



BERMUDA

FUMIGATION (CONTROL) ACT 1945

1945 : 58

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[preamble and words of enactment omitted]

Interpretation

1 In this Act—

“fumigating substance” means hydro-cyanic acid, any cyanide compound, and any other poisonous substance declared by the Governor, by notice in the Gazette, to be a fumigating substance within the meaning of this Act, being a substance from which a poisonous gas can be evolved or generated;

“fumigation” means fumigation by the use of a fumigating substance;

“licensed fumigator” means a person holding a licence granted by the Minister under this Act and authorizing him to carry out fumigations;

“the Minister” means the Minister for the time being responsible for health and related matters.

Savings

2 (1) This Act does not apply—

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- (a) in relation to any fumigation carried out under proper authority at any of Her Majesty's naval, military or air force establishments in Bermuda, or any fumigating substance supplied by Her Majesty's Government for the purpose of carrying out any such fumigation as aforesaid;
- (b) *[repealed by 2002:6]*
- (c) in relation to the fumigation of any oceangoing ship, or in relation to any fumigating substance kept on board any such ship for the purpose of fumigation.

(2) This Act is in addition to and not in substitution for or in derogation of the Pharmacy and Poisons Act 1979 *[title 11 item 5]*.

(3) In this section "ocean-going ship" means ship ordinarily engaged in ocean voyages.

[Section 2 subsection (1)(b) repealed by 2002:6 s.4 & Sch 3 effective 18 June 2002]

Fumigating substance; restriction on sale and purchase

3 (1) Except with the written permission of the Chief Environmental Health Officer—

- (a) no person shall sell or supply or offer or attempt to sell or supply any fumigating substance to any person who is not a licensed fumigator;
- (b) no person other than a licensed fumigator shall purchase or obtain or attempt to purchase or obtain any fumigating substance.

(2) Any person who contravenes anything in subsection (1) commits an offence against this Act:

Punishment on summary conviction: a fine of \$1,680.

[Section 3 subsection (1) amended by 2018 : 66 s. 2 effective 10 January 2019]

Licensed fumigators

4 (1) The Minister may grant licences to persons to carry out fumigations, and any person who holds such a licence is in Act referred to as a "licensed fumigator".

(2) With respect to such licences as aforesaid—

- (a) an applicant for a licence shall make application to the Minister in writing;
- (b) if it appears to the Minister that the applicant is in every respect a fit person to carry out fumigations, the Minister may grant him a licence accordingly;
- (c) the Minister may at any time by notice in writing served on the holder of a licence revoke or suspend the licence;
- (d) a licence, if not previously revoked, shall remain in force for a period of twelve months or for such shorter period as may be specified in the licence, and shall then expire:

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Provided that where any licence is suspended the licence shall cease to be in force during the suspension; but, if restored, it shall nevertheless expire on the same date as it would have expired if it had not been suspended;

- (e) a licence may be granted subject to such conditions and limitations as may be specified in the licence;
- (f) subject to paragraph (a) and paragraph (b), the grant, revocation or suspension of a licence shall be within the absolute discretion of the Minister, and it shall not be necessary for the Minister to assign any reason for a refusal to grant a licence, and no appeal shall lie from the Minister's decision;
- (g) it shall be, prima facie, evidence of the grant, revocation or suspension by the Minister of any licence, if the licence or the notice revoking or suspending the licence is signed by the Chief Environmental Health Officer.

[Section 4 subsection (2) amended by 2018 : 66 s. 2 effective 10 January 2019]

Fumigation only by licensed fumigators

5 (1) No person except a licensed fumigator or a person acting under the immediate supervision and directions of a licensed fumigator shall carry out or take part in any fumigation; and any person who contravenes this subsection commits an offence against this Act:

Punishment on summary conviction: a fine of \$1,680.

- (2) A licensed fumigator shall not carry out any fumigation—
 - (a) which is not in compliance with any conditions or limitations specified in his licence;
 - (b) except under the authority and in accordance with the terms of a permit issued to him by the Chief Environmental Health Officer and authorizing that particular fumigation;
 - (c) except in accordance with standing instructions;

and any licensed fumigator who contravenes anything in this subsection commits an offence against this Act:

Punishment on summary conviction: a fine of \$1,680.

(3) Every permit authorizing a fumigation as aforesaid shall set out the kind and quantity of the fumigating substance to be used, a description of the building, place, vessel, vehicle or thing which it is intended to fumigate, the date of the intended fumigation and the hour at which the intended fumigation is intended to commence.

(4) In this section "standing instructions" means the instructions referred to in section 6.

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(5) Notwithstanding anything in subsections (1) to (4), the Chief Environmental Health Officer may in his discretion grant permission in writing to any person to carry out a fumigation out of doors, that is to say, elsewhere than in a house, roofed building, vessel or vehicle, for the purpose of exterminating vermin; and a fumigation carried out by or under the immediate supervision and directions of a person to whom such a permission is granted, and in accordance with any instruction, conditions or limitations contained or specified in the permission, shall not be unlawful.

[Section 5 amended by 2018 : 66 s. 2 effective 10 January 2019]

Standing instructions by Minister

6 (1) The Minister shall cause instructions to be drawn up prescribing in sufficient detail the manner in which fumigations are to be carried out, and the measures which are to be taken, and the devices which are to be used, so as to secure the safety of persons and domestic animals; and when the Minister has approved the instructions, the instructions shall become and be known as “standing instructions relating to fumigation”, in this Act referred to as “standing instructions”.

(2) The Minister shall cause a copy of standing instructions to be issued to every licensed fumigator and shall also cause them to be published in the Gazette for publication information as soon as practicable after they are approved.

[GN 5/1976]

(3) The Minister may, by further instructions approved by him, amend, vary, add to or revoke any standing instructions, and the Minister shall cause a copy of any such further instructions to be issued to every licensed fumigator and shall also cause any such further instructions to be published in the Gazette.

(4) Standing instructions, as amended, varied, or altered from time to time, shall have the force of law.

Parliamentary scrutiny of declarations and standing instructions

7 The negative resolution procedure shall apply to a declaration made under section 1 and standing instructions issued under section 6.

[Assent Date: 29 December 1945]

[The Act was brought into operation on 1 January 1946 by notice published in Gazette #1 of 1946]

[Amended by:

1949 : 24

1952 : 11

GN 367 / 1966

1970 : 390

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GN 5 / 1976

1977 : 35

2002 : 6

2018 : 66]