



BERMUDA

QUARANTINE ACT 2017

2017 : 11

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WHEREAS it is expedient for the Government of Bermuda to protect public health by taking comprehensive measures to prevent the introduction and spread of communicable diseases; and it is essential for the Government to work in cooperation with the international community to prevent the spread of communicable diseases;

AND WHEREAS the Fifty-eighth World Health Assembly under the World Health Organization (WHO) adopted the International Health Regulations 2005 on the 23 May 2005 to protect all WHO Member States from the international spread of disease, including public health risks and public health emergencies;

AND WHEREAS the United Kingdom of Great Britain and Northern Ireland took steps to implement the International Health Regulations 2005 by the 15 June 2007, and on the 8 January 2007 confirmed the extension of the Regulations to Bermuda ;

AND WHEREAS it is necessary and expedient for the Government of Bermuda to implement the International Health Regulations 2005;

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 may be cited as the Quarantine Act 2017.

Interpretation

2 In this Act—

“aircraft” means an aircraft making an international voyage;

“airport” has the meaning assigned to the term “Bermuda Airport” in section 1 of the Civil Airports Act 1949;

“Chief Medical Officer” has the meaning assigned to the term in section 2 of the Public Health Act 1949;

“communicable disease” means a disease caused by an infectious agent or biological toxin that affects human beings and poses a risk of significant harm to public health and is listed in the regulations as a communicable disease;

“conveyance” means any aircraft or ship on an international voyage;

“conveyance operator” includes any person for the time being in charge or in command of a conveyance;

“Health Officer” means an authorized health worker or other person appointed by the Quarantine Authority under section 3;

“IHR 2005” means the International Health Regulations 2005 that apply to Bermuda as provided in section 5;

“international voyage” has the meaning set out in Article 1 of the IHR 2005;

“the Minister” means the Minister responsible for health;

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“National Focal Point” means a national centre designated to assess events that may be public health emergencies of international concern and which is required to be accessible at all times for communications with the WHO IHR Contact Points as provided under Article 1 of the IHR 2005;

“port” means a seaport where ships on international voyages arrive or depart;

“Public Health England” means a national centre in England designated to perform the functions of a National Focal Point for all of the United Kingdom territory including the Overseas Territories;

“Quarantine Authority” means the Minister responsible for health who is the Quarantine Authority for Bermuda pursuant to section 3;

“ship” means any seagoing vessel on an international voyage;

“traveller” means any person who—

- (a) has arrived in Bermuda on a conveyance but has not landed for the purposes of section 24 of the Bermuda Immigration and Protection Act 1956 (passengers in transit); or
- (b) is about to board or has boarded a conveyance for his departure from Bermuda;

“WHO” stands for the World Health Organization;

“WHO IHR Contact Point” means the unit within WHO which shall be accessible at all times for communications with the National Focal Point.

Minister to be the Quarantine Authority

- 3
- (1) For the purposes of this Act, the Minister shall be the Quarantine Authority.
 - (2) The Quarantine Authority may appoint such number of public officers to be Health Officers as he may determine.
 - (3) Health Officers shall, in the exercise of their powers and the performance of their functions under this Act, act under the general or special directions and control of the Quarantine Authority.

Functions and powers of Health Officers

- 4
- (1) For the purposes of this Act, it shall be the function of a Health Officer to determine a traveller’s health status and potential health risk to others and to perform such other functions in relation to this Act as the Chief Medical Officer may determine or as the Quarantine Authority may prescribe.
 - (2) A Health Officer shall exercise such powers in relation to performing his functions under this Act as the Quarantine Authority may prescribe in the regulations.
 - (3) Health Officers appointed under section 3(2) shall report to the Chief Medical Officer in relation to functions assigned under this Act.

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Application of IHR 2005 to Bermuda

5 (1) Subject to subsection (2), the International Health Regulations 2005 (IHR 2005) adopted by the Fifty-eighth World Health Assembly under the World Health Organization on the 23 May 2005 to protect all WHO Member States from the international spread of disease, including public health risks and public health emergencies, apply to Bermuda.

(2) The Minister may, in the regulations made under section 8, provide specifically for the application of the IHR 2005 to Bermuda with such adaptations, modifications and alterations as he may deem appropriate for the purposes of Bermuda.

(3) The IHR 2005 referred to in this Act can be viewed on the Government of Bermuda website (<https://www.gov.bm>).

Communications with Public Health England

6 (1) The Quarantine Authority shall act on the advice of Public Health England in matters relating to communications with WHO IHR Contact Points that may require the making of regulations under section 8.

(2) The Chief Medical Officer shall advise Public Health England on behalf of the Government of Bermuda on matters relating to public health under the IHR 2005.

Functions of the Chief Medical Officer

7 (1) For the purposes of this Act, the function of the Chief Medical Officer shall be to assist with the implementation of health measures required under the IHR 2005.

(2) Without derogating from the generality of subsection (1), the functions of the Chief Medical Officer shall include—

- (a) sending to Public Health England, on behalf of the Government of Bermuda, urgent communications concerning the implementation of the IHR 2005 and, in particular sending communications required under Articles 6 to 12 of the IHR 2005; and
- (b) disseminating information to, and consolidating input from, relevant sectors of the Government of Bermuda;
- (c) receiving directives from Public Health England, as received from the WHO concerning actions to be taken by the Government of Bermuda in compliance with the IHR 2005 and communicating the directives to the Quarantine Authority and advising the Quarantine Authority on the implementation of the directives;
- (d) determining local practices required under Annex 1 of the IHR 2005 and advising the Quarantine Authority in respect of those practices;
- (e) assisting with the implementation of health measures under the IHR 2005 where confirmed necessary by Public Health England.

Minister may make regulations

8 (1) The Minister may, on the advice of the Chief Medical Officer and in accordance with the IHR 2005, make regulations as respects the airport and ports thereof in Bermuda—

- (a) for preventing danger to public health from a conveyance or traveller or things thereon, arriving at the airport and ports; and
- (b) for preventing the spread of infection by means of a conveyance about to leave the airport and ports or by means of any traveller or thing about to leave in a conveyance.

(2) Without derogating from the generality of subsection (1), the Minister, on the advice of the Chief Medical Officer, may make regulations for all or any of the following matters—

- (a) the collection and transmission of epidemiological and sanitary information;
- (b) the detection, assessment, notification and reporting of events involving the spread of communicable diseases;
- (c) the implementation of health measures to be taken by Health Officers in relation to events that may constitute public health emergencies ;
- (d) the questions to be answered and information (whether oral or documentary) to be supplied by conveyance operators and other travellers who are or have been on board a conveyance or are desirous of boarding a conveyance;
- (e) the detention of travellers and the seizure and detention of conveyances and things that are or have been on board them;
- (f) the destruction of things which are or have been on board a conveyance;
- (g) the duties to be performed by conveyance operators and other travellers who are or have been on board a conveyance or who are desirous of boarding a conveyance;
- (h) authorizing the making of charges, fixing the charges and providing for the recovery of charges and expenses;
- (i) conferring on appropriate officers powers to board conveyances and to enter premises;
- (j) the diseases that may be listed in the regulations as communicable diseases that a conveyance operator is required to detect, note and report on if affecting or suspected to be affecting a traveller on board the conveyance;
- (k) any incidental and supplementary matters connected with any of the matters aforementioned.

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(3) The regulations for the purposes of subsection (2) shall provide for securing the rights of travellers, conveyance operators and other affected persons consistent with the Constitution of Bermuda with respect to circumstances when it may be necessary that actions be taken under the regulations that otherwise breach rights and freedoms.

(4) A police officer may, for the purpose of ensuring compliance with any actions that may be taken under the regulations, exercise the powers under section 13.

(5) The affirmative resolution procedure shall apply to regulations made under this section.

(6) The Minister may by order, subject to the negative resolution procedure, amend the regulations for the purpose of providing for, and revising—

(a) the list of communicable diseases that may be specified under the regulations; and

(b) any of the forms that may be required under the regulations.

(7) The Schedules and Forms to the regulations made by the Minister under this section may be published separately on the Government of Bermuda website (<https://www.gov.bm>), and such Schedules and Forms shall be available for inspection at the office of the Director of the Department of Health.

[Section 8 subsection (7) inserted by 2017 : 32 s. 2 effective 6 October 2017]

Minister may make emergency orders

9 (1) When in the opinion of the Quarantine Authority a public health emergency exists, the Quarantine Authority may, after consultation with the Chief Medical Officer, by order direct special measures to be taken during the continuance of that emergency for any of the purposes specified in section 8 and any such order shall have effect notwithstanding anything to the contrary in any regulations or rules in force by virtue of this Act.

(2) An order made under subsection (1) may be varied or rescinded by order of the Governor.

(3) The Chief Medical Officer shall report to Public Health England an emergency order made by the Quarantine Authority as soon as the order is made.

(4) The negative resolution procedure shall apply to orders made under this section.

Landing rights of traveller with communicable disease

9A A traveller suspected of or determined to be suffering from a communicable disease may be deemed an exceptionable person under section 31 of the Bermuda Immigration and Protection Act 1956 and landed subject to such general or special directions as the Quarantine Authority may give in accordance with this Act and regulations made under this Act.

[Section 9A inserted by 2017 : 32 s. 2 effective 6 October 2017]

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Directives and guidelines

10 (1) The Quarantine Authority may, on the advice of the Chief Medical Officer, issue directives and guidelines for the purposes of the implementation of the IHR 2005.

(2) The directives and guidelines issued by the Quarantine Authority under subsection (1) shall not be inconsistent with this Act and regulations and orders made under this Act.

Offences and proceedings

11 (1) Any traveller or conveyance operator who, contrary to this Act, or the regulations or orders made under this Act—

- (a) refuses to answer or knowingly gives an untrue answer to any inquiry, or who intentionally withholds any information reasonably required of him by a Health officer or other person acting under such authority, or who knowingly furnishes to any such officer or other person any information which is false;
- (b) refuses or fails without reasonable excuse to do any act which he is required to do, or who refuses or fails without reasonable excuse to carry out any lawful order, instruction or condition made, given or imposed by a Health officer or other person acting under such authority; or
- (c) assaults, resists, wilfully obstructs, or intimidates a Health officer or other person acting under such authority, or who otherwise obstructs the execution of this Act, or regulations or orders made under this Act,

commits an offence.

(2) Any traveller or conveyance operator who commits an offence under subsection (1) is liable on summary conviction to a fine not exceeding \$25,000, or to imprisonment for a term not exceeding six months or to both such fine and imprisonment.

[Section 11 subsection (1)(b) amended by 2021 : 27 s. 11 effective 28 June 2021]

Definitions for sections 11A to 11I

11A In sections 11A to 11I—

“authorized officer” *[Deleted by 2021 : 27 s. 11]*

“court” means the magistrates’ court;

“offence” means a contravention of this Act, or regulations and orders made under this Act, relating to the prevention, control or suppression of COVID-19 as specified in regulations or orders made under section 11I;

“penalty” means a fixed penalty for the contravention of a provision of regulations or orders made under section 11I;

“Public Health Officer” has the meaning assigned to it in section 2 of the Public Health Act 1949;

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“quarantine penalty ticket” or “ticket” means a ticket referred to in section 11C that offers the person to whom it is issued the opportunity of discharging any liability to conviction for the offence by payment of a prescribed penalty at the magistrates’ court or by such other method of payment as may be prescribed in regulations or orders made under section 11I.

[Section 11A inserted by 2021 : 18 s. 2 effective 31 March 2021; Section 11A definition “authorized officer” deleted by 2021 : 27 s. 11 effective 28 June 2021]

Criminal conviction not to apply where penalty is paid

11B Notwithstanding section 129 of the Criminal Code Act 1907, a person to whom a quarantine penalty ticket is issued for an offence relating to the prevention, control or suppression of COVID-19 who pays the applicable penalty for the offence within—

- (a) the period of 28 days from the date the ticket is issued; or
- (b) such extended period as may be determined under section 11G,

shall, by virtue of such payment, be discharged of any liability to conviction and shall not have criminal proceedings instituted against him for such offence.

[Section 11B inserted by 2021 : 18 s. 2 effective 31 March 2021; Section 11B repealed and replaced by 2021 : 27 s. 11 effective 28 June 2021]

Authorization of quarantine penalty ticketing for offences

11C (1) Without prejudice to the procedure set out in the Criminal Jurisdiction and Procedure Act 2015 for laying an information and for issuing a summons, a quarantine penalty ticket laying out information and issuing a summons for an offence shall—

- (a) contain notification as provided in subsection (2); and
- (b) specify such content and be in such form as provided in subsection (3).

(2) The quarantine penalty ticket shall contain a notification stating that—

- (a) no proceedings may be instituted for the offence before the end of the period of 28 days from the date of the delivery of the quarantine penalty ticket;
- (b) the person will not be convicted of the offence if the person pays the penalty before the end of that period; and
- (c) if the person to whom the ticket is issued disputes the offence alleged therein, he has the right to a summary trial in the court.

(3) The quarantine penalty ticket shall specify such content as the Minister may prescribe under section 11I and be in such form as the Commissioner of Police may determine and publish under the “Publications and Forms” section on the website: www.bermudapolice.bm/.

[Section 11C inserted by 2021 : 18 s. 2 effective 31 March 2021; Section 11C amended by 2021 : 27 s. 11 effective 28 June 2021]

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Authorized officer to produce official identification

11D *[Repealed by 2021 : 27 s. 11]*

[Section 11D repealed by 2021 : 27 s. 11 effective 28 June 2021]

Issue of quarantine penalty ticket

11E An police officer, who has reasonable cause to believe that a person identified as provided under section 11F has committed an offence, may issue a quarantine penalty ticket under this Act to that person by delivering to, or serving on, the person the ticket setting out the particulars of the offence as the Minister may prescribe under section 11I.

[Section 11E inserted by 2021 : 18 s. 2 effective 31 March 2021; Section 11E amended by 2021 : 27 s. 11 effective 28 June 2021]

Ascertaining identity of person to whom a ticket is to be issued

11F (1) A police officer may stop any person and require the person to answer any questions to enable the police officer to ascertain the person's identity and whether the person is in compliance with requirements relating to the prevention, control or suppression of COVID-19 in this Act or regulations and orders made under this Act.

(2) A person who refuses to answer questions as required under subsection (1) commits an offence under section 11(1)(a).

[Section 11F inserted by 2021 : 18 s. 2 effective 31 March 2021; Section 11F amended by 2021 : 27 s. 11 effective 28 June 2021]

Extension of period of payment of penalty

11G The court may, on written application by a person to whom a ticket has been issued made at least 48 hours before the expiry of 28 days from the date of the delivery of the quarantine penalty ticket, extend the period within which the penalty must be paid for an additional period not exceeding 28 days.

[Section 11G inserted by 2021 : 18 s. 2 effective 31 March 2021]

Court proceedings and record of conviction

11H (1) Notwithstanding section 11B, criminal proceedings for an offence may be instituted where—

- (a) a person refuses to answer questions from a police officer regarding his identity under section 11F;
- (b) a person to whom a quarantine penalty ticket is issued refuses to accept delivery or service of the quarantine penalty ticket; or
- (c) a person to whom a quarantine penalty ticket is issued fails to pay the penalty within the period of 28 days or within an extended period of time that may be granted under section 11G,

and where convicted, such person shall be liable to the penalty for the offence as provided in this Act or regulations and orders made under this Act.

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(2) A person to whom a quarantine penalty ticket is issued who does not pay the applicable penalty on time shall appear at the time and place specified in the summons set out in the quarantine penalty ticket for the hearing of the matter, and, if he fails to so appear, the court may issue a warrant for his arrest (whether or not the offence is punishable with imprisonment).

(3) Where the court makes a conviction on an information in a quarantine penalty ticket in respect of an offence, the court shall complete a record of conviction document and an officer of the court shall cause a copy of it to be forwarded to the Minister.

[Section 11H inserted by 2021 : 18 s. 2 effective 31 March 2021; Section 11H amended by 2021 : 27 s. 11 effective 28 June 2021]

Regulations

11I (1) The Minister may, in regulations and orders made under this Act—

- (a) prescribe the content of a quarantine penalty ticket;
- (b) prescribe the procedure for issuing a quarantine penalty ticket;
- (c) list offences in respect of which a quarantine penalty ticket may be issued;
- (d) set out the information or particulars of offences;
- (e) specify documents to be used in evidence in proceedings; and
- (f) specify penalties for offences, not exceeding \$10,000 for any offence.

(2) In determining whether a person has committed an offence for which a quarantine penalty ticket may be issued, a court may consider whether the person has followed any relevant guidance set out on the Ministry of Health website (www.gov.bm/coronavirus) that was current at the time of the commission of the offence.

(3) The negative resolution procedure applies to regulations and orders made under this section.

[Section 11I inserted by 2021 : 18 s. 2 effective 31 March 2021; Section 11I amended by 2021 : 27 s. 11 effective 28 June 2021]

Recovery of expenses and charges

12 (1) Any sum which the Minister is entitled to recover under this Act, shall, without limit of amounts, be recoverable before a court of summary jurisdiction in the manner provided by the Magistrates Act 1948, for the recovery of a debt or liquidated demand.

(2) Any sum received by the Quarantine Authority or recovered by the Minister in payment of such expenses or charges as aforesaid shall be paid into the Consolidated Fund.

Police powers and duties

13 (1) Where a Health Officer gives an order, instruction or condition to a traveller or conveyance operator in connection with the exercise of his functions under this Act and the traveller or conveyance operator fails or refuses to comply with such order, instruction or

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condition, the Health Officer may, with the assistance of a police officer, arrest a traveller or conveyance operator and charge with an offence under section 11(1).

(2) A police officer may arrest without warrant any traveller or conveyance operator whom he has reasonable grounds to believe failed to comply with the requirements of this Act or of regulations or orders made under this Act or has committed an offence under this Act.

(3) A traveller or conveyance operator who is arrested under this section may be placed in detention by a Health Officer until such time as a Government Medical Officer acting on the instructions of the Chief Medical Officer has determined that the traveller's state of health is such as not to pose a risk of significant harm to public health.

(4) In this section, "Government Medical Officer" has the meaning assigned to the term in section 2 of the Public Health Act 1949.

[Section 13 subsection (3) amended by 2017 : 32 s. 2 effective 6 October 2017]

Conflict with Public Health Act 1949

14 Where any provision of this Act is inconsistent with any provision of the Public Health Act 1949, the provision of this Act shall prevail.

Act not to apply in relation to certain armed forces

15 (1) Nothing in this Act or the regulations made under it shall apply in relation to any conveyance forming part of—

- (a) Her Majesty's armed services;
- (b) the armed forces of any country within the Commonwealth; or
- (c) the armed forces of any country designated under section 1(2) of the Visiting Forces Act 1952 (UK).

(2) Nothing in this Act or the regulations made under it shall apply to any officer or member of the crew travelling on a conveyance referred to under subsection (1).

(3) Notwithstanding subsections (1) and (2), the Quarantine Authority may make emergency orders under section 9 that apply to any officer or member of the crew travelling on a conveyance referred to under subsection (1) who intends to be landed in Bermuda.

[Section 15 subsection (3) inserted by 2022 : 25 s. 2 effective 2 August 2022]

Repeal and savings

16 (1) The Quarantine Act 1946 is repealed.

(2) Notwithstanding the repeal of the Quarantine Act 1946 (the "repealed Act")—

- (a) any person appointed as a Health Officer pursuant to the powers granted under the repealed Act shall continue in such appointment as if appointed under this Act; and

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- (b) regulations made under the repealed Act shall continue to apply as if made under this Act.

Consequential amendments

17 (1) The Bermuda Immigration and Protection Act 1956 is amended in section 9(1) by deleting “1946” and substituting “2017”.

(2) The Schedule to the Civil Establishment Act 1998 is amended by deleting “Section 2(3) of the Quarantine Act 1946 (Quarantine Authority Officers)”.

(3) The Customs Department Act 1952 is amended—

- (a) in section 1 by inserting the following definition in its proper alphabetical order—

“Quarantine Authority” has the meaning assigned to it in section 2 of the Quarantine Act 2017;

- (b) in section 2(3)—

- (i) by deleting “Minister responsible for health and the Chief Medical Officer” and substituting “the Quarantine Authority and the Chief Medical Officer”;

- (ii) by deleting “Immigration Officer or a Health Officer pursuant to section 6” and substituting “Immigration Officer pursuant to section 6 or a Health Officer pursuant to section 6A”;

- (c) in section 6—

- (i) in the headnote by deleting “and Health Officers”;

- (ii) by repealing subsection (1) and substituting—

“(1) The Governor may appoint any member of the Department to be an Immigration Officer for the purpose of exercising any powers or performing any duties which may be exercised or performed by an Immigration Officer under the provisions of the Bermuda Immigration and Protection Act 1956.”.

- (iii) in subsection (2) by deleting “or Health Officer or both”;

- (iv) in subsection (3) by deleting “or Health Officers or both” and “or Health Officers”;

- (d) after section 6 by inserting—

“The Quarantine Authority may appoint customs officers as Health Officers

6A (1) The Quarantine Authority may appoint any member of the Department to be a Health Officer for the purpose of exercising any powers and performing any duties which may be exercised or performed by a Health Officer under the provisions of the Quarantine Act 2017.

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(2) No member of the Department who is, under subsection (1), appointed to be a Health Officer shall be entitled to any other or additional salary or other emoluments by virtue of such appointment.

(3) The powers and immunities conferred upon members of the Department by section 5(1) and (2) shall extend to any such members who are appointed under this section to be Health Officers while acting in the execution of their duty as Health Officers.”

(4) The Marine Board Act 1962 is amended—

(a) in section 25(2)(f); and

(b) in section 43(n),

by deleting “1946” and substituting “2017”.

(5) The Public Health Act 1949 is amended—

(a) in section 11(2); and

(b) in section 66(3),

by deleting “1946” and substituting “2017”.

(6) The Schedule to the Government Fees Regulations 1976 is amended in the headnote of Head 57 by deleting “1946” and substituting “2017”.

Commencement

18 The provisions of this Act shall come into operation on such date as the Minister may appoint by notice published in the Gazette, and the Minister may appoint different days for the coming into operation of different provisions.

[Assent Date: 20 February 2017]

[Operative Date: 24 April 2017]

Amended by

2017 32

2021 18

2021 27

2022 25]