterfat or any other constituent; and for prohibiting or regulating the sale for human consumption of milk to which such an addition or from which such abstraction has been made, or which has been otherwise artificially treated;
 - (k) for prescribing the conditions under which tinned or condensed milk may be distributed, stored and sold;
 - (l) for regulating the conditions under which milk intended for sale for human consumption may be imported into Bermuda.
- (2) Regulations made under this section with respect to the inspection of cattle and goats in any dairy may authorize the person duly making the inspection—
- (a) to require any cow or goat to be milked in his presence; and
 - (b) to take samples of milk from a cow or goat; and

- (c) to require that the milk taken from any particular teat is kept separate and to take samples of such milk.

Notification of food poisoning

159 (1) Where a medical practitioner becomes aware or suspects that a person attended by him (in this section referred to as the patient) is suffering from food poisoning, he shall immediately give notice thereof orally or in writing to a Government Medical Officer; and any such notice shall contain, as far as can be reasonably ascertained, the following particulars—

- (a) the name, sex and age of the patient;
- (b) the address of the premises where the patient is;
- (c) the particulars of the food poisoning from which the patient is, or is suspected to be, suffering; and
- (d) in the event of the patient's death, the date and hour thereof.

(2) Any medical practitioner who fails to comply with the foregoing provisions of this section commits an offence against this Act:

Punishment on summary conviction: a fine of \$2,000.

(3) *[repealed]*

[Section 159 subsection (2) amended and subsection (3) repealed by 2016 : 12 s. 9 and 10 effective 28 March 2016]

Onus of proving food not to be intended for human consumption

160 In any proceedings taken in pursuance of this Part, or in pursuance of any regulations made thereunder, the onus of proving that food is not intended for human consumption shall lie upon the person selling, exposing for sale, preparing, storing, having in his possession or having under his control the food in question.

PART X

MISCELLANEOUS PROVISIONS

Interpretation of Part X

161 (1) In this Part—

“automatic external defibrillator” means a medical heart device monitor and defibrillator that—

- (a) is capable of recognizing the presence or absence of ventricular fibrillation or rapid ventricular tachycardia;
- (b) is capable of determining, without intervention by an operator, whether defibrillation should be performed;

(c) upon determining that defibrillation should be performed, automatically charges and requests delivery of an electrical impulse to an individual's heart; and

(d) upon action by the operator, delivers an appropriate electrical impulse to the individual's heart to perform defibrillation;

and automatic external defibrillation shall be construed accordingly;

"diagnostic facility" means a facility that provides one or more diagnostic services;

"diagnostic services" includes but is not limited to clinical laboratory services, diagnostic radiology, ultrasound services and mammography services;

"hospital" means a facility in which accommodation is provided on an in-patient basis, requiring a stay of more than 24 consecutive hours, for the diagnosis, treatment or care of physical or mental conditions or maternity care, and includes a hospital under the control of the Bermuda Hospitals Board;

"maternity home" means any premises used or intended to be used for the reception of pregnant women, or of women recently delivered of children, but does not include any hospital or other premises maintained or controlled by any authority or other body constituted by any Act.

(2) In this section and in section 163 "operator" means a person who has undertaken and successfully completed a course of training, prescribed by regulations made under section 163, in the use of an automatic external defibrillator and cardiopulmonary resuscitation.

[Section 161 "diagnostic facility" and "diagnostic services" inserted by 1999:22 s.3 effective 9 July 1999; "nursing home" deleted, "maternity home" amended, by 1999:28 s.27 & Sch effective 27 April 2001; "automatic external defibrillator", and subsection (2), inserted by 2002:14 s.2 effective 10 July 2002; "hospital" inserted by 2002:28 s.3 effective 15 May 2003]

Prohibition of carrying on unregistered maternity home, hospital etc

162 (1) No person shall carry on a maternity home or hospital unless that maternity home or hospital is registered under this Part.

(1A) No person shall operate a diagnostic facility unless that facility is registered under this Part.

(1B) No person shall operate an automatic external defibrillator unless it is registered under this Part.

(2) Any person who contravenes the foregoing provisions of this section commits an offence against this Act.

[Section 162 title amended, subsection (1A) inserted, by 1999:22 s.4 effective 9 July 1999; title and subsection (1) amended by 1999:28 s.27 & Sch effective 27 April 2001; title amended, subsection (1B) inserted, by 2002:14 s.3 effective 10 July 2002; title and subsection (1) amended by 2002:28 s.4 effective 15 May 2003]

Registration of maternity homes, etc.

163 (1) The Bermuda Health Council shall cause to be kept and maintained—

- (a) a register of maternity homes;
- (b) a register of diagnostic facilities; and
- (c) a register of hospitals,

in such form as may be determined.

(1A) The Chief Environmental Health Officer shall cause to be kept and maintained a register of automatic external defibrillators, in such form as may be determined.

(2) Provisions may be made by regulations under this Act—

- (a) for specifying conditions precedent to registration of maternity homes, hospitals, diagnostic facilities and automatic external defibrillators, special regard being had—
 - (i) to the fitness of the person carrying on, or proposing to carry on, the maternity home, hospital or the diagnostic facility;
 - (ii) to the fitness of the person providing, or proposing to provide, the automatic external defibrillator;
 - (iii) to the situation, construction, state of repair, accommodation and equipment of the premises used, or to be used—
 - (A) as a maternity home, a hospital or a diagnostic facility; or
 - (B) in the provision of automatic external defibrillation; and
 - (iv) the qualification which must be attained by operators and other specified members of staff prior to being assigned to specified duties;
- (b) for prescribing procedures for the acquisition, use, maintenance and operation of automatic external defibrillators;
- (c) for prescribing the manner of application for, and renewal of, registration;
- (d) for prescribing the period for which registration remains in force;
- (e) for prescribing conditions under which, and the manner in which, registration may be revoked by the Minister;
- (f) for prescribing records to be kept by persons carrying on maternity homes, hospitals, diagnostic facilities or providing automatic external defibrillation; and
- (g) for prescribing such other matters in relation to carrying on a maternity home, a hospital or a diagnostic facility or providing automatic external defibrillation as the Minister, after consultation with the person carrying on the maternity home, hospital or the diagnostic facility, or the person providing automatic external defibrillation, as the case may be, considers appropriate.

(3) If the Minister refuses to register, or to renew the registration of, or revokes the registration of, a maternity home, a hospital, diagnostic facility or automatic external defibrillator, he shall, if required so to do by the applicant or, as the case may be, the person carrying on the maternity home, hospital or the diagnostic facility or the person providing automatic external defibrillation, deliver to him a statement in writing of the grounds of the refusal or revocation.

(4) Any person who is aggrieved—

- (a) by a refusal of the Minister to register, or renew the registration of a maternity home, a hospital, a diagnostic facility or an automatic external defibrillator; or
- (b) by a revocation by the Minister of the registration of a maternity home, a hospital, a diagnostic facility or an automatic external defibrillator,

under this section, may appeal to a court of summary jurisdiction in accordance with section 190.

[Section 163 amended by 1999:22 s.5 effective 9 July 1999; by 1999:28 s.27 & Sch effective 27 April 2001; subsection (1)(c) inserted, and (2)-(4) substituted, by 2002:14 s.4 effective 10 July 2002; subsection (1)(d) inserted, and references to "maternity home" and "hospital" inserted throughout, by 2002:28 s.5 effective 15 May 2003; Section 163 subsection (1A) inserted by 2018 : 66 s. 2 effective 10 January 2019; Section 163 subsection (1) deleted and substituted by 2018 : 66 s. 2 effective 1 June 2019]

Inspection of maternity homes, etc.

164 Without prejudice to anything in section 176 (which section relates generally to powers of entry upon premises), any Public Health Officer, duly authorized by the Minister for the purpose, may at all reasonable times enter and inspect any premises which are used, or which that officer has reasonable cause to believe to be used, for the purpose of keeping a maternity home, hospital or a diagnostic facility and may inspect any records required to be kept in connection with a maternity home, hospital or a diagnostic facility in pursuance of regulations made under this Part:

Provided that nothing in this Part shall authorize any such officer to inspect any medical record relating to a patient in a maternity home, or a diagnostic facility.

[Section 164 amended by 1999:22 s.6 effective 9 July 1999; by 1999:28 s.27 & Sch effective 27 April 2001; and by 2002:28 s.6 effective 15 May 2003]

Power of Minister to establish clinics

165 (1) Without prejudice to anything in section 94 , the Minister may establish clinics for such purposes connected with the public health as he may from time to time think expedient; and, without prejudice to the generality of the foregoing provisions, clinics may be established by the Minister for any of the following purposes—

- (a) for providing ante-natal care for pregnant women and post-natal care for women recently delivered of children;
- (b) for providing periodical examinations for school children with a view to checking the incidence of disease; and

- (c) for providing dental care for school children;
 - (d) for providing advice, information and guidance—
 - (i) with respect to facilitating the conception of children; and
 - (ii) with respect to the proper planning and control of parenthood, and for implementing such advice, information and guidance as aforesaid by the supply of appliances, drugs and preparations for assisting conception or contraception;
 - (e) for giving effect to the provisions of this Act relating to the control of venereal disease;
 - (f) for examining persons required to be examined in pursuance of any provision of this Act or of any regulations made thereunder;
 - (g) generally for giving effect to this Act.
- (2) Provision may be made by regulations made under this Act—
- (a) for controlling clinics and for regulating the conduct of persons attending thereat; and
 - (b) for prescribing the fees (if any) to be paid by persons treated at clinics.

[Section 165 subsection (1) amended by 2017 : 32 s. 4 effective 6 October 2017]

Packaging and labelling of products other than food products

165A The Minister may make regulations imposing requirements for the packaging and labelling of products made in Bermuda other than food.

[Section 165A inserted by 2002:28 s. 7 effective 15 May 2003]

Medical examination of school children

166 (1) Subject to this section, a Government Medical Officer or Dental Officer may from time to time carry out in any school a medical examination of the school children attending that school.

(2) Medical examinations, in pursuance of this section, of the school children of any school shall be carried out in such manner and at such times as not unreasonably to interfere with the organization or work of the school; and the headmaster or other person in charge of the school shall in each case be consulted as to the manner and time of the examination.

(3) Subject as aforesaid, it shall be the duty of the headmaster or other person in charge of a school to aid and assist a Government Medical Officer or Dental Officer in the exercise of his functions under this section.

(4) The parent or guardian of any child may lodge a written objection with the Minister to the inclusion of the child in any medical examination carried out in pursuance of this section; and any child in respect of whom an objection is so lodged shall be excluded from any such examination.

Powers of Minister to control specified establishments

167 (1) Without prejudice to anything in any other Part, the Minister shall have general control over all matters of hygiene and sanitation relating to any of the establishments hereinafter specified in subsection (1a).

(1a) The establishments referred to in subsection (1) are—

slaughter houses, laundries, any place where food or drink is sold or prepared or stored for sale, day care centres for children or adults, kindergartens, beauty shops, barber shops, manicure parlours, mobile beauty shops, tattooing, electrolysis and body-piercing establishments, swimming baths, bathing beaches and places of public assembly, entertainment or resort.

(1b) The power of control vested in the Minister under this section shall include a power to prohibit the operation of any such establishment except under the authority of a licence granted by the Minister.

(2) Provision may be made by regulations made under this Act for giving effect to the provisions of subsection (1), in respect of any of the establishments specified in subsection (1a) and, without derogation from the generality of the foregoing, such regulations may—

- (a) differentiate between various classes and categories of establishments and make separate provision in respect of such classes or categories; and
- (b) make provision for ensuring the safety and welfare of any person while in any such establishments.

(3) Without prejudice to the generality of the power to make regulations conferred by subsection (2), regulations made under this Act may provide—

- (a) for regulating the management and control of stables, byres and sties, for prescribing their distance from dwelling-houses and water tanks, for disposing of manure therefrom, for preventing fly-breeding therein and for prescribing the method of drainage thereof;
- (b) for prescribing the conditions under which garbage may be fed to swine.

[Section 167 amended by 1998:38 effective 1 January 2000; subsection (1a) amended by 2001:16 s.5 effective 31 May 2002]

Disposal of carcasses of animals

168 (1) A person, being the owner or for the time being having the charge, of the carcass of an animal, shall, subject to this section, and within twelve hours of becoming aware of the death of the animal, cause the carcass to be effectually disposed of.

(2) Any person who contravenes the foregoing provision of this section commits an offence against this Act.

(3) Any Public Health Officer or police officer on finding the carcass of an animal or on being informed of the presence of such a carcass, may effectually dispose of it, and

may recover the cost of disposal from the owner of the carcase, or from the person having charge of the carcase, in the manner provided in Part XI.

(4) Nothing in this section shall derogate from any power of a Public Health Officer, Government Veterinary Officer, Coroner or police officer acting in the execution of his duty to require the carcase of any animal to remain undisposed of, or to take such carcase into his custody; and it shall be a defence to any person charged with an offence under this section to prove that he was acting under the instructions of any such person as aforesaid.

(5) A contravention of subsection (1) shall, except where a person is acting under the instructions of a person mentioned in subsection (4), be deemed, for the purposes of Part IV, to be a nuisance.

(6) In this section “effectually disposed of”, in relation to the carcase of an animal, or any part thereof, means—

- (a) buried in such manner as to prevent any offensive odour and as not to be liable to be disinterred by any animal; or
- (b) sunk more than one mile from the outer shores of Bermuda and sufficiently weighted so as not to be liable to rise to the surface of the water; or
- (c) burned; or
- (d) where intended for human or animal consumption, placed in proper and hygienic storage; or
- (e) placed in the custody, or otherwise disposed of in accordance with the instructions, of any person mentioned in subsection (4) ;
- (f) otherwise disposed of in a manner which is neither offensive to any person nor prejudicial to the public health;

and cognate expressions shall be construed accordingly.

Disposal of whale carcasses brought into Bermuda

169 (1) Without prejudice to anything in section 168, any person who brings in, or assists in bringing in, the carcase of any whale or fish to Bermuda shall take such measures as may in the circumstances be necessary to prevent the carcase—

- (a) from lying or remaining on the shore of Bermuda; or
- (b) from drifting or floating in any waters of Bermuda, in such manner as to be, or be likely to become, prejudicial to the public health or offensive to any person.

(2) Any person who contravenes the foregoing provisions of this section commits an offence against this Act.

(3) A contravention of any provision of subsection (1) shall, for the purposes of Part IV, be deemed to be a nuisance.

PART XI
REGULATIONS, SUPPLEMENTARY POWERS AND
LEGAL PROCEEDINGS

Power of Minister generally to make regulations

170 (1) Subject to this Part, the Minister may make regulations for administering this Act and for giving effect to its objects and intentions.

(2) Regulations made under any provision of this Act shall not be inconsistent with any provisions of this Act.

General provisions relating to regulations

171 (1) Regulations made in pursuance of any provision of this Act—

- (a) may, for or in connection with any of the purposes of the regulations, provide for the inspection of any premises or land, and for the examination of any person, animal or thing, and for the analysis of any article;
- (b) may require that the regulations, or any part or extract therefrom, shall be displayed in any prescribed place;
- (c) may provide for the punishment of persons guilty of offences against the regulations, so, however, that any such punishment shall not exceed a fine of \$6,000 in respect of a first offence; and in the case of a second or subsequent offence, shall not exceed a fine of \$10,000 or imprisonment for a term not exceeding three months, or both such fine and imprisonment; or in the case of a continuing offence, shall not exceed, in addition to any such punishment as aforesaid, a fine of \$1,000 in respect of each day during which the offence is continued.

(2) Any person who contravenes any provision of any regulations made in pursuance of any provision of this Act or with any order, direction or requirement lawfully made, given or imposed by any person under the authority of those regulations, commits an offence against the regulations:

Provided that where a person engaged or employed in the administration of such regulations omits to perform any duty imposed upon him as such the omission shall not constitute an offence against the regulations.

(3) Regulations made in pursuance of any provision of this Act may confer power on such authority as may be specified in the regulations to make an Order in relation to any matter governed by the regulations.

[Section 171 subsection (1)(c) amended by 2002:28 s.8 effective 15 May 2003; subsection (1)(c) amended by 2016 : 12 s. 10 effective 28 March 2016]

Provisions relating to making of regulations

172 The negative resolution procedure shall apply to regulations and rules made under this Act:

Provided that if any such regulations or rules make provision for the payment of fees or charges the affirmative resolution procedure shall apply.

Supplementary powers of Minister relating to provision of buildings

173 (1) Any power conferred upon the Minister by any provision of this Act to provide buildings or other premises for any purpose shall be deemed to include a power to equip the buildings or premises with such furniture, equipment, apparatus and instruments as may be reasonably necessary for the premises to be used for that purpose.

(2) Any power conferred upon the Minister by any provision of this Act to provide buildings or other premises, or to provide accommodation or equipment, for any purpose shall be deemed to include a power to enter into an agreement with any person for the use, upon such terms as may be agreed, of any suitable buildings, premises, accommodation, or equipment provided by, or under the control of, that person; and, if it appears to the Minister convenient in the circumstances, to enter into an agreement for the services of any staff employed in connection therewith.

Power of Minister to execute certain work on behalf of owners or occupiers of premises

174 The Minister may, by agreement with the owner or occupier of any premises, execute at the expense of such owner or occupier any work which, in pursuance of any provision of this Act, the Minister has required the owner or occupier to execute; and for that purpose the Minister shall have such rights as the owner or occupier would have if the owner or occupier had himself executed the work.

Power of Minister to require information as to ownership of premises

175 (1) The Minister, for the purpose of enabling him to carry out any of his functions under this Act, may require the occupier of any premises, and any person who directly or indirectly receives rent in respect of any premises, to state in writing the nature of his own interest therein and the name and address of any other person known to him as having an interest therein, whether as freeholder, mortgagee, lessee or otherwise.

(2) Any person who, having been required by the Minister in pursuance of this section to give him any information, fails to give that information, or knowingly makes any misstatement in respect thereof, commits an offence against this Act:

Punishment on summary conviction: a fine of \$1000.

[Section 175 subsection (2) amended by 2002:28 s.9 effective 15 May 2003]

Power to enter premises

176 (1) Subject to this section, an authorized officer of the Department shall, on producing, if so required, some duly authenticated document showing his authority, be entitled to enter any premises at all reasonable hours—

(a) for the purpose of ascertaining whether there is, or has been, on or in connection with the premises any contravention of the provisions of this

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Act or of any regulations made thereunder, being provisions which it is the duty of the Minister to enforce;

- (b) for the purpose of ascertaining whether or not circumstances exist which would authorize or require the Minister to take any action, or execute any work, under this Act or under any regulations made thereunder;
- (c) for the purpose of taking any action, or executing any work, authorized or required by this Act, or any regulations made thereunder, or any order made in pursuance of any provision of this Act or such regulations, to be taken, or executed, by the Minister:

Provided that admission to any premises shall not be demanded as of right, except in respect of any matter to which section 12, section 28 or section 32, or Part V or Part VII apply, unless twenty-four hours' notice of the intended entry has been given to the occupier.

(2) Where it is shown to the satisfaction of a Justice of the Peace on sworn information in writing—

- (a) that admission to any premises has been refused, or that refusal is apprehended, or that the premises are unoccupied or that the occupier is temporarily absent, or that the case is one of urgency, or that the giving of notice under subsection (1) would defeat the object of the entry; and
- (b) that there is reasonable ground for entry into the premises for any purpose mentioned in subsection (1),

the Justice of the Peace may by warrant under his hand authorize an authorized officer to enter the premises, if need be by force:

Provided that the warrant as aforesaid shall not be granted unless the Justice of the Peace is satisfied either that notice of the intention to apply for a warrant has been given to the occupier, or that the premises are unoccupied or that the occupier is temporarily absent, or that the case is one of urgency, or that the giving of notice would defeat the object of the entry.

(3) An authorized officer entering any premises in pursuance of this section, or in executing a warrant granted thereunder, may take with him such other persons as may be reasonably necessary in the circumstances; and on leaving any unoccupied premises which he has entered in the execution of a warrant as aforesaid the officer shall leave the premises as effectually secured against trespassers as he found them.

(4) A warrant granted under this section shall continue in force until the purpose for which the entry is necessary has been satisfied.

Notices to be in writing; forms of notices

177 (1) All notices, orders, consents, demands and other documents authorized or required by or under this Act or by or under regulations made thereunder to be given, made or issued by the Minister, and all notices and applications authorized or required by or under this Act or by or under any such regulations to be given or made to the Minister or

to any officer of the Department shall, except where otherwise expressly provided, be in writing.

(2) Provision may be made by regulations made under this Act for prescribing the form of any notice, order, certificate or other document to be used for giving effect to any of the provisions of this Act and, if forms are so prescribed, those forms or forms to the like effect may be used in all cases to which those forms are applicable.

Authentication of documents

178 (1) Any notice, order, consent, demand or other document which the Minister is authorized or required by or under this Act, or by or under regulations made thereunder, to give, make or issue may be signed on behalf of the Minister—

- (a) by the Chief Medical Officer, Chief Environmental Health Officer or Director as respects documents relating to matters within their respective provinces; or
- (b) by any officer of the Department authorized by the Minister in writing to sign documents of the particular kind or, as the case may be, the particular document.

(2) Any document purporting to bear the signature of an officer expressed to hold an office by virtue of which he is under this section empowered to sign such a document, or expressed to be duly authorized by the Minister to sign such a document or the particular document, shall, for the purposes of this Act, and of any regulations made in pursuance of any provision thereof, be deemed, until the contrary is proved, to have been duly given, made or issued by or under the authority of the Minister.

[Section 178 subsection (1)(a) amended by 2016 : 12 s. 3 effective 28 March 2016]

Service of notices, orders

179 Any notice, order, consent, demand or other document which is required or authorized by or under this Act to be given to or served on any person may, where no other provision is made by this Act, be given or served—

- (a) by delivering it to that person; or
- (b) in the case of a Government Medical Officer, by leaving it or sending it in a prepaid letter addressed to him, either at his residence or at his office and, in the case of any other officer of the Department, by leaving it at his office or sending it in a prepaid letter addressed to him at his office; or
- (c) in the case of any other person, by leaving it, or by sending it in a prepaid letter addressed to him, at his usual or last known residence;
- (d) in the case of a corporate body or other body of persons, by delivering it to the secretary or clerk thereof at their registered or principal office, or by sending it in a prepaid letter addressed to the secretary or clerk at that office; or

- (e) in the case of a document to be given to or served on the owner or the occupier of any premises, if it is not practicable after reasonable inquiry to ascertain the name and address of the person to or on whom it should be given or served, or if the premises are unoccupied, by addressing it to the person concerned by the description of “owner” or “occupier” of the premises (naming them) to which it relates, and by delivering it to some person on the premises, or, if there is no person on the premises to whom it can be delivered, by affixing it, or a copy of it, to some conspicuous part of the premises; or
- (f) in the case of any person who is a passenger in or a member of the crew of, or any other person living on, a ship, by delivering it to the master of the ship, or in the absence of the master, by delivering it to the next senior officer in charge of the ship.

Appeals against, and the enforcement of, orders requiring execution of works

180 (1) This section shall, subject to any express modification specified in the provision in pursuance of which the order is made, have effect in relation to any order made under this Act which is expressly declared to be an order in relation to which the provisions of this Part which relate to appeals against, and the enforcement of, orders requiring the execution of works, are to apply—

(2) Any such order shall indicate the nature of the works to be executed and shall state the time within which they are to be executed.

(3) A person served with an order relating to the execution of works may appeal to a court of summary jurisdiction on those of the grounds set out in subsection (3a) which are appropriate in the circumstances of the particular case.

(3a) The grounds to which subsection (3) refers are as follows—

- (a) that the order or any requirement contained therein is not justified by the terms of the provision in pursuance of which the order or requirement purports to have been made; or
- (b) there is some material informality, defect or error in, or in connection with, the order; or
- (c) that the Minister has refused unreasonably to approve the execution of alternative works, or that the works required by the order to be executed are otherwise unreasonable in character or extent or are unnecessary; or
- (d) that the time within which the works are to be executed is not reasonably sufficient for the purpose; or
- (e) that the order might lawfully have been served on the occupier of the premises in question instead of on the owner, or on the owner instead of on the occupier, and that it would have been equitable for it to have been so served; or

- (f) where the work is work for the common benefit of the premises in question and of other premises, that some other person, being the owner or occupier of premises to be benefited, ought to contribute proportionately towards the expenses of executing any works required by the order; or
- (g) where the work is work entirely for the benefit of other premises, that some other person, being the owner of the premises to be benefited, ought to meet the entire expenses of executing any works required by the order.

(4) Where the grounds upon which an appeal under this section is brought include a ground specified in subsection (3a)(e) or (f), the appellant shall serve a copy of his notice of appeal on each other person referred to, and in the case of an appeal on any ground under this section may serve a copy of his notice of appeal on any other person having an estate or interest in the premises in question; and on the hearing of the appeal the court may make such order as it thinks just with respect to the person by whom any work is to be executed and the contribution to be made by any other person towards the cost of the work, or as to the proportions in which any expenses which may become recoverable by the Minister are to be borne by the appellant and such other person.

In exercising its power under this subsection, the court shall have regard—

- (a) as between an owner and an occupier, to the terms and conditions, whether contractual or statutory, of the tenancy and to the nature of the works required; and
- (b) in any case, to the degree of benefit to be derived by the different persons concerned.

(5) Subject to such right of appeal as aforesaid, and without prejudice to anything in section 190(4) (staying of the execution of works upon notice of appeal being given), if the person required by the order to execute works fails to execute the works indicated within the time thereby limited, the Minister may himself execute the works and recover from that person in the manner provided in this Part the expenses reasonably incurred by him in so doing, and, without prejudice to the right of the Minister to exercise that power, that person commits an offence against this Act:

Punishment on summary conviction: a fine of \$2,000 and in the case of a continuing offence a further fine of \$500 for every day during which the default continues after conviction thereof.

(6) In any proceedings taken by the Minister against the person served with a notice for the recovery of any expenses which the Minister is entitled to recover from him, it shall not be open to him to raise any question which he could have raised on an appeal under this section.

[Section 180 subsection (5) amended by 2016 : 12 s. 10 effective 28 March 2016]

Punishment for obstructing execution of Act

181 (1) No person shall wilfully obstruct any person acting in the execution of any provision of this Act or of any regulation, order or warrant made or issued in pursuance thereof.

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(2) Any person who contravenes the foregoing provisions of this section commits an offence against this Act:

Punishment on summary conviction in any case for which no other provision is made by this Act: a fine of \$2,000 and a further fine of \$1,000 for each day during which the offence continues after conviction.

[Section 181 subsection (2) amended by 2016 : 12 s. 10 effective 28 March 2016]

Power to require occupier to permit works to be executed by owner

182 (1) If, on a complaint made by the owner of any premises, it appears to a court of summary jurisdiction that the occupier of those premises prevents the owner from executing any work which he is by or under this Act required to execute, the court may order the occupier to permit the execution of the work.

(2) Any person who contravenes an order made by a court of summary jurisdiction under this section commits an offence against this Act.

Power of Minister to make a charge in respect of establishment expenses

183 Where under this Act the Minister has power to execute works and to recover from any person the expenses incurred by him in so doing, he may include in, and recover as part of, the expenses thereof such additional sum, not exceeding five per centum of the cost of the works, as he thinks fit in respect of their establishment charges.

Recovery of expenses by Minister

184 Any sum which the Minister is entitled to recover under this Act and with respect to the recovery of which provision is not made by or under any other provision of this Act, shall, without limit of amount be recoverable before a court of summary jurisdiction in the manner provided by the Magistrates Act 1948 [*title 8 item 15*], for the recovery of a debt or liquidated demand.

Trial of offences

185 Without prejudice to anything in the Criminal Code [*title 8 item 31*], and except as expressly provided in this Act, offences against this Act or against the regulations made in pursuance thereof shall be prosecuted before a court of summary jurisdiction.

Punishment where no special punishment provided

186 Where a person commits an offence against this Act for which no special punishment is provided:

Punishment on summary conviction: a fine of \$1000 in respect of each offence; and

Punishment on summary conviction in the case of a second or subsequent conviction: imprisonment for 3 months or a fine of \$5000 or both such imprisonment and fine; and

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where any such offence as aforesaid is a continuing offence, the person guilty of the offence shall, in addition to any punishment provided in this section, be liable in respect of each day during which the offence continues to a fine of \$500.

[Section 186 amended by 2002:28 s.10 effective 15 May 2003; amended by 2016 : 12 s. 10 effective 28 March 2016]

Time limit for making complaints, etc

187 Any complaint or information in respect of a person alleged to be guilty of an offence against this Act or against any regulation made thereunder shall be made or laid within six months of the time when the matter alleged in such complaint or information occurred and not afterwards.

Provision as to daily penalties

188 Where provision is made by or under this Act for the imposition of a daily penalty in respect of a continuing offence after conviction, the court by which a person is convicted of the original offence may specify a reasonable period to run from the date of conviction within which the defendant is to comply with any directions given by the court; and, where a court has specified such a period, no daily penalty shall be imposed in respect of any day before the expiration of the period.

Persons entitled to bring proceedings

189 (1) Proceedings in respect of an offence created by or under this Act or by or under any regulations made thereunder shall not, without the written consent of the Attorney General, be instituted by any person other than a party aggrieved, or by the Minister, or by a Municipality whose function it is to enforce the provision of the Act or the provision of the regulations in question.

(2) A prosecution for an offence against this Act or against regulations made thereunder may be conducted before a court of summary jurisdiction by any officer of the Department or, as the case may be, of a Municipality, where such officer is duly authorized by the Minister or the Municipality in that behalf.

Provisions relating to proceedings before courts of summary jurisdiction other than in respect of offences, and to appeals therefrom

190 (1) Where any provision in this Act—

- (a) provides for any matter to be determined by, or an application in respect of any matter to be made to, a court of summary jurisdiction; or
- (b) provides for an appeal to a court of summary jurisdiction against a requirement, order, refusal or other decision of the Minister,

the procedure shall be by way of complaint for an order, and the Criminal Jurisdiction and Procedure Act 2015, shall, as modified by this Part, apply in relation to any proceedings before a court of summary jurisdiction mentioned in this subsection as though those proceedings were proceedings in respect of an offence triable under that Act.

(2) Where in respect of a requirement, order, refusal or other decision of the Minister an appeal lies to a court of summary jurisdiction, the document notifying to the person concerned the decision of the Minister in the matter shall inform the person notified of his right of appeal and shall also state the time within which an appeal may be brought as provided in subsection (3).

(3) The time within which an appeal mentioned in subsection (1)(b) may be brought shall be seven days from the date on which notice of the Minister's requirement, order, refusal or other decision was served upon the person entitled to appeal; and for the purposes of this subsection the date of making a complaint under subsection (1) shall be deemed to be the date of bringing the appeal.

(4) Where an appeal is brought in pursuance of this section in respect of an order, requirement, direction or condition made, given or imposed under this Act or under any regulation made thereunder, the succeeding provisions of this subsection shall have effect with respect to the force and validity of that order, requirement, direction or condition pending the determination of the appeal—

(a) Where the order, requirement, direction or condition—

(i) was made, given or imposed in pursuance of Part V (which Part relates to communicable diseases); or

(ii) was made, given or imposed in pursuance of any provision of this Act which declares that the order, requirement, direction or condition shall be deemed to have effect pending the determination of any appeal arising therefrom,

the order, requirement, direction or condition shall remain in full force and effect pending the appeal; and any contravention thereof or failure to comply therewith shall be punishable, and shall give rise to the same liabilities, as if no appeal had been brought;

(b) where the order, requirement, direction or condition was made, given or imposed in pursuance of any provision of this Act other than a provision mentioned in paragraph (a), all proceedings, requirements and liabilities arising therefrom shall be stayed and shall be of no effect pending the determination of the appeal.

(5) Notwithstanding anything in any Act relating to appeals to the Supreme Court, no appeal shall be entertained by the Supreme Court, in respect of any person aggrieved by the determination by a court of summary jurisdiction of any appeal thereto or of any matter mentioned in subsection (1)—

(a) other than an appeal to the Supreme Court by way of case stated, in which case the Protection of Justices Act 1897 [*title 8 item 17*], shall apply accordingly; or

(b) other than an appeal to the Supreme Court on a point of law other than by way of case stated, in which case the Civil Appeals Act 1971 [*title 8 item*

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85], shall apply as though the appeal were an appeal from the judgment of a court of summary jurisdiction in a civil cause or matter.

[Section 190 subsection (1) amended by 2015 : 38 s. 91 effective 6 November 2015]

Effect of decision of court upon determination of appeal

191 Where upon the determination of any appeal under this Act a court varies or reverses any decision of the Minister, it shall be the duty of the Minister to give effect to the order of the court and, in particular, to grant or issue any necessary consent, certificate or other document, and to make any necessary entry in any register accordingly.

FIRST SCHEDULE
STATUTORY NUISANCES

- 1 Any premises in such a state as to be prejudicial to the health of, or offensive to, any person in the neighbourhood.
- 2 Any animal kept in such a place or manner as to be prejudicial to the health of, or offensive to, any person in the neighbourhood.
- 3 Any accumulation or deposit which is prejudicial to the health of, or is offensive to, any person in the neighbourhood.
- 4 Any dust, smoke or effluvia caused by any trade, business, manufacture or process and which is prejudicial to the health of, or is offensive to, the inhabitants of the neighbourhood.
- 5 Any factory, workshop or workplace which is not provided with sufficient means of ventilation, or in which sufficient ventilation is not maintained, or which is not kept clean or not kept free from noxious effluvia, or which is so overcrowded while work is carried on as to be prejudicial to the health of those employed therein.

SECOND SCHEDULE

NUMBER OF PERSONS PERMITTED TO USE A DWELLING-HOUSE FOR SLEEPING

For the purposes of Part VIII, "the permitted number of persons" means, in relation to any dwelling-house, either—

- (a) the number specified in the second column of Table I in the annex hereto in relation to a house comprising the number of rooms which that dwelling-house comprises; or
- (b) the aggregate number for all the rooms in the dwelling-house obtained by reckoning, for each room therein of the floor area specified in the first column of Table II in the annex hereto, the number specified in the second column of that Table in respect to that area,

whichever is the less:

Provided that in computing for the purposes of Table I the number of rooms in a house, no regard shall be had to any room having a floor area of less than 50 square feet.

ANNEX

TABLE I

Where a house consists of—

(a) One room	2
(b) Two rooms	3
(c) Three rooms	5
(d) Four rooms	7 1/2
(e) Five rooms or more with an additional 2 in each room in excess of five.	10,

TABLE II

Where the floor area of a room is

(a) 110 sq. ft. or more	2
(b) 90 sq. ft. or more, but less than 110 sq. ft.	1 1/2
(c) 70 sq. ft. or more, but less than 90 sq. ft.	1
(d) 50 sq. ft. or more, but less than 70 sq. ft.	1/2
(e) Under 50 sq. ft.	Nil.

[This Act as originally enacted was brought into operation on 5 August 1949 by a notice in Gazette #31 of 1949]

[Assent Date: 3 May 1949]

[Amended by:

Acts No.:
1951 : 61
1951 : 87
1951 : 93
1952 : 5
1952 : 11
1963 : 132
1968 : 48
1969 : 299
1970 : 112
1970 : 390
1971 : 46
1971 : 83
1971 : 116

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1972 : 3
1973 : 109
1977 : 35
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1998 : 38
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2002 : 14
2002 : 28
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2017 : 11
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