



BERMUDA

PUBLIC HEALTH (FATS, OILS AND GREASE REMOVAL) REGULATIONS 2017

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The Minister responsible for health, in exercise of the power conferred by sections 14, 156 and 170 of the Public Health Act 1949, makes the following Regulations:

Citation

1 These Regulations may be cited as the Public Health (Fats, Oils and Grease Removal) Regulations 2017.

Interpretation

2 In these Regulations—

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“the Act” means the Public Health Act 1949;

“appropriate officer” means—

- (a) in the case of a Municipal area, a Corporation Inspector; and
- (b) in any other case, the Chief Environmental Health Officer;

“authorized officer” has the meaning given in section 2 of the Act;

“BS EN 1825-2:2002” means the British Standard for grease separators published 29 March 2002;

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

“Corporation Inspector” has the meaning given in section 1 of the Hamilton Sewerage Act 1917 or, as the case may be, section 1 of the St. George’s Sewerage Act 1943;

“Department” means the Department of Health;

“EPA Method 1664” means the United States Environmental Protection Agency Method 1664 used to detect and measure the presence of FOG in wastewater;

“FOG” means fats, oils and grease derived from the production, preparation, or manufacture of food;

“FOG removal device” means a device which—

- (a) intercepts, traps or collects FOG, separates it from wastewater, and prevents it from entering a sewerage system;
- (b) conforms, with respect to design and performance, to the Uniform Plumbing Code or to the BS EN 1825-2:2002; and
- (c) has a wastewater discharge concentration of not more than 100 milligrams of FOG per litre of wastewater as measured in accordance with EPA Method 1664;

“itinerant restaurant” includes—

- (a) any restaurant operating for a temporary period in connection with a fair, carnival, circus, public exhibition or similar gathering;
- (b) any moveable stand or vehicle from which food is sold; and
- (c) any kitchen in which food is prepared for any such restaurant, stand or vehicle;

“Minister” means the Minister responsible for health;

“operator” means the owner or operator of a victualling establishment (whether or not a licence has been granted under regulation 5 of the Public Health (Food) Regulations 1950 in respect of that establishment);

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“restaurant” has the meaning given in regulation 2 of the Public Health (Food) Regulations 1950;

“sewer” means any culvert, drain or pipe intended or used for the conveyance of sewage;

“sewerage system” has the meaning given in section 14 of the Public Health Act 1949;

“Uniform Plumbing Code” means the current edition of the Uniform Plumbing Code of the International Association of Plumbing and Mechanical Officials;

“victualling establishment” includes a bakery, food store, itinerant restaurant, manufactory, refreshment shop, restaurant and any other establishment where food is prepared, manufactured or stored preparatory to its being offered for sale, or is offered for sale or sold, whether by wholesale, retail or auction.

Requirement to install a FOG removal device

3 (1) Subject to regulation 4, every victualling establishment shall have installed, in relation to that establishment, a FOG removal device.

(2) A FOG removal device shall be installed in accordance with the Uniform Plumbing Code or the BS EN 1825-2:2002.

(3) No victualling establishment shall operate having installed a FOG removal device that has not been approved by the appropriate officer.

(4) The appropriate officer shall have the power to approve, or decline to approve, a FOG removal device installed at a victualling establishment.

(5) In determining approval of a FOG removal device installed at a victualling establishment, the appropriate officer, may give written directions with respect to the—

- (a) type;
- (b) design;
- (c) size;
- (d) capacity;
- (e) location; and
- (f) installation,

of the FOG removal device installed in relation to that establishment.

(6) In any case where the appropriate officer declines to grant approval pursuant to paragraph (4), he shall give written reasons for his refusal.

Application to exempt or vary

4 (1) An operator may make application to the appropriate officer, in such form as the appropriate officer may require—

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- (a) to be exempted from regulation 3; or
 - (b) to vary any direction given under regulation 3.
- (2) The appropriate officer shall consider an application as soon as reasonably practicable after its receipt and shall—
- (a) approve or reject the application; or
 - (b) give such written direction, as he thinks necessary for compliance with regulation 3.
- (3) The appropriate officer may approve an application for exemption subject to a condition that the victualling establishment implement such measures as the appropriate officer thinks necessary to prevent FOG from entering a sewerage system.
- (4) Where the appropriate officer approves or rejects an application under this regulation, he shall record his decision and the reasons for it in writing and shall, as soon as reasonably practicable after making a decision, inform the applicant of the decision and the reasons for it.

Exemption

- 5 (1) In determining an application for exemption, the appropriate officer, shall consider—
- (a) whether a victualling establishment is likely to introduce FOG into a sewerage system; and
 - (b) whether such introduction is liable—
 - (i) to damage the sewerage system; or
 - (ii) to block the sewerage system; or
 - (iii) when introduced into the sewerage system, to be prejudicial to public health.
- (2) An operator of a victualling establishment to which an exemption has been granted, shall notify the appropriate officer, in writing of any change of circumstances, which the operator might reasonably be expected to know might affect the exemption, as soon as reasonably practicable after the occurrence of the change.

Maintenance

- 6 An operator shall ensure that the FOG removal device installed in relation to his victualling establishment—
- (a) is maintained in good working order;
 - (b) is emptied of FOG and any accumulated sludge regularly;
 - (c) has a sludge cap of less than 25%;
 - (d) is kept free of inorganic solid material and debris;

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- (e) is inspected and serviced no less than once per month.

Inspection

7 (1) An authorized officer may, on producing some duly authenticated document showing his authority, enter the premises of a victualling establishment at all reasonable hours for the purposes of—

- (a) inspecting its FOG removal device;
- (b) inspecting any records kept in accordance with regulation 8;
- (c) ascertaining compliance with these Regulations.

(2) An authorized officer may issue such directions, in writing, to the operator as he thinks necessary for compliance with these Regulations and the operator shall comply with those directions.

Record keeping

8 An operator shall—

- (a) keep at his victualling establishment, in such form as may be required, a written record of every inspection, maintenance and service performed in relation to its FOG removal device;
- (b) keep the record referred to in paragraph (a) for a period of not less than three years;
- (c) make available the record referred to in paragraph (a) to an authorized officer when requested.

Disposal of FOG

9 (1) An operator shall dispose of FOG—

- (a) by ensuring that FOG and any accumulated sludge that is emptied from a FOG removal device is delivered to, for disposal at, the Tynes Bay (waste-to-energy facility); or
- (b) by ensuring that FOG and any accumulated sludge (whether or not collected by a FOG removal device) is placed into a leakproof receptacle and delivered to, for disposal at, the Tynes Bay (waste-to-energy) facility.

(2) Any person disposing of FOG under paragraph (1) shall, as far as practicable, prevent the commingling of FOG with other waste before disposal at the Tynes Bay (waste-to-energy) facility.

(3) Section 14 of the Waste and Litter Control Act 1987 applies, where appropriate, to the disposal of FOG under these Regulations.

General prohibition

10 Except with the written permission of the appropriate officer, no operator shall in respect of his victualling establishment be permitted—

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- (a) to introduce any food waste into a sewerage system;
- (b) to introduce any articles or substances into a FOG removal device which are liable to damage that device;
- (c) to modify a FOG removal device.

Offences

11 (1) It shall be an offence against these Regulations, on the part of the operator, for a victualling establishment—

- (a) to operate after having installed a FOG removal device, in relation to that establishment, that has not been approved by the appropriate officer pursuant to regulation 3;
- (b) to operate after having installed a FOG removal device in contravention of regulation 3(2);
- (c) to operate without having installed a FOG removal device and without having been granted an exemption under regulation 4.

(2) The following are offences against these Regulations on the part of the operator in respect of his victualling establishment—

- (a) failure to comply with any written direction issued under regulation 3, 4 or 7;
- (b) failure to comply with any condition for exemption imposed under regulation 4(3);
- (c) failure to comply with any requirement under regulation 6;
- (d) failure to provide entry to an authorized officer pursuant to regulation 7;
- (e) failure to keep or make available records in accordance with regulation 8;
- (f) allowing any equipment, which is used for the disposal of food waste to be connected to a sewer;
- (g) allowing FOG, whether or not it is collected by a FOG removal device, to enter a sewer;
- (h) except with the written permission of the appropriate officer, enabling a dishwasher to be connected to a FOG removal device;
- (i) enabling wastewater in excess of 180 degrees Fahrenheit to be discharged into a FOG removal device;
- (j) enabling any enzymes, bacteria or other agents, for the purposes of displacing FOG, to be introduced into a FOG removal device;
- (k) except with the written permission of the appropriate officer, modifying or attempting to modify the performance of a FOG removal device;
- (l) disposing of FOG and accumulated sludge in contravention of regulation 9;

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- (m) failure to comply with a decision notice given pursuant to regulation 14(3)(b)(iv), including where such notice sets out the steps to be taken to remedy a contravention.

Punishment

12 An operator or any other person, as the case may be, who contravenes or fails to comply with any of the provisions of these Regulations or any direction, instruction, or condition lawfully made, given or imposed under the authority of these Regulations commits an offence against these Regulations and is liable on summary conviction—

- (a) in the case of a first offence, to a fine not exceeding \$3,000; or
- (b) in the case of a second or subsequent offence, to a fine not exceeding \$5,000 or imprisonment for a term not exceeding three months or to both such fine and imprisonment.

Power to impose civil penalties

13 (1) The Minister may impose a civil penalty on the operator of a victualling establishment for any contravention or failure to comply with any of the provisions of these Regulations or any direction, instruction, or condition lawfully made, given or imposed under the authority of these Regulations.

(2) The amount of the civil penalty imposed under this regulation shall be—

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

(3) Any civil penalty imposed under this regulation shall be an alternative to prosecution under regulation 12.

Procedure for imposing civil penalties

14 (1) When the Minister proposes to impose a civil penalty on an operator, he shall give the person a notice (a "warning notice") of—

- (a) the amount of the penalty;
- (b) the reasons for imposing the penalty; and
- (c) the right to make representations within seven days of the date of the warning notice.

(2) After considering any representations, the Minister must decide, within seven days of the end of the period specified in paragraph (1)(c), whether to impose a penalty.

(3) The Minister must give the operator a notice (a "decision notice") of—

- (a) his decision not to impose a penalty; or
- (b) his decision to impose a penalty and—
 - (i) the amount of the penalty;

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- (ii) the reasons for his decision;
- (iii) the right to appeal to the Supreme Court within 21 days of the date of the decision notice; and
- (iv) where appropriate, the steps to be taken to remedy the contravention and the time within which the contravention is to be remedied.

(4) A person, upon whom a penalty is imposed by decision notice who does not appeal under paragraph (3)(b)(iii) shall, where appropriate, remedy the contravention and within 21 days of the date of the decision notice either—

- (a) pay the penalty; or
- (b) pay a portion of the penalty and apply to the Minister for a payment schedule for the remainder.

Appealing a decision to impose a civil penalty

15 (1) A person may appeal to the Supreme Court against a decision of the Minister to impose a civil penalty.

(2) An appeal must be brought within the period specified in the decision notice.

(3) A decision appealed against under this regulation shall not have effect—

- (a) until the end of the period within which the appeal can be brought; and
- (b) if such an appeal is brought, until it is determined or withdrawn.

Commencement

16 (1) Subject to paragraph (2), these Regulations shall come into operation on the date of publication in the Gazette.

(2) Regulations 11 to 15 shall come into operation on 1 August 2017.

Made this 27th day of January 2017

Minister of Health and Seniors