



BERMUDA

PUBLIC HEALTH AMENDMENT (NO. 2) ACT 2016

2016 : 46

WHEREAS it is expedient to amend the Public Health Act 1949 to provide regulation-making powers in relation to the installation, maintenance and inspection of any device or equipment required to prevent harmful articles or substances from entering a sewerage system; to enable civil penalties to be imposed against any person who, in contravention of any such regulations, allows articles or substances, which are liable to damage, or block or to be prejudicial to public health when introduced to, the sewerage system, to be deposited into the sewerage system; to regulate the capture, collection and disposal of fats, oils and grease resulting from the production, preparation or manufacture of food; and to make related amendments.

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

Citation

1 This Act, which amends the Public Health Act 1949 ("the principal Act"), may be cited as the Public Health Amendment (No. 2) Act 2016.

Amends section 2

2 Section 2(1) of the principal Act is amended by deleting the definition of "authorized officer" and substituting the following—

“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;

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- (b) in all other cases, means a person authorized in accordance with subsection (2);”.

Amends section 14

3 Section 14 of the principal Act is amended—

- (a) by numbering the existing provision as subsection (1); and
- (b) by inserting after the existing provision the following—

“(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.

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(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.”.

Repeals and replaces section 156

4 Section 156 of the principal Act is repealed and replaced with the following—

“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.”.

Amends the Public Health (Food) Regulations 1950

5 The Public Health (Food) Regulations 1950 are amended—

- (a) in regulation 2(1), by inserting in its correct alphabetical order the following definition—

“ “Chief Environmental Health Officer” means the person performing the functions of Chief Environmental Health Officer of the Department of Health;” and

- (b) by inserting after regulation 10(a) the following—

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“(aa) every victualling establishment shall have adequate means of capturing, collecting and disposing of fats, oils and grease unless a written exemption is obtained from the Chief Environmental Health Officer;”.

[Assent Date: 27 July 2016]

[Operative Date: 27 July 2016]