

CLEAN AIR AMENDMENT ACT 2005



BERMUDA

2005 : 45

CLEAN AIR AMENDMENT ACT 2005

Date of Assent: 30 December 2005

Operative Date: 31 December 2005

ARRANGEMENT OF SECTIONS

1	Short title	6	Amends section 15
2	Interpretation	7	Amends section 23
3	Amends section 2	8	Amends First Schedule
4	Amends section 10	9	Commencement
5	Amends section 11		

WHEREAS it is expedient to amend the Clean Air Act 1991:

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:

Short title

1 This Act may be cited as the Clean Air Amendment Act 2005.

Interpretation

2 In this Act the "principal Act" means the Clean Air Act 1991.

Amends section 2

3 Section 2 of the principal Act is amended —

- (a) by deleting the definitions of "air pollution", and "controlled plant" and substituting the following definitions in their appropriate alphabetical order —

CLEAN AIR AMENDMENT ACT 2005

“air pollution” means the presence in the ambient air of any air contaminant—

- (a) in a concentration exceeding the maximum prescribed concentration;
- (b) causing an odour in contravention of any regulation regulating offensive odours; or
- (c) that directly or indirectly is likely to —
 - (i) endanger the health, safety or welfare of humans; or
 - (ii) cause damage to any plant, animal, property or ecosystem;

“controlled plant” means, subject to section 4(3), a plant described in the First Schedule;” and

- (b) by adding the following definition in its appropriate alphabetical order —

“ambient air” means that portion of the air, excluding the air internal to any building or other structure, to which the general public has access;” and

- (c) by adding “or” after paragraph (d) of the definition of “inspector” and inserting the following paragraph next after paragraph (d) —

“(e) any fire officer ;”.

Amends section 10

4 The principal Act is amended by repealing section 10 and substituting the following section—

“Permit and Licence not transferable

10 (1) A construction permit or an operating licence shall not be transferred or sold.

(2) Any such transfer or sale in contravention of subsection (1) shall be null and void.”.

Amends section 11

5 Section 11 of the principal Act is amended in subsection (1) by inserting the following paragraph next after paragraph (h) —

“(ha) prescribing the methods and procedures for the control of open fire, hazardous materials, offensive odour and sulphur content of fuel;”.

CLEAN AIR AMENDMENT ACT 2005

Amends section 15

6 Section 15 of the principal Act is amended by repealing subsection (2) and substituting the following subsections —

“(2) If after hearing the Minister and the person in question in relation to an application made under subsection (1), the Court is satisfied that the stop order has been lawfully made and has not been complied with, the court may make an enforcement order allowing an inspector —

- (a) to enter on any land, plant or structure; and
- (b) to seize and hold any equipment used on that land, plant or structure in contravention of the stop order,

for the carrying out of the stop order.

(3) Any equipment seized under subsection (2)(b) shall be disposed of in such manner as the Court may direct in the enforcement order.

(4) The Minister may recover by action any expenses incurred by the Government on account of anything done pursuant to the enforcement order under subsection (2).”.

Amends section 23

7 Section 23 of the principal Act is amended in paragraph (b) by deleting the comma after paragraph (ii) and substituting a semi-colon and the word “or”, and then inserting the following paragraph next after paragraph (ii) —

“(iii) to any court of law,”.

Amends First Schedule

8 The First Schedule to the principal Act is amended —

- (a) by deleting within first bracket the word “portable” and inserting the words “capable of being carried by hand”;
- (b) by deleting the word “plant” and substituting the word “facility” in paragraphs (a), (b), (d), (e), (f), and (gb); and
- (c) by repealing paragraph (c) and substituting the following paragraph —
 - “(c) a facility for the crushing, processing or transfer of gravel, stone, sand or soil ;”.

Commencement

9 This Act shall come into operation on 31 December 2005.