

THE PUBLIC HEALTH ACT

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SCHEDULE

THE PUBLIC HEALTH ACT

[21st February, 1985.]

Acts
 47 of 1974,
 20 of 1987,
 33 of 1991
 S. 22,
 36 of 1995
 3rd Sch.,
 22 of 1996,
 7 of 2011
 Sch.
 Short title.

1. This Act may be cited as the Public Health Act.

2.—(1) In this Act, unless the context otherwise requires—

Interpreta-
 tion.

“communicable disease” means any disease due to a specific infectious agent or its toxic products, which arises through transmission of that agent or its products from an infected person or animal to a susceptible person either directly or indirectly, through the agency of an intermediate plant or animal host, a vector or the inanimate environment and includes any infectious disease and any quarantinable disease;

“functions” includes duties and powers;

“Local Board” means the Local Board of Health in respect of each parish established under section 5;

“Medical Officer” means any medical practitioner in the employment of the Government or any Local Board;

“Medical Officer (Health)” means any medical practitioner appointed by the Governor-General to be a Medical Officer (Health) and shall include the Chief Medical Officer and any other Medical Officer designated by the Minister to be a Medical Officer (Health) for the purposes of this Act;

“medical practitioner” means a medical practitioner registered in accordance with any enactment for the time being in force in relation to the registration of medical practitioners;

“notifiable disease” means any communicable disease declared by the Minister by order to be a notifiable disease;

or abatement of any nuisance, the institution of any proceedings, or the enforcing of any regulation, issue directions in writing for any act to be done, any proceedings to be instituted or any regulation to be enforced which the Local Board might have done, instituted or enforced for that purpose, at the expense of that Local Board.

13.—(1) The Minister may, if he thinks it appropriate to do so, by order published in the *Gazette*, divest a Local Board of all or any of its functions under this Act and vest such function or functions in such person or persons as the Minister thinks fit for such period as shall be specified in the order.

Power of Minister to re-assign functions of Local Board.

(2) An order under subsection (1) may contain such consequential, supplemental or ancillary provisions as appears to the Minister to be necessary or expedient for the purpose of giving effect to the order.

14.—(1) The Minister may make regulations generally for carrying out the provisions and purposes of this Act, and in particular, subject to section 7, but without prejudice to the generality of the foregoing, may make regulations in relation to—

Minister may make regulations.

- (a) notifiable and communicable disease, the treatment and prevention thereof and the isolation of patients suffering therefrom;
- (b) the prevention, mitigation and suppression of disease, including the disinfection, closing, or destruction of buildings in which infected persons have lodged or resided, and the restriction of movement of persons into and out of infected areas;
- (c) vaccinations and inoculations;
- (d) air and soil pollution;

36/1995
3rd Sch.

- (e) the collection and publication of epidemiological and other data pertaining to public health;
- (f) occupational diseases and employment health hazards;
- (g) the importation, preparation, and distribution of food or drink intended for human consumption, in so far as it concerns public health;
- (h) the inspection and prevention from contamination of food and drink intended for human consumption, the analysing and testing of samples of such food and drink by an official analyst, the issuing of certificates in relation thereto, and the condemnation, seizure and disposal of such articles as are unfit for human consumption;
- (i) the control and destruction of rodents, mosquitoes and other insects, termites, and other vermin;
- (j) prescribing any fees in respect of any examination, certificate, licence or other matter under this Act;
- (k) prescribing any forms for the purposes of this Act;
- (l) prescribing any other matter or anything which may be, or is required by this Act to be prescribed by the Minister.

(2) Regulations made under subsection (1) may be made applicable to the entire Island or such part thereof as may be specified therein.

15. Notwithstanding the provisions of section 29 of the Interpretation Act, regulations made under this Act may prescribe greater penalties than those specified in the said section 29, so, however, that the maximum penalty that may be imposed shall be a fine of one million dollars or imprisonment with hard labour for twelve months.

Penalties in
regulations.

7/2011
Sch.

16:—(1) Where the Central Health Committee or Local Board report to the Minister—

Minister may give directions in certain circumstances.

- (a) existence of any local condition in any part of the Island tending to endanger public health, and there are no powers under any law other than this section whereby such condition may be removed or guarded against; or
- (b) that any part of the Island appears to be threatened with or affected by any communicable disease in epidemic proportions, and that measures apart from, or in addition to, those specifically provided for in this Act, should be taken promptly,

the Minister may by order direct the enforcement of any measures recommended by the Central Health Committee or by a Local Board, as the case may be, or any other measures that he thinks expedient for removing or otherwise guarding against any such condition and the probable consequences thereof, or for preventing or mitigating as far as possible, any such disease.

(2) Any order made under this section may extend to the whole Island or to such part thereof or to such particular places as may be specified therein.

(3) A copy of every order made under this section shall be posted in a conspicuous place at every police station and post office in the Island.

(4) Any person who contravenes the provisions of any order made under this section shall be guilty of an offence under this Act.

17. An order or regulation made in relation to any communicable disease shall not have effect until it is—

Publication of regulations.

- (a) gazetted; or
- (b) published in such other manner as the Minister may in any particular case determine,

so, however, that where the order or regulation is published pursuant to paragraph (b) and comes into force, a notification in accordance with section 60 of the Interpretation Act shall be made in the *Gazette* as soon as possible.

Minister
may prohi-
bit assembly
of persons.

18.—(1) Where there is prevalent in the Island, or in any part thereof any communicable disease in epidemic proportions, the Minister may, by order published in the *Gazette*, prohibit the assembly of persons exceeding such number as may be prescribed in that order at any place specified therein, and such prohibition may be made applicable to the whole Island or to any part thereof.

22/1996
S. 3.

(2) Every person who is present at, or promotes, aids, or assists in the promotion of any assembly prohibited under subsection (1) shall be liable on summary conviction before a Resident Magistrate to a penalty of two thousand five hundred dollars and in default of payment, to imprisonment for a term not exceeding three months.

22/1996
S. 3.

(3) Any constable may require any assembly prohibited under subsection (1) to disperse, and any person who fails to obey such requirement shall be liable on summary conviction before a Resident Magistrate to a penalty of two thousand five hundred dollars and in default of payment, to imprisonment for a term not exceeding three months.

Minister
may order
closure
of public
places or
schools.

19.—(1) Where there is prevalent in the Island or in any part thereof, any communicable disease in epidemic proportions, and the Minister is satisfied that it is in the interest of public health to do so, he may by order published in the *Gazette*, direct that any public place or any school in the Island, or in the area in which such disease is prevalent, shall be closed for such period as he thinks necessary.

(2) Any person who fails to comply with any order made under subsection (1), shall be liable on summary conviction before a Resident Magistrate to a fine not exceeding

fifty thousand dollars and in default of payment to imprisonment for a term not exceeding six months.

22/1996
S. 4(a).

(3) Where an offence is a continuing offence, the offender shall be liable to a further penalty not exceeding twelve thousand five hundred dollars for every day for which the offence continues after conviction, and in default of payment, to imprisonment for a period not exceeding six months.

22/1996
S. 4(b)(i)(ii).

20.—(1) A Medical Officer (Health) or any other person authorized in writing in that behalf by the Minister or by a Local Board, or by the Medical Officer (Health) may at all reasonable times enter any premises for the purpose of ensuring compliance with the provisions of this Act, or any regulations made hereunder and shall, if required to do so by the person in charge of the premises, produce his authority for so entering to such person.

Right of
entry upon
private
premises.

(2) Where a Medical Officer (Health) is satisfied that it is necessary in the interest of public health so to do, he may by himself or by some other person duly authorized by him in that behalf, enter any premises with or without the consent of the owner or occupier, and take such action as he may consider necessary in the interest of public health.

21.—(1) All expenses incurred by a Local Board in abating a nuisance may be recovered by that Local Board from the person by whose act or sufferance the nuisance was caused.

Recovery
of expenses
incurred
in abating a
nuisance.

(2) Any expenses recoverable pursuant to this Act or any regulations made hereunder by a Local Board from an owner of premises may be recovered from the occupier for the time being of such premises, and that occupier shall be entitled to deduct any sum paid by him in respect of such expenses, and in respect of the costs of the recovery thereof, out of the rent from time to time becoming due in respect of

the premises, as if the same had been actually paid to the owner as part of the rent :

Provided that—

- (a) the occupier shall not be so required to pay any further sum than the amount of rent which either is for the time being due from him, or which after demand from him of such expenses and notice not to pay any rent without first deducting the same, becomes payable by him, unless he refuses, on the application of the Local Board truly to disclose the amount of his rent and the name and address of the person to whom such rent is payable; but the burden of proof that the sum demanded from any such occupier is greater than the aforesaid amount of rent shall be on such occupier; and
- (b) nothing in this section shall affect any contract between any owner and occupier of any premises whereby the occupier agrees to pay or discharge all rates, dues and sums of money payable in respect of such premises or shall affect any contract whatsoever between landlord and tenant.

(3) Where the owner of the premises concerned is absent from the Island or from the district in which the premises are situated, or is not known or cannot be found, the Local Board having jurisdiction over the area in which the premises concerned are situated shall have power, in addition to any other powers given under this Act for the recovery of expenses incurred in carrying out any of the purposes of this Act, to do the following—

- (a) after the expiration of four months after the nuisance has been abated to cause the premises concerned to be sold at auction after due advertisement in the *Gazette* of such intended sale;
- (b) to receive the proceeds of any such sale and after deducting the expenses incurred as authorized

under this Act and of the deed conveying the same, to pay the residue thereof (if any) to the Accountant-General there to remain without interest until paid out pursuant to the provisions of paragraph (c);

- (c) to withdraw from the Accountant-General such residue and to pay the same to any person whom the Crown Solicitor shall certify to be entitled thereto, so, however, that any payment made pursuant to any such certificate shall absolve that Local Board from any further liability for the sum so paid, but shall not prejudice the right of any person who shall prove his right or title thereto in a court of competent jurisdiction to recover the same from the person to whom payment was made or from his legal representative; and
- (d) to execute a deed transferring the said premises to the purchaser thereof, which deed shall be under the common seal of that Local Board affixed by the chairman of that Board in the presence of two members of that Board and shall absolutely vest the said land in the purchaser.

22. Every person who—

- (a) assaults or obstructs any Medical Officer (Health) or any other duly authorized person acting in the execution of his duty under this Act; or
- (b) fails to furnish any information required from him in accordance with the provisions of this Act, or knowingly furnishes false information,

shall be guilty of an offence and be liable on summary conviction before a Resident Magistrate, to a fine not exceeding twenty-five thousand dollars or to imprisonment for a term not exceeding twelve months.

Assaulting
and abusing
officers, and
withholding
information.

22/1996
S. 5.

Penalties. **23.—(1)** Any person guilty of an offence under this Act, for which no penalty is provided elsewhere in this Act, shall be liable on summary conviction before a Resident Magistrate to a fine not exceeding twelve thousand five hundred dollars and in default of payment thereof to imprisonment for a term not exceeding three months.

22/1996
S. 6(a).

(2) Where the offence is a continuing offence, the offender shall be liable to a further penalty not exceeding two thousand five hundred dollars for every day for which the offence continues after conviction, and in default of payment, to imprisonment for a period not exceeding two months.

22/1996
S. 6(b)(i)(ii).

Persons
entitled to
take pro-
ceedings.

24. Proceedings against any person for an offence against this Act and for the recovery of any penalties under this Act or any regulations made thereunder may be instituted by any person authorized in that behalf by the Minister or the Local Board, as the case may be, and such authorized person may prosecute or conduct such proceedings.

Cost of
actions
against
Local
Board, etc.

25.—(1) In any action, suit, prosecution or other legal proceedings brought against a Local Board, or any person, in respect of any act done in pursuance or execution or intended execution of the provisions of this Act, the plaintiff shall not recover unless he alleges in his pleading and proves at the trial, that such act was done either maliciously or without reasonable and probable cause.

(2) Any damages or costs recovered in any such action, suit, prosecution or legal proceedings brought against a Local Board or any person aforesaid, and the costs of the defendant as between solicitor and client, shall be paid out of the Consolidated Fund.

Prosecutions
to be com-
menced
within six
months.

26. All prosecutions for offences against this Act or any regulations made thereunder shall be commenced within six calendar months next after the commission of such offence.

27. Where in any proceedings under the provisions of this Act relating to nuisances, it becomes necessary to mention or refer to the owner or occupier of any premises and his name is unknown and cannot on reasonable enquiry be ascertained, it shall be sufficient to designate him as the "owner" or "occupier" of such premises, without name or further description.

Reference to owner or occupier in certain proceedings.

28. Where two or more owners or occupiers of premises may be jointly answerable to any demand or complaint under this Act, it shall be sufficient to proceed against one or more of them without in any manner proceeding against the other or others, so, however, that nothing contained herein shall prevent the parties so proceeded against from recovering contribution in any case in which they would be entitled to contribution by law.

Proceedings need not be brought against all persons jointly liable.

29.—(1) Any person aggrieved by any decision of, or any claim or order made upon him by any Local Board, or any other person acting in pursuance of or in execution or intended execution of the provisions of this Act, may appeal to the Minister within such time and in such manner as may be prescribed.

Appeal to Minister.

(2) The Minister may—

- (a) dismiss the appeal and confirm the decision, claim or order concerned; or
- (b) allow the appeal and set aside the decision, claim or order concerned; or
- (c) set aside the decision, claim or order concerned, and in substitution therefor, give or make such other decision, claim or order as he may think proper.

(3) Any person making an appeal to the Minister pursuant to subsection (1) shall give notice within the prescribed period to the person from whose decision, claim

or order he is appealing, of his intention to make such appeal, and where notice of appeal has been so given, the decision, claim or order in respect of which such notice has been given shall, unless the Minister otherwise orders pending the hearing of the appeal, await the determination or abandonment of the appeal.

SCHEDULE

(Section 3)

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| Constitution of Central Health Committee. | 1. The Central Health Committee shall consist of the Chief Medical Officer and the Director of Veterinary Services or his nominee and such number of other persons (hereinafter referred to as appointed members) not being less than six nor more than nine as the Minister may from time to time appoint. |
| Tenure of office of members. | 2.—(1) The appointment of an appointed member shall, subject to the provisions of this Schedule, be for a period not exceeding three years, and such member shall be eligible for reappointment.

(2) The Minister may at any time revoke the appointment of any appointed member. |
| Temporary appointments. | 3. The Minister may appoint any person to act temporarily in the place of any appointed member in the case of the absence or inability to act of such member. |
| Chairman. | 4. The Chief Medical Officer shall be <i>ex officio</i> chairman of the Central Health Committee. |
| Resignation of appointed members. | 5. An appointed member may at any time resign his office by instrument in writing addressed to the Minister and transmitted through the chairman, and from the date of the receipt by the Minister of such instrument that member shall cease to be an appointed member. |
| Filling of vacancies. | 6. If any vacancy occurs in the membership of the Central Health Committee, such vacancy shall be filled by the appointment of another member who shall, subject to the provisions of this Schedule, hold office for the remainder of the period for which the previous member was appointed. |
| Validity of proceedings. | 7. The validity of the proceedings of the Central Health Committee shall not be affected by any vacancy amongst the members thereof or by any defect in the appointment of a member thereof. |
| Publication of membership. | 8. The names of all members of the Central Health Committee as first constituted and every change in the membership thereof shall be published in the <i>Gazette</i> . |
| Meetings. | 9.—(1) The Central Health Committee shall meet at such times as may be necessary or expedient for the transaction of business, and such meetings shall be held at such places and times and on such days as the Central Health Committee shall determine. |

(2) The chairman may at any time call a special meeting of the Central Health Committee and shall call a special meeting to be held within seven days of a written request for that purpose addressed to him by any two members.

(3) The chairman shall preside at the meetings of the Central Health Committee, and if he is absent from any meeting the members present and constituting a quorum shall elect one of their number to preside at that meeting.

(4) The quorum of the Central Health Committee shall be four.

10. The decision of the Central Health Committee shall be by a majority of votes of the members present and voting and, in addition to an original vote, the chairman or any other person presiding at a meeting shall have a casting vote in any case in which the voting is equal.

Voting.

11. Minutes in proper form shall be kept of the proceedings of the Central Health Committee.

Minutes.

12.—(1) Subject to the provisions of this Schedule, the Central Health Committee shall have power to regulate its own proceedings, and may delegate to the chairman or to any member or to any sub-committee thereof, the power and authority to carry out on behalf of the Central Health Committee, such duties as that Committee may determine.

General power to regulate proceedings to delegate and to co-opt members.

(2) The Central Health Committee shall, notwithstanding anything in this paragraph, have power at any time to co-opt persons to assist in its deliberations, but no person so co-opted shall have any right to vote on any matter voted upon by the Central Health Committee.

13. There shall be paid to the chairman and members such remuneration whether by way of honorarium, salary or fees, and such allowances as the Minister may determine.

Remuneration of members.

14. No action, suit, prosecution or other proceedings shall be brought or instituted personally against any member of the Central Health Committee in respect of any act done *bona fide* in pursuance or execution or intended execution of the provisions of this Act.

Protection of members.

15. The office of the chairman or member shall not be a public office for the purposes of Chapter V of the Constitution of Jamaica.

Office of chairman or member not public office.