



**BERMUDA
1963 : 13**

PROHIBITED PUBLICATIONS ACT 1963

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[30 January 1963]

[preamble and words of enactment omitted]

Interpretation

- 1 (1) In this Act, unless the context otherwise requires—
- "the public interest" means the interests of defence, public safety, public order, public morality or public health;
- "publication" means any type of matter to be read or viewed, or to be both read and viewed, any sound record, and any film or other record of a picture or pictures.
- (2) For the purposes of this Act, a person publishes a publication who—
- (a) distributes, circulates, sells, lets on hire, gives, or lends it, or who offers it for sale or for letting on hire; or
 - (b) in the case of a publication containing or embodying matter to be looked at or a record, shows, plays or projects it.

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Prohibited publications

2 (1) If the Governor is of the opinion that there is in any publication or series of publications published outside or in Bermuda by any person or association of persons matter which is contrary to the public interest, he may by order published in the Gazette and in at least one other newspaper, declare that that particular publication or series of publications, or all publications published by that person or association of persons, shall be a prohibited publication or, as the case may be, prohibited publications.

(2) Where an order made under subsection (1) specifies by name a publication which is a periodical publication, such order shall, unless a contrary intention be expressed therein, have effect—

(a) with respect to all subsequent issues of such publication; and

(b) not only with respect to any publication under that name, but also with respect to any publication published under any other name if the publishing thereof is in any respect a continuation of, or in substitution for, the publishing of the publication named in the order.

(3) Where an order made under subsection (1) declares that all publications published by a specified person or association of persons shall be prohibited publications, such order shall, unless a contrary intention be expressed therein, have effect with respect to all publications published by that person or association of persons, whether published before or after the date of the order.

(4) An order made under subsection (1) shall, unless a contrary intention be expressed therein, apply to any translation into any language whatsoever of the publications specified in the order.

(5) Section 6 of the Statutory Instruments Act 1977 [*title 1 item 3*] shall not apply to an order made under subsection (1).

Permit granting exception

3 (1) Notwithstanding that an order has been made under section 2(1), any person who wishes to import into Bermuda or to publish in Bermuda any particular publication which would otherwise be a prohibited publication, may apply to the Governor for a permit in that behalf, and unless he is satisfied that the publication contains matter which is contrary to the public interest, the Governor shall grant such a permit and the order shall thereupon cease to have effect with

respect to that particular publication.

(2) In any case where the Governor has granted a permit under this section, a notice to that effect shall be published in the Gazette and in at least one other newspaper.

Offences

4 Subject as hereinafter provided and without prejudice to any provision of the Criminal Code [*title 8 item 31*], any person who imports, possesses or publishes a publication which has been declared to be a prohibited publication under section 2(1) commits an offence against this Act:

Punishment on summary conviction: imprisonment for 6 months or a fine of \$360 or both such imprisonment and fine.

Punishment on conviction on indictment: imprisonment for 2 years or a fine of \$3,600 or both such imprisonment and fine.

Defence in certain cases

5 In any criminal proceedings instituted under section 4, it shall be a defence to prove that the prohibited publication came into the possession of the defendant before the prohibition of such publication came into effect or that the prohibited publication was sent to the defendant without his knowledge or privity, or in response to a request made by him before the prohibition of such publication came into effect:

Provided that it is further proved that, in any such case, the defendant has delivered the prohibited publication to the officer in charge of the nearest police station at the earliest opportunity—

- (i) after the coming into effect of the order prohibiting such publication; or
- (ii) after receiving the prohibited publication, as the case may be.

Search

6 (1) Where a magistrate is satisfied by information on oath that there is reasonable ground for suspecting that an offence against this Act has been committed and that evidence of the commission of the offence is to be found on any premises (which term includes any vehicle or vessel) specified in the information, he may grant a search warrant authorising any police officer named in such warrant at any time within one month from the date thereof to enter, if necessary by force, the said premises and to seize any prohibited publication found therein.

(2) Without prejudice to any prosecution which may be instituted under this Act, any publication seized under subsection (1) shall be brought before a magistrate who may thereupon issue a summons to the

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occupier of the premises to show cause why the publication should not be forfeited and ordered to be destroyed:

Provided that if the person summoned does not appear, the magistrate shall not make an order for the destruction of the publication unless the service of the summons is proved.

Prosecution

7 No prosecution shall be instituted under this Act without the prior consent in writing of the Director of Public Prosecutions.

[Section 7 amended by 1999:8 s.2 & Sch 1 effective 1 April 1999]

Amendments

8 [omitted]

[Amended by:

1971 : 24

1977 : 35

1999 : 8]