

AS TABLED IN THE HOUSE OF ASSEMBLY

A BILL

entitled

QUARANTINE ACT 2016

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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 ;

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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 2016.

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;

“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;

“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—

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- (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.

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>).

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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 prejudice to 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) any incidental and supplementary matters connected with any of the matters aforementioned.

(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.

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.

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(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.

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 wilfully omits to do any act which he is required to do, or who refuses or wilfully omits 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.

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

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traveller or conveyance operator fails or refuses to comply with such order, instruction or 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 isolation 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.

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) Subject to subsection (2), 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).

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- (b) regulations made under the repealed Act shall continue to apply as if made under this Act.

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Consequential amendments

17 (1) The Bermuda Immigration and Protection Act 1956 is amended in section 9(1) by deleting “1946” and substituting “2016”.

(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 2016;

(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 2016.

(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.

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(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 by deleting “1946” and substituting “2016”—

- (a) in section 25(2)(f); and
- (b) in section 43(n).

(5) The Public Health Act 1949 is amended by deleting “1946” and substituting “2016”—

- (a) in section 11(2); and
- (b) in section 66(3).

(6) The Schedule to the Government Fees Regulations 1976 is amended in the headnote of Head 57 by deleting “1946” and substituting “2016”.

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.

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EXPLANATORY MEMORANDUM

This Bill repeals and replaces the Quarantine Act 1946 to enable the Government of Bermuda to protect public health by means of taking comprehensive measures to prevent the introduction and spread of communicable diseases and to further enable the Government to work in cooperation with the international community to prevent the spread of communicable diseases. The Bill provides for the application to Bermuda of 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. The IHR 2005 was implemented by the United Kingdom of Great Britain and Northern Ireland by the 15 June 2007 and confirmed on the 8 January 2007 to be applicable to Bermuda, as an Overseas Territory of the United Kingdom. The Bill grants power to the Minister, who is the Quarantine Authority for Bermuda, to make regulations on the advice of the Chief Medical Officer as directed by Public Health England, to provide for protective measures against the spread of communicable diseases in accordance with the IHR 2005. Public Health England is, for the purposes of the IHR 2005, the National Focal Point for all of the United Kingdom territories including the Overseas Territories.

Clause 1 provides a citation for the Bill.

Clause 2 provides for the interpretation of terms used in the Bill.

Clause 3 provides for the Minister responsible for health to be the Quarantine Authority for Bermuda. The clause empowers the Quarantine Authority to appoint Health Officers for purposes of the Bill. Health Officers are required, in the exercise of their powers and the performance of their functions under the Bill, to act under the general or special directions and control of the Quarantine Authority.

Clause 4 provides for the functions and powers of Health Officers. The function of a Health Officer shall be to determine a traveller's health status and potential health risk to others and to perform such other functions in relation to this Bill as the Chief Medical Officer may determine or as the Quarantine Authority may prescribe. A Health Officer shall report to the Chief Medical Officer in relation to his functions.

Clause 5 provides for the application of the IHR 2005 to Bermuda. The clause provides to empower the Minister to make regulations under clause 8 and emergency orders under clause 9 for the specific application of the IHR 2005.

Clause 6 provides for communications to be made with Public Health England for the purposes of this Bill. The clause requires the Quarantine Authority to act on the advice of Public Health England, which is the National Focal Point for Bermuda, in relation to communications with the WHO IHR Contact Points that may then require regulations to be made under clause 8. The Chief Medical Officer will be the contact person in Bermuda for the purposes of communications with Public Health England and will receive confirmation

from Public Health England on health measures needed under the IHR 2005 required to be implemented under this Bill.

Clause 7 provides for the functions of the Chief Medical Officer for the purposes of this Bill. The Chief Medical Officer is empowered to assist with the implementation of health measures under the IHR 2005. It will be the function of the Chief Medical Officer to send urgent communications to Public Health England, to receive directives from Public Health England and communicate such directives to relevant Government sectors and disseminate and consolidate input from relevant Government sectors on the IHR 2005 implementation. The Chief Medical Officer is also required to assist with the implementation of health measures under the IHR 2005 where confirmed necessary by Public Health England.

Clause 8 empowers the Quarantine Authority to make regulations, on the advice of the Chief Medical Officer, to prevent danger to public health from a conveyance or persons or things in the conveyance, arriving at any port or at the airport in Bermuda. The regulations made under this clause are subject to the affirmative resolution procedure and shall provide so as to secure the rights and freedoms of travellers and other affected persons in cases where such rights are infringed in the process of the implementation of the regulations.

Clause 9 provides the Quarantine Authority, after consultation with the Chief Medical Officer, the authority to issue emergency orders during a public health emergency. The clause empowers the Governor to vary or rescind an order made under this clause. Orders made under this clause are subject to the negative resolution procedure. The Chief Medical Officer shall report any emergency order made by the Quarantine Authority to Public Health England.

Clause 10 provides power for the Quarantine Authority, on the advice of the Chief Medical Officer, to issue directives and guidelines for purposes of the implementation of the IHR 2005. The clause requires the directives and guidelines issued not to be inconsistent with the Bill or regulations made under the Bill.

Clause 11 provides for offences and proceedings for purposes of the Bill and the regulations and orders made under it.

Clause 12 provides for the recovery of expenses and charges that are payable to the Quarantine Authority and provides for the recovery by the Minister of such expenses and charges before a court of summary jurisdiction.

Clause 13 provides for the powers and duties of police officers in relation to the Bill. The clause imposes a duty on every police officer to enforce compliance with the provisions of the Bill. A traveller or conveyance operator who is not in compliance may be placed in isolation until a Government Medical Officer determines that his health does not pose a risk of significant harm to public health.

Clause 14 provides that the provisions of the Bill will prevail in the case of conflict with the Public Health Act 1949.

Clause 15 provides for the application of the Bill in relation to certain armed forces. The clause provides that the Bill shall not apply to a person who is an officer or member of the crew of any of the naval, military or air forces of Her Majesty; the armed forces of any country

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within the Commonwealth; or the armed forces of any country designated under section 1(2) of the Visiting Forces Act 1952 (UK).

Clause 16 provides for the repeal of the Quarantine Act 1946. Further, the clause provides savings for the appointment of any person as a Health Officer who was appointed pursuant to the powers granted under the Quarantine Act 1946 and that regulations made under the repealed Act shall continue in force.

Clause 17 provides for consequential amendments to the Bermuda Immigration and Protection Act 1956, the Civil Establishment Act 1998, the Customs Department Act 1952, the Marine Board Act 1962, the Public Health Act 1949 and the Government Fees Regulations 1976.

Clause 18 provides for the Minister to cause the Act to come into operation on a date or dates as the Minister may determine.