



**Isle of Man**

*Ellan Vannin*

**AT 10 of 1990**

**PUBLIC HEALTH ACT 1990**





**Isle of Man**

*Ellan Vannin*

## PUBLIC HEALTH ACT 1990

### Index

Section	Page
<b>PART I – NUISANCES AND OFFENSIVE TRADES</b>	<b>7</b>
<hr/>	
<i>Statutory nuisances</i>	<i>7</i>
1 Statutory nuisances.....	7
2 Abatement of statutory nuisance.....	8
3 Nuisance orders .....	9
4 Defences .....	10
5 Complaint by an individual .....	10
6 Default powers.....	10
7 High Court proceedings .....	11
8 Nuisance arising outside district .....	11
9 Emergency measures.....	11
10 Powers of the Department.....	12
<i>Noise abatement</i>	<i>12</i>
11 Noise nuisances.....	12
12 Control of noise on construction sites.....	13
13 Prior consent to works on construction sites .....	14
14 Noise in streets .....	15
<i>Offensive trades</i>	<i>17</i>
15 Offensive trades .....	17
<i>Supplemental</i>	<i>17</i>
16 Interpretation of Part I .....	17
<b>PART II – CONTROL OF DISEASE</b>	<b>18</b>
<hr/>	
17 to 51 [Repealed].....	18
<b>PART IIA – PUBLIC HEALTH PROTECTION</b>	<b>18</b>
<hr/>	
<i>Introductory</i>	<i>18</i>
51A Infection or contamination .....	18
<i>Power to make regulations</i>	<i>19</i>
<hr/>	

51B	Health protection regulations: international travel etc.....	19
51C	Health protection regulations: domestic.....	19
51D	Restrictions on power to make regulations under section 51C .....	20
51E	Medical treatment .....	21
51F	Health protection regulations: supplementary .....	21
	<b><i>Orders that may be made by High Bailiff or a justice</i></b> .....	<b>23</b>
51G	Power to order health measures in relation to persons .....	23
51H	Power to order health measures in relation to things .....	24
51I	Power to order health measures in relation to premises .....	25
51J	Orders in respect of groups .....	27
51K	Health measures orders: supplementary .....	28
51L	Period for which health measures order may be in force.....	29
51M	Procedure for making, varying and revoking health measures orders.....	29
51N	Power to make further provision by regulations.....	30
51O	Power to enter premises .....	31
51P	Enforcement of orders under this Part.....	32
	<b><i>Regulations under this Part: general</i></b> .....	<b>32</b>
51PA	Consultation.....	32
51Q	Tynwald control: regulations and orders .....	32
	<b><i>General</i></b> .....	<b>33</b>
51R	Application to territorial sea.....	33
51S	Further definitions .....	33
<b>PART III – RATS AND MICE</b> .....		<b>34</b>
52	Duty of occupants of land .....	34
53	Vessels.....	35
54	Orders requiring special measures .....	35
55	General functions of the Department .....	36
56	Powers of entry .....	36
<b>PART IV – REFUSE DISPOSAL</b> .....		<b>36</b>
	<b><i>Licensing of disposal of waste</i></b> .....	<b>36</b>
57	Prohibition of unlicensed disposal of waste.....	36
58	Provisions supplementary to s 57 .....	38
59	Licences to dispose of waste .....	39
60	Provisions supplementary to s 59 .....	39
61	Variation of conditions and revocation of licences.....	40
62	Transfer and relinquishment of licences .....	41
62A	Charges for disposal licences etc.....	42
63	Supervision of licensed activities .....	43
64	Special provisions for land occupied by the Department of Infrastructure .....	44
	<b><i>Collection and disposal of waste</i></b> .....	<b>45</b>
65	Collection of waste .....	45
66	Dustbins etc.....	47

67	Disposal of waste .....	49
68	Arrangements for disposal .....	50
69	Provision by local authorities for deposit of refuse .....	51
70	Removal of waste deposited in breach of licensing provisions .....	51
71	Dangerous or intractable waste .....	52
71A	Control of movement of waste into or out of the Island .....	53
71B	Duty of care etc as respects waste .....	55
72	Power as respects other waste .....	56
	<b><i>Reclamation of waste etc.</i></b> .....	<b>56</b>
72A	Removal of litter from streets etc.....	56
73	Reclamation of waste .....	56
74	Production of energy from waste etc.....	57
75	Provisions supplementary to s 74.....	58
	<b><i>General</i></b> .....	<b>59</b>
76	Interference with refuse tips and dustbins etc.....	59
77	Interpretation of Part IV.....	60
78	Amendments to the Litter Act 1972 .....	62
79	Amendments to the Litter Act 1972 .....	62
<b>PART V – MISCELLANEOUS AND SUPPLEMENTAL</b> .....		<b>63</b>
	<b><i>Miscellaneous public health matters</i></b> .....	<b>63</b>
80	Cleaning of verminous persons.....	63
81	Cleaning of filthy or verminous premises.....	63
82	Removal of noxious matter .....	64
83	Cleaning of common courts, stairs etc.....	64
84	Removal of manure etc from stables.....	65
85	Closure of polluted water supply.....	65
86	Nuisances in connection with moveable dwellings.....	66
87	Smoke control.....	66
88	Air quality standards .....	66
89	Implementation of air quality standards.....	67
90	Consent to emission of prescribed substance .....	68
91	Consent to emission of prescribed substance: supplementary .....	69
	<b><i>Supplemental</i></b> .....	<b>70</b>
92	Application to aircraft and vessels .....	70
<b>PART VI – INVESTIGATIVE POWERS</b> .....		<b>71</b>
92A	Public health inspection.....	71
92B	Powers relating to entry to premises .....	71
92C	Other investigative powers .....	72
92D	Power to ask questions .....	73
92E	Supplementary .....	74
92F	Entry to dwellinghouses.....	74
92G	Inspection warrants .....	75
92H	Public health inspection offences .....	76

---

<b>PART VII – CLOSING PROVISIONS</b>	<b>77</b>
93 Offences .....	77
94 Subordinate legislation.....	77
95 Interpretation: general.....	77
96 Transitional provisions and repeals .....	79
97 Application of provisions of 1985 Act.....	79
98 Short title and commencement.....	79
<b>SCHEDULE 1</b>	<b>81</b>
OFFENSIVE TRADES	81
<b>SCHEDULE 2</b>	<b>81</b>
<b>SCHEDULE 3</b>	<b>81</b>
SMOKE CONTROL	81
<b>SCHEDULE 4</b>	<b>85</b>
PROSECUTION ETC. OF OFFENCES	85
<b>SCHEDULE 5</b>	<b>87</b>
TRANSITIONAL PROVISIONS AND SAVINGS	87
<b>SCHEDULE 6</b>	<b>88</b>
ENACTMENTS REPEALED	88
<b>ENDNOTES</b>	<b>91</b>
TABLE OF ENDNOTE REFERENCES	91

**Isle of Man***Ellan Vannin*

## PUBLIC HEALTH ACT 1990

*Received Royal Assent:* 19 June 1990  
*Passed:* 19 June 1990  
*Commenced:* 19 September 1990

**AN ACT** to replace with new provisions various enactments relating to the protection of the public health; and for connected purposes.

**GENERAL NOTE:** The maximum fines in this Act are as increased by the *Criminal Justice (Penalties, Etc.) Act 1993* s 1.

### PART I – NUISANCES AND OFFENSIVE TRADES

#### *Statutory nuisances*

#### **1 Statutory nuisances**

[P1936/49/91, 92 and 101; P1974/40/57 and 58]

- (1) It shall be the duty of every local authority to cause its district to be inspected from time to time by an authorised officer or officers for the detection of matters requiring to be dealt with under this Part as being statutory nuisances.
- (2) The following matters are statutory nuisances –
  - (a) any premises in such a state as to be prejudicial to health or a nuisance;
  - (b) any pool, ditch, gutter, watercourse, privy, urinal, cesspool, septic tank, drain or ashpit or other receptacle for waste matter so foul or in such a state as to be prejudicial to health or a nuisance;
  - (c) any house or part of a house so overcrowded as to be prejudicial to the health of the occupiers, whether or not members of the same family;
  - (d) any animal or bird kept in such a place or manner as to be prejudicial to health or a nuisance;

- (e) any accumulation or deposit, or any dead animal or bird, which is prejudicial to health or a nuisance;
- (f) any dust or effluvia caused by any trade or trade process and being prejudicial to health or a nuisance;
- (g) any smoke emitted in such quantity, or of such density or content, as to be a nuisance;
- (h) any other matter declared by this or any other enactment to be a statutory nuisance.

## 2 Abatement of statutory nuisance

[P1936/49/93; P1974/40/58]

- (1) Where a local authority is satisfied that a statutory nuisance exists or is likely to occur or recur, the authority shall serve a notice (an “abatement notice”) imposing all or any of the following requirements —
  - (a) requiring the abatement of the nuisance or prohibiting or restricting its occurrence or recurrence;
  - (b) requiring the execution of such works, and the taking of such other steps, as may be necessary for the purpose of the notice or as may be specified in the notice;and the notice shall specify the time or times within which its requirements are to be complied with.
- (2) An abatement notice shall be served —
  - (a) on the person responsible for the nuisance; or
  - (b) if that person cannot be found, on the occupier of the premises on which the nuisance arises or would arise; or
  - (c) if the nuisance arises from a defect of a structural character, or if the occupier of the premises cannot be found, on the owner of the premises.
- (3) Where a statutory nuisance, in the opinion of the local authority, renders a building unfit for human habitation, an abatement notice in respect of the nuisance may prohibit the use of the building for that purpose until the authority is satisfied that it has been rendered fit for that purpose and withdraws the prohibition.
- (4) Any person aggrieved by the refusal of the local authority to withdraw a prohibition contained in an abatement notice by virtue of subsection (3) may appeal to a court of summary jurisdiction.
- (5) Any person who, knowing that a prohibition under subsection (3) applies to a building, uses the building in contravention of the prohibition, shall be guilty of an offence.
- (6) If it appears to the local authority, in relation to any statutory nuisance which exists or is likely to occur or recur, that no such person as is



mentioned in subsection (2)(a), (b) or (c) can be found, the authority may execute such works as appear to it to be necessary to abate the nuisance or to prevent its occurrence or recurrence, and may recover from any such person any expenses reasonably incurred by it in so doing.

- (7) Subject to subsection (8), in proceedings to recover expenses under this section the High Court may enquire whether the expenses ought to be borne wholly or in part by a person other than the defendant, and may make such order concerning the expenses or their apportionment as appears to the court to be just.
- (8) The High Court shall not order the expenses or any part of them to be borne by any person other than the defendant in the proceedings unless the court is satisfied that that other person has had due notice of the proceedings and an opportunity to be heard.

### 3 Nuisance orders

[P1936/49/94]

- (1) If a person on whom an abatement notice has been served fails to comply with the requirements of the notice, the authority shall cause a complaint to be made to a justice, who shall issue a summons requiring the person on whom the notice was served to appear before a court of summary jurisdiction.
- (2) If on the hearing of the complaint it is proved that the alleged nuisance exists or is likely to occur or recur, the court shall, subject to section 4, make an order (a “nuisance order”) for either or both of the following purposes —
  - (a) requiring the defendant to comply with all or any of the requirements of the notice within the time specified in the order, or otherwise to abate the nuisance;
  - (b) prohibiting the occurrence or recurrence of the nuisance;and requiring the defendant within a time specified in the order to execute any works necessary for the purpose.
- (3) If the court is satisfied —
  - (a) that the defendant failed without reasonable excuse to comply with the requirements of the abatement notice, and
  - (b) that those requirements, and the time within which they were to be complied with, were not unreasonable,

the court may, whether or not it also makes a nuisance order, impose on the defendant a fine not exceeding £2,500.

A fine imposed under this subsection shall be applied as a fine imposed by a criminal court.

- (4) If the court is satisfied that the alleged nuisance existed, or was likely to occur or recur, at the date of the complaint under subsection (1), whether or not it also makes a nuisance order, it may order the defendant to pay the costs of the local authority of and in connection with the proceedings.
- (5) If it appears to the court, in relation to any statutory nuisance which exists or is likely to occur or recur, that no such person as is mentioned in section 2(2)(a), (b) or (c) can be found, the nuisance order may be addressed to and executed by the local authority.
- (6) Any person who without reasonable excuse fails to comply with a nuisance order shall be guilty of an offence.

#### **4 Defences**

[P1936/49/94 (4) and (5); P1974/40/58(5)]

- (1) Where proceedings are brought under section 3 or 7 in respect of an accumulation or deposit, it shall be a defence to prove —
  - (a) that the accumulation or deposit is necessary for the effectual carrying on of a trade, and has not been kept longer than is necessary for the purpose of the trade; and
  - (b) that the best practicable means have been taken for preventing it from being prejudicial to health or a nuisance.
- (2) Where proceedings are brought under section 3 or 7 in respect of any dust or effluvia, or any smoke emitted from a chimney, it shall be a defence to prove that the best practicable means have been taken for preventing, or counteracting the effect of, the dust, effluvia or smoke.

#### **5 Complaint by an individual**

- (1) Any person aggrieved by a statutory nuisance may make a complaint to a justice, and, subject to subsection (2), the provisions of this Part shall have effect on such a complaint as they have effect on a complaint by a local authority under section 3(1).
- (2) A nuisance order made on a complaint under subsection (1) shall not be addressed to a local authority by virtue of section 3(5) unless the authority has had an opportunity of being heard in the proceedings.

#### **6 Default powers**

- (1) Where a nuisance order has not been complied with, the local authority may abate the nuisance and do whatever is necessary in execution of the order.
- (2) Any expenses reasonably incurred by a local authority in abating or preventing the occurrence or recurrence of a statutory nuisance in respect of which a nuisance order has been made may be recovered by the authority —

- (a) where the order was addressed to the authority, from the person responsible for the nuisance;
  - (b) otherwise, from the person on whom the order was made.
- (3) Section 2(7) and (8) applies to the recovery of expenses under this section as it applies to the recovery of expenses under section 2.

## **7 High Court proceedings**

If in the case of any statutory nuisance a local authority is of the opinion that summary proceedings would afford an inadequate remedy, the authority may in its own name take proceedings in the High Court for securing the abatement of the nuisance, and the prohibition of its occurrence or recurrence, notwithstanding that the authority has suffered no damage from the nuisance.

## **8 Nuisance arising outside district**

Where a nuisance within or affecting any part of the district of a local authority appears to be wholly or partly caused by some act or default committed or taking place outside its district, the authority may take action under this Part as if the act or default were committed or took place within its district.

## **9 Emergency measures**

[P1984/55/76]

- (1) If it appears to a local authority —
- (a) that any premises are in such a state as to be prejudicial to health or a nuisance (a “defective state”), and
  - (b) that unreasonable delay in remedying the defective state would be occasioned by following the procedure under sections 2 to 7,
- the authority may serve on the person on whom it would have been appropriate to serve an abatement notice under section 2 (if the authority had proceeded under that section) a notice stating that the authority intend to remedy the defective state and specifying the defects that it intends to remedy.
- (2) Subject to subsection (3), the local authority may, after the expiration of 9 days after service of a notice under subsection (1), execute such works as may be necessary to remedy the defective state, and recover from the person on whom the notice was served the expenses reasonably incurred in so doing.
- (3) If, within 7 days after service of a notice under subsection (1), the person on whom the notice was served serves a counter-notice that he intends to remedy the defects specified in the first notice, the local authority shall take no action in pursuance of the first notice unless that person —
- (a) fails within what appears to the local authority to be a reasonable time to begin to execute works to remedy the defects, or

- (b) having begun to execute such works, fails to make such progress towards their completion as appears to the authority to be reasonable.
- (4) In proceedings to recover expenses under this section the High Court shall enquire —
  - (a) whether the local authority was justified in concluding that the premises were in a defective state, or that unreasonable delay in remedying the defective state would have been occasioned by following the procedure under sections 2 to 7, and
  - (b) if the defendant proves that he served a counter-notice under subsection (3), whether he failed to begin the works to remedy the defects within a reasonable time, or to make reasonable progress towards their completion.
- (5) If the court determines —
  - (a) that the local authority was not justified in either of the conclusions mentioned in subsection (4)(a), or
  - (b) that there was no failure under subsection (4)(b),the authority shall not recover the expenses or any part of them.
- (6) Section 2(7) and (8) applies to the recovery of expenses under this section as it applies to the recovery of expenses under section 2.
- (7) A local authority may exercise its powers under subsection (1) notwithstanding that it might instead have proceeded under section 4 (repair of insanitary house) of the *Housing Act 1955*.

## 10 Powers of the Department

- (1) Any function of a local authority under section 2, 3, 6, 7 or 9 may be exercised by the Department, but before exercising any such function under section 2, 3, 6 or 7 in any case the Department shall consult the local authority appearing to it to be concerned.
- (2) Nothing in this section enables a nuisance order to be addressed to the Department.

### *Noise abatement*

## 11 Noise nuisances

- (1) Subject to subsections (2) and (3), sections 2 to 7 apply to noise amounting to a nuisance as they apply to a statutory nuisance, subject to the following modifications —
  - (a) for references to a local authority there shall be substituted references to the Department; and
  - (b) sections 3(5) and 4 shall be omitted.

- (2) In proceedings under section 3 or 7 as applied by this section in respect of noise caused in the course of a trade, it shall be a defence to prove that the best practicable means have been used for preventing, or counteracting the effect of, the noise.
- (3) The Department may by order provide that sections 2 to 7 shall not apply to noise emitted in such a manner, or in such circumstances, as may be specified in the order, or shall apply thereto subject to such exemptions or adaptations as may be so specified.

## 12 Control of noise on construction sites

[P1974/40/60]

- (1) This section applies to any of the following works —
  - (a) the erection, construction, alteration, repair or maintenance of buildings, structures or roads;
  - (b) breaking up, opening or boring under any road or adjacent land in connection with the construction, inspection, maintenance or removal of works;
  - (c) demolition or dredging work;
  - (d) any work of engineering construction (whether or not comprised in paragraph (a), (b) or (c)).
- (2) Where it appears to the Department that works to which this section applies are being, or are going to be, carried out on any premises, the Department may serve a notice imposing requirements as to the way in which the works are to be carried out, and may if it thinks fit publish notice of the requirements in such way as appears to the Department to be appropriate.
- (3) A notice under subsection (2) may in particular —
  - (a) specify the plant or machinery which is, or is not, to be used;
  - (b) specify the days on which, and the hours during which, the works may be carried out;
  - (c) specify the level of noise which may be emitted from the premises in question or at any specified point on those premises or which may be so emitted during specified hours; and
  - (d) provide for any change of circumstances.
- (4) In acting under this section the Department shall have regard —
  - (a) to the relevant provision of any code of practice relating to the control of noise and issued by any authority or body in the British Islands, which appears to the Department to be appropriate to the works in question;
  - (b) to the need for ensuring that the best practicable means are employed to minimise noise;

- (c) before specifying any particular methods or plant or machinery, to the desirability in the interests of any recipients of the notice in question of specifying other methods, plant or machinery which would be substantially as effective in minimising noise and which they may prefer to use;
  - (d) to the need to protect any persons in the locality in which the premises in question are situated from the effects of noise.
- (5) A notice under subsection (2) may —
- (a) specify the time within which the notice is to be complied with; and
  - (b) require the execution of such works, and the taking of such other steps, as may be necessary for the purpose of the notice or as may be specified therein.
- (6) A notice under subsection (2) shall be served on the person who appears to the Department to be carrying out or going to carry out the works, and on such other persons appearing to the Department to be responsible for, or to have control over, the carrying out of the works, as the Department thinks fit.
- (7) A person served with a notice under subsection (2) may appeal against the notice to a court of summary jurisdiction within 21 days from the service of the notice.
- (8) If a person on whom a notice under subsection (2) is served without reasonable excuse contravenes any requirement of the notice, he shall be guilty of an offence.

### 13 Prior consent to works on construction sites

[P1974/40/61]

- (1) A person intending to carry out works to which section 12 applies may apply to the Department for a consent under this section.
- (2) Where approval under building regulations is required for the carrying out of the works, the application under this section must be made at the same time as, or later than, the plans for the works are deposited with the building authority.<sup>1</sup>
- (3) An application under this subsection shall contain particulars of —
- (a) the works, and the method by which they are to be carried out; and
  - (b) the steps proposed to be taken to minimise noise resulting from the works.
- (4) If the Department considers that —
- (a) the application contains sufficient information for the purpose, and
  - (b) if the works are carried out in accordance with the application, it would not serve a notice under section 12 in respect of those works,

the Department shall give its consent to the application.

- (5) In acting under this section the Department shall have regard to the considerations set out in section 12(4).
- (6) In acting under this section the Department may —
- (a) attach any conditions to a consent;
  - (b) limit or qualify a consent to allow for any change in circumstances; and
  - (c) limit the duration of a consent,

and any person who knowingly carries out the works, or permits the works to be carried out, in contravention of any condition attached to a consent under this section shall be guilty of an offence.

- (7) The Department shall inform the applicant of its decision on the application within 28 days from receipt of the application; and if the Department gives its consent to the application it may if it thinks fit publish notice of the consent, and of the works to which it relates, in such way as appears to the Department to be appropriate.
- (8) If the Department —
- (a) does not give a consent within the said period of 28 days; or
  - (b) gives its consent within the said period of 28 days but attaches any condition to the consent or limits or qualifies the consent in any way,

the applicant may appeal to a court of summary jurisdiction.

- (9) In any proceedings for an offence under section 12(8) it shall be a defence to prove that the alleged contravention amounted to the carrying out of the works in accordance with a consent given under this section.
- (10) A consent under this section shall contain a statement that it does not of itself constitute any ground of defence against any proceedings instituted under section 5 (as applied by section 11).
- (11) Where a consent has been given under this section and the works are carried out by a person other than the applicant for the consent, it shall be the duty of the applicant to take all reasonable steps to bring the consent to the notice of that other person; and if he fails to do so he shall be guilty of an offence.

## 14 Noise in streets

[P1974/40/62]

- (1) Subject to subsection (2) and (3), a loudspeaker shall not be operated in a street, or on any land or premises so as to give reasonable cause for annoyance to persons in a street, —
- (a) between the hours of 9 p.m. and 8 a.m. for any purpose;

- (b) at any time for the purpose of advertising any entertainment or trade.
- (2) Subsection (1) does not apply to the operation of a loudspeaker —
- (a) for police, fire brigade or ambulance purposes, or by a local authority within its district;
  - (b) for communicating with persons on a vessel for the purpose of directing the movement of that or any other vessel;
  - (c) if the loudspeaker forms part of a public telecommunication system (within the meaning of the *Telecommunications Act 1984*);
  - (d) if the loudspeaker —
    - (i) is in or fixed to a vehicle, and
    - (ii) is operated solely for the entertainment of or for communicating with the driver of or a passenger in the vehicle, or (where the loudspeaker is or forms part of the horn or similar warning instrument of the vehicle) solely for giving warning to other traffic, and
    - (iii) is not so operated as to give reasonable cause for annoyance to persons in the vicinity;
  - (e) otherwise than on a highway, by persons employed in connection with a transport undertaking used by the public, where the loudspeaker is operated solely for making announcements to passengers or prospective passengers or to other persons so employed;
  - (f) on a road for the time being closed by an order under section 1 of the *Road Races Act 1982*, or on land adjacent to such a road, for purposes incidental to the race in respect of which the order is made; or
  - (g) in case of emergency.
- (3) Subsection (1)(b) does not apply to the operation of a loudspeaker between the hours of 12 noon and 7 p.m. if the loudspeaker —
- (a) is fixed to a vehicle which is being used for the conveyance of a perishable commodity for human consumption; and
  - (b) is operated solely for informing members of the public (otherwise than by means of words) that the commodity is on sale from the vehicle; and
  - (c) is not so operated as to give reasonable cause for annoyance to persons in the vicinity.
- (4) Any person who operates or permits the operation of a loudspeaker in contravention of subsection (1) shall be guilty of an offence.



- (5) In this section “street” means a highway and any other road, footway, square or court to which the public has access.

### *Offensive trades*

## 15 **Offensive trades**

- (1) Any person who, without the consent of the Department, carries on or establishes an offensive trade on any premises shall be guilty of an offence.
- (2) A consent under subsection (1) may be given —
- (a) either without limit as to time, or for such limited period as may be specified in the consent; and
  - (b) either unconditionally, or subject to compliance with such conditions as may be so specified.
- (3) The Department may make regulations with respect to any offensive trade for the purpose of preventing or reducing any adverse effects of the trade on the amenities of the area in which it is established or carried on.
- (4) Section 7 applies to a contravention of subsection (1), or of regulations under subsection (3), as it applies to a statutory nuisance, with the substitution for references to the local authority of references to the Department.
- (5) The Department may by order provide, either generally or as respects any part of the Island specified in the order, that a trade specified in the order (not being a trade specified in Schedule 1) shall be an offensive trade for the purposes of this section.
- (6) In this section “offensive trade” means —
- (a) any trade specified in Schedule 1; and
  - (b) subject to the provisions of an order under subsection (5), any trade specified in such an order.

### *Supplemental*

## 16 **Interpretation of Part I**

[P1936/49/110; P1974/40/72 and 73]

- (1) In this Part —

“**abatement notice**” means a notice under section 2;

“**chimney**” includes structures and openings of any kind from or through which smoke may be emitted;

“**dust**” does not include dust emitted from a chimney as an ingredient of smoke;

“**noise**” includes vibration;

“**nuisance order**” means an order under section 3;

“**person responsible**”, in relation to a nuisance, means the person to whose act, default or sufferance the nuisance is attributable;

“**smoke**” includes soot, ash, grit and gritty particles;

“**trade**” includes a business or manufacture, and “**trade process**” shall be construed accordingly.

(2) References in this Part to “**best practicable means**” shall be construed as follows —

- (a) “**practicable**” means reasonably practicable having regard, among other things, to local conditions and circumstances, the current state of technical knowledge and the financial implications;
- (b) the means to be employed include the design, installation, maintenance and manner and periods of operation of plant and machinery, and the design, construction and maintenance of buildings and structures;
- (c) the test of best practicable means is to apply only so far as compatible with —
  - (i) any duty imposed by law;
  - (ii) safety and safe working conditions; and
  - (iii) the exigencies of any emergency or unforeseeable circumstances.

## PART II – CONTROL OF DISEASE<sup>2</sup>

17 to 51 [Repealed]<sup>3</sup>

## PART IIA – PUBLIC HEALTH PROTECTION<sup>4</sup>

### *Introductory*

#### 51A Infection or contamination

- (1) The following provisions have effect for the interpretation of this Part.
- (2) “**Contamination**” includes radiation.
- (3) Any reference to infection or contamination is a reference to infection or contamination which presents or could present significant harm to human health.
- (4) Any reference to the spread of contamination includes a reference to the spread of any source of contamination.

- (5) Any reference to disinfection or decontamination includes a reference to the removal of any vector, agent or source of the infection or contamination.
- (6) Related expressions are to be read accordingly.<sup>5</sup>

*Power to make regulations*

**51B Health protection regulations: international travel etc**

- (1) The Council of Ministers may by regulations make provision —
  - (a) for preventing danger to public health from vessels or aircraft or any other mode of transport arriving at any place;
  - (b) for preventing the spread of infection or contamination by means of any vessel, aircraft or other mode of transport leaving any place; and
  - (c) for giving effect to any international agreement or arrangement relating to the spread of infection or contamination.<sup>6</sup>
- (2) Regulations under subsection (1) may in particular include provision —
  - (a) for the detention of a mode of transport;
  - (b) for the medical examination, detention, isolation or quarantine of persons;
  - (c) for the inspection, analysis, retention, isolation, quarantine or destruction of things;
  - (d) for the disinfection or decontamination of modes of transport, persons or things or the application of other sanitary measures;
  - (e) for prohibiting or regulating the arrival or departure of a mode of transport and the entry or exit of persons or things;
  - (f) imposing duties on masters, pilots and other persons on board any mode of transport and on owners and managers of ports, airports and other points of entry; and
  - (g) requiring persons to provide information or answer questions (including information or questions relating to their health).<sup>7</sup>

**51C Health protection regulations: domestic**

- (1) The Council of Ministers may by regulations make provision for the purpose of preventing, protecting against, controlling or providing a public health response to the incidence, spread or effect of infection or contamination in the Island (whether from risks originating there or elsewhere).<sup>8</sup>
- (2) The power in subsection (1) may be exercised —

- (a) in relation to infection or contamination generally or in relation to particular forms of infection or contamination; and
  - (b) so as to make provision of a general nature, to make contingent provision or to make specific provision in response to a particular set of circumstances.
- (3) Regulations under subsection (1) may in particular include provision —
- (a) imposing duties on registered medical practitioners or other persons to record and notify cases or suspected cases of infection or contamination;
  - (b) conferring on local authorities or other persons functions in relation to the monitoring of public health risks; and
  - (c) imposing or enabling the imposition of restrictions or requirements on or in relation to persons, things or premises in the event of, or in response to, a threat to public health.
- (4) The restrictions or requirements mentioned in subsection (3)(c) include in particular —
- (a) a requirement that a child is to be kept away from school;
  - (b) a prohibition or restriction relating to the holding of an event or gathering;
  - (c) a restriction or requirement relating to the handling, transport, burial or cremation of dead bodies or the handling, transport or disposal of human remains; and
  - (d) a special restriction or requirement.
- (5) The power in subsection (1) is subject to section 51D.
- (6) For the purposes of this Part —
- (a) a “**special restriction or requirement**” means a restriction or requirement which can be imposed by the High Bailiff by virtue of section 51G(2) or a justice by virtue of section 51H(2) or 51I(2), but
  - (b) a restriction or requirement mentioned in subsection (4)(a), (b) or (c) is not to be regarded as a special restriction or requirement.<sup>9</sup>

### 51D Restrictions on power to make regulations under section 51C

- (1) Regulations under section 51C may not include provision imposing a restriction or requirement by virtue of subsection (3)(c) of that section unless the Council of Ministers considers, when making the regulations, that the restriction or requirement is proportionate to what is sought to be achieved by imposing it.<sup>10</sup>
- (2) Regulations under section 51C may not include provision enabling the imposition of a restriction or requirement by virtue of subsection (3)(c) of that section unless the regulations provide that a decision to impose such a restriction or requirement may only be taken if the person taking it

considers, when taking the decision, that the restriction or requirement is proportionate to what is sought to be achieved by imposing it.

- (3) Regulations under section 51C may not include provision imposing a special restriction or requirement mentioned in section 51G(2)(a), (b), (c) or (d).
- (4) Regulations under section 51C may not include provision enabling the imposition of a special restriction or requirement unless —
  - (a) the regulations are made in response to a serious and imminent threat to public health; or
  - (b) imposition of the restriction or requirement is expressed to be contingent on there being such a threat at the time when it is imposed.
- (5) For the purposes of this section —
  - (a) regulations “enable the imposition of a restriction or requirement” if the restriction or requirement is imposed by virtue of a decision taken under the regulations by the Department, the director of public health or another person;
  - (b) regulations “impose a restriction or requirement” if the restriction or requirement is imposed without any such decision.<sup>11</sup>

#### **51E Medical treatment**

- (1) Regulations under section 51B or 51C may not include provision requiring a person to undergo medical treatment.
- (2) “**Medical treatment**” includes vaccination and other prophylactic treatment.<sup>12</sup>

#### **51F Health protection regulations: supplementary**

- (1) This section makes further provision about regulations under section 51B or 51C (“health protection regulations”).
- (2) Health protection regulations may —
  - (a) confer functions on local authorities and other persons;
  - (b) create offences (subject to subsection (5));
  - (c) enable a court to order a person convicted of any such offence to take or pay for remedial action in appropriate circumstances;
  - (d) provide for the execution and enforcement of restrictions and requirements imposed by or under the regulations;
  - (e) provide for appeals from and reviews of decisions taken under the regulations;
  - (f) permit or prohibit the levy of charges;

- (g) permit or require the payment of incentive payments, compensation and expenses;
  - (h) provide for the resolution of disputes;
  - (i) provide for offences to be the subject of a fixed penalty notice of a prescribed amount, for the circumstances in which and by whom such a notice may be given, the procedure in respect of such notices and the consequences of non-compliance.<sup>13</sup>
- (3) Health protection regulations may, for the purposes of giving effect to an international agreement or arrangement, amend any enactment.
- (4) Health protection regulations may not confer functions on officers of the Treasury discharging functions in respect of customs and excise unless they are made with the consent of the Treasury.
- (5) Health protection regulations may create offences punishable on summary conviction with —
- (a) a fine not exceeding 4 times level 5 on the standard scale;<sup>14</sup>
  - (b) a further fine not exceeding £100 for each day on which the default continues after conviction;
  - (c) custody for a term not exceeding 3 months.<sup>15</sup>
- (6) Regulations under section 51C must provide for a right of appeal to the High Bailiff against any decision taken under the regulations by virtue of which a special restriction or requirement is imposed on or in relation to a person, thing or premises.
- (7) Regulations under section 51C that enable a special restriction or requirement to be imposed by virtue of a decision taken under the regulations must also provide that, if the restriction or requirement is capable of remaining in force in relation to any person, thing or premises for more than a specified period, a specified person may require the continuation of the restriction or requirement to be reviewed in accordance with the regulations at specified intervals by a person determined in accordance with the regulations.
- (8) In relation to a special restriction or requirement mentioned in section 51G(2)(c) or (d)—
- (a) the period specified by virtue of subsection (7) and the intervals specified by virtue of that subsection must be 28 days or less, and
  - (b) the regulations must require the continuation of the restriction or requirement to be reviewed without an application being made.<sup>16</sup>

*Orders that may be made by High Bailiff or a justice***51G Power to order health measures in relation to persons**

- (1) The High Bailiff may make an order under subsection (2) in relation to a person (“P”) if satisfied that —
  - (a) P is or may be infected or contaminated;
  - (b) the infection or contamination is one which presents or could present significant harm to human health;
  - (c) there is a risk that P might infect or contaminate others; and
  - (d) it is necessary to make the order in order to remove or reduce that risk.
- (2) The order may impose on or in relation to P one or more of the following restrictions or requirements —
  - (a) that P submit to medical examination;
  - (b) that P be removed to a hospital or other suitable establishment;
  - (c) that P be detained in a hospital or other suitable establishment;
  - (d) that P be kept in isolation or quarantine;
  - (e) that P be disinfected or decontaminated;
  - (f) that P wear protective clothing;
  - (g) that P provide information or answer questions about P’s health or other circumstances;
  - (h) that P’s health be monitored and the results reported;
  - (i) that P attend training or advice sessions on how to reduce the risk of infecting or contaminating others;
  - (j) that P be subject to restrictions on where P goes or with whom P has contact;
  - (k) that P abstain from working or trading.
- (3) The High Bailiff may make an order under this subsection in relation to a person (“A”) if satisfied that —
  - (a) A is or may be infected or contaminated;
  - (b) the infection or contamination is one which presents or could present significant harm to human health;
  - (c) there is a risk that a related party might infect or contaminate others; and
  - (d) it is necessary to make the order in order to remove or reduce that risk.
- (4) An order under subsection (3) may impose on or in relation to A a requirement that A provide information or answer questions about A’s

health or other circumstances (including, in particular, information or questions about the identity of a related party).

- (5) “**Related party**” means —
  - (a) a person who has or may have infected or contaminated P or A; or
  - (b) a person whom P or A has or may have infected or contaminated.
- (6) An order under this section may also order a person with parental responsibility (within the meaning of the *Children and Young Persons Act 2001*) for P or A to secure that P or A (as the case requires) submits to or complies with the restrictions or requirements imposed by the order.
- (7) The Council of Ministers must by regulations make provision about the evidence that must be available to the High Bailiff before he or she can be satisfied as mentioned in subsection (1) or (3).<sup>17</sup>
- (8) Any reference in this section to a person who is infected or contaminated includes a reference to a person who carries the source of an infection or contamination, and any reference to infecting or contaminating others includes a reference to passing that source to others.<sup>18</sup>

#### **51H Power to order health measures in relation to things**

- (1) A justice may make an order under subsection (2) in relation to a thing if the justice is satisfied that —
  - (a) the thing is or may be infected or contaminated;
  - (b) the infection or contamination is one which presents or could present significant harm to human health;
  - (c) there is a risk that the thing might infect or contaminate humans; and
  - (d) it is necessary to make the order in order to remove or reduce that risk.
- (2) The order may impose in relation to the thing one or more of the following restrictions or requirements —
  - (a) that the thing be seized or retained;
  - (b) that the thing be kept in isolation or quarantine;
  - (c) that the thing be disinfected or decontaminated;
  - (d) in the case of a dead body, that the body be buried or cremated;
  - (e) in any other case, that the thing be destroyed or disposed of.
- (3) A justice may make an order under subsection (4) in relation to a thing if the justice is satisfied that —
  - (a) the thing is or may be infected or contaminated;
  - (b) the infection or contamination is one which presents or could present significant harm to human health;



- (c) there is a risk that a related person or related thing might infect or contaminate humans; and
  - (d) it is necessary to make the order in order to remove or reduce that risk.
- (4) The order may require —
- (a) the owner of the thing, or
  - (b) any person who has or has had custody or control of the thing,
- to provide information or answer questions about the thing (including, in particular, information or questions about where the thing has been or about the identity of any related person or the whereabouts of any related thing).
- (5) In this section —
- “related person” means —
- (a) a person who has or may have infected or contaminated the thing mentioned in subsection (3)(a); or
  - (b) a person whom the thing has or may have infected or contaminated; and
- “related thing” means —
- (a) a thing which has or may have infected or contaminated the thing mentioned in subsection (3)(a); or
  - (b) a thing which the thing mentioned in subsection (3)(a) has or may have infected or contaminated.
- (6) The Council of Ministers may by regulations make provision about the evidence that must be available to a justice before the justice can be satisfied as mentioned in subsection (1) or (3).<sup>19</sup>
- (7) In this section —
- (a) any reference to being infected or contaminated includes a reference to carrying the source of an infection or contamination; and
  - (b) any reference to infecting or contaminating humans, or a person or thing, includes a reference to passing the source of an infection or contamination to humans, or to the person or thing.<sup>20</sup>

## 51I Power to order health measures in relation to premises

P1984/22/45I

- (1) A justice may make an order under subsection (2) in relation to premises if the justice is satisfied that —
- (a) the premises are or may be infected or contaminated;
  - (b) the infection or contamination is one which presents or could present significant harm to human health;

- (c) there is a risk that the premises might infect or contaminate humans; and
  - (d) it is necessary to make the order in order to remove or reduce that risk.
- (2) The order may impose in relation to the premises one or more of the following restrictions or requirements —
- (a) that the premises be closed;
  - (b) that, in the case of a mode of transport or movable structure, the mode of transport or structure be detained;
  - (c) that the premises be disinfected or decontaminated;
  - (d) that, in the case of a building, mode of transport or structure, the premises be destroyed.
- (3) A justice may make an order under subsection (4) in relation to premises if the justice is satisfied that —
- (a) the premises are or may be infected or contaminated or are or may be a place where infection or contamination was spread between persons or things;
  - (b) the infection or contamination is one which presents or could present significant harm to human health;
  - (c) there is a risk that a related person or related thing might infect or contaminate humans; and
  - (d) it is necessary to make the order in order to remove or reduce that risk.
- (4) The order may require the owner or any occupier of the premises to provide information or answer questions about the premises (including, in particular, information about the identity of any related person or the whereabouts of any related thing).
- (5) In this section —
- “related person” means —
- (a) a person who has or may have infected or contaminated the premises;
  - (b) a person who has or may have infected or contaminated a person who or thing which is or has been on the premises;
  - (c) a person whom the premises have or may have infected or contaminated; or
  - (d) a person who has or may have been infected or contaminated by a person who or thing that is or has been on the premises; and
- “related thing” means —
- (a) a thing that has or may have infected or contaminated the premises;

- (b) a thing that has or may have infected or contaminated a person who or thing that is or has been on the premises;
  - (c) a thing that the premises have or may have infected or contaminated; or
  - (d) a thing that has or may have been infected or contaminated by a person who or thing that is or has been on the premises.
- (6) The Council of Ministers may by regulations make provision about the evidence that must be available to a justice before the justice can be satisfied as mentioned in subsection (1) or (3).<sup>21</sup>
- (7) In this section —
- (a) any reference to being infected or contaminated includes a reference to carrying the source of an infection or contamination; and
  - (b) any reference to infecting or contaminating humans, or a person, thing or premises, includes a reference to passing the source of an infection or contamination to humans, or to the person, thing or premises.<sup>22</sup>

#### **51J Orders in respect of groups**

- (1) The powers in sections 51G, 51H and 51I include power to make an order in relation to a group of persons, things or premises.
- (2) For those purposes, the sections have effect as follows.
- (3) In section 51G —
- (a) in subsections (1)(a) and (c) and (3)(a), the reference to P is a reference to each person in the group; and
  - (b) in subsections (2) and (4), any reference to P is a reference to any one or more of the persons in the group.
- (4) In section 51H —
- (a) in subsections (1)(a) and (c) and (3)(a), the reference to the thing is a reference to each thing in the group; and
  - (b) in subsections (2) and (4) any reference to the thing is a reference to any one or more of the things in the group.
- (5) In section 51I —
- (a) in subsections (1)(a) and (c) and (3)(a), the reference to the premises is a reference to each set of premises in the group; and
  - (b) in subsections (2) and (4), any reference to the premises is a reference to any one or more of the sets of premises in the group.<sup>23</sup>

**51K Health measures orders: supplementary**

- (1) This section makes further provision about orders under sections 51G, 51H and 51I (referred to in this Part as “**health measures orders**”).
- (2) Health measures orders may include, in addition to the restrictions or requirements mentioned in the provision under which it is made, such other restrictions or requirements as the person making the order considers necessary for the purpose of reducing or removing the risk in question.
- (3) A restriction or requirement contained in a health measures order may be expressed to take effect subject to conditions specified in the order.
- (4) Two or more health measures orders may be combined in a single order.
- (5) A health measures order may contain such directions as the person making it considers appropriate to give effect to it.
- (6) Without limiting subsection (5) —
  - (a) a health measures order may, if the person making it is satisfied that notice of the intention to apply for it has been given to the occupier of any land, authorise an authorised officer to enter on the land, by force if need be, and
  - (b) if the order makes provision under paragraph (a), it —
    - (i) may also authorise the authorised officer to take with him such other persons and such equipment and materials as may be necessary, and
    - (ii) must contain a requirement that the authorised officer, on leaving any unoccupied premises which he has entered by virtue of the order, leaves them as effectively secured against trespassers as the officer found them.
- (7) If entry is authorised in accordance with subsection (6) the authorised officer may —
  - (a) search the premises;
  - (b) carry out measurements and tests of the premises or of anything found on them;
  - (c) take and retain samples of the premises or of anything found on them;
  - (d) inspect and take copies or extracts of any documents or records found on the premises;
  - (e) require information stored in an electronic form and accessible from the premises to be produced in a form in which it can be taken away and in which it is visible and legible or from which it can readily be produced in a visible and legible form; and

- (f) seize and detain or remove anything which the officer reasonably believes to be evidence of any contravention relevant to the purpose for which entry is authorised.
- (8) A health measures order may order the payment of compensation or expenses in connection with the taking of measures pursuant to the order.
- (9) A health measures order is authority for those persons to whom it is addressed to do such things as may be necessary to give effect to it.<sup>24</sup>

#### **51L Period for which health measures order may be in force**

- (1) A health measures order must specify the period for which any restriction or requirement imposed by or under the order is to remain in force.
- (2) That period may be extended by further order of a justice of the peace.
- (3) In relation to restrictions or requirements mentioned in section 51G(2)(c) or (d), neither the period specified under subsection (1) nor the period of any extension under subsection (2) may exceed 28 days or such shorter period as the Council of Ministers may prescribe.<sup>25</sup>
- (4) The Council of Ministers may prescribe, in relation to any other restrictions or requirements, the maximum period which may be specified under subsection (1) and the maximum period of any extension under subsection (2).<sup>26 27</sup>

#### **51M Procedure for making, varying and revoking health measures orders**

- (1) The power of a justice to make a health measures order is exercisable on the application of an authorised officer.
- (2) The Council of Ministers must make regulations about the giving of notice to such persons as may be prescribed of the making of an application for a health measures order, but this is subject to subsection (3).<sup>28</sup>
- (3) If a justice considers it necessary to do so, the justice may make a health measures order without a person having been given such notice as is otherwise required to be given to that person under rules of court or regulations under subsection (2).
- (4) A health measures order may be varied or revoked by a justice on the application of —
  - (a) an affected person;
  - (b) an authorised officer; or
  - (c) any other person having the function of executing or enforcing the order in question.
- (5) In the case of an order under section 51G, the following are affected persons —
  - (a) P;

- (b) a person with parental responsibility (within the meaning of the *Children and Young Persons Act 2001*) for P;
  - (c) P's spouse or civil partner;
  - (d) a person living with P as P's spouse or civil partner; and
  - (e) such other persons as may be prescribed.
- (6) In the case of an order under section 51H(2), the following are affected persons —
- (a) the owner of the thing;
  - (b) any person with custody or control of the thing; and
  - (c) such other persons as may be prescribed.
- (7) In the case of an order under section 51I(2), the following are affected persons —
- (a) the owner of the premises;
  - (b) any occupier of the premises; and
  - (c) such other persons as may be prescribed.
- (8) In the case of an order under section 51H(4) or 51I(4), the person required to provide information or answer questions and such other persons as may be prescribed are affected persons.
- (9) Variation or revocation of a health measures order does not invalidate anything done under the order prior to the variation or revocation.
- (10) In this section “regulations” means regulations made by the Council of Ministers.<sup>29 30</sup>

### **51N Power to make further provision by regulations**

- (1) The Council of Ministers may by regulations make provision about the taking of measures pursuant to health measures orders.<sup>31</sup>
- (2) The regulations may in particular make provision about —
- (a) the type of investigation which may be carried out as part of a medical examination;
  - (b) the manner in which measures are to be taken;
  - (c) who is to be responsible for executing and enforcing measures;
  - (d) who is to be liable for the costs of measures;
  - (e) the payment of compensation or expenses in connection with the taking of measures.
- (3) But the regulations may not confer functions on customs officers to execute or enforce orders under this Part unless the regulations are made with the consent of the Treasury.<sup>32</sup>

**51O Power to enter premises**

- (1) Subject to the provisions of this section, any authorised officer shall, on producing, if so required, some duly authenticated document showing his or her authority, have a right to enter any premises at all reasonable hours —
- (a) for the purposes of ascertaining whether there is, or has been, any contravention of a relevant provision of this Part, or of an order made by a justice under this Part;
  - (b) for the purpose of ascertaining whether or not circumstances exist which would authorise or require the officer, the Council of Ministers or a local authority to take any action, or execute any work, under such a provision or in relation to such an order;<sup>33</sup>
  - (c) for the purpose of taking any action, or executing any work, authorised or required by such a provision or in relation to such an order, or by any order made under such a provision, to be taken, or executed, by the Council of Ministers or a local authority; or<sup>34</sup>
  - (d) generally, for the purpose of the performance by the Council of Ministers or a local authority of their functions under such a provision.<sup>35</sup>
- (2) Admission to any premises must not be demanded as of right unless 24 hours' notice of the intended entry has been given to the occupier.
- (3) Subsection (1) does not authorise entry to any part of premises which is used as a private dwelling (but this does not affect the power of a justice under subsection (4) to issue a warrant authorising entry to a private dwelling or to any part of premises used as a private dwelling).
- (4) If it is shown to the satisfaction of a justice of the peace on a sworn application in writing —
- (a) that admission to any premises has been refused, or that refusal is apprehended, or that the premises are unoccupied or the occupier is temporarily absent, or that the case is one of urgency, or that an application for admission would defeat the object of the entry; and
  - (b) that there is reasonable ground for entry into the premises for any such purposes as is mentioned in subsection (1) above,
- the justice may by warrant signed by the justice authorise an authorised officer to enter the premises, if need be by force.
- (5) Such a warrant may not be issued unless the justice is satisfied either that notice of the intention to apply for a warrant has been given to the occupier, or that the premises are unoccupied, or that the occupier is temporarily absent, or that the case is one of urgency, or that the giving of such notice would defeat the object of the entry.<sup>36</sup>

**51P Enforcement of orders under this Part**

- (1) A person commits an offence if the person —
  - (a) fails without reasonable excuse to comply with a restriction or requirement imposed by or under an order under this Part; or
  - (b) wilfully obstructs anyone acting in the execution of an order under this Part.
- (2) If —
  - (a) a person is convicted of an offence under subsection (1); and
  - (b) the court by which the person is convicted is satisfied that the failure or wilful obstruction constituting the offence has caused premises or things to become infected or contaminated or otherwise damaged them in a material way,the court may, if it considers it appropriate to do so, order the person to take or pay for such remedial action as may be specified in the order.
- (3) Subsection (4) applies if —
  - (a) an order under this Part imposes a requirement that a person be detained or kept in isolation or quarantine in a place; and
  - (b) the person leaves that place contrary to the requirement.
- (4) A constable may take the person into custody and return the person to that place.
- (5) But a person may not be taken into custody under subsection (4) after expiry of the period for which the requirement is in force.<sup>37</sup>

*Regulations under this Part: general***51PA Consultation**

Before making regulations or orders under this Part, if it is practicable to do so in all the circumstances, the Council of Ministers must consult the Department of Health and Social Care and such other persons as appear to it to be appropriate.<sup>38</sup>

**51Q Tynwald control: regulations and orders**

- (1) This section applies to a public document issued by the Council of Ministers under this Part.<sup>39</sup>
- (2) A public document to which this section applies must not come into operation unless —
  - (a) it is approved by Tynwald; or
  - (b) subsection (3) applies.
- (3) A public document may come into operation without first being approved by Tynwald if it contains a declaration that the person making it is of the



opinion that, by reason of urgency, it is necessary for it to come into operation before it is approved.

- (4) A public document that comes into operation in accordance with subsection (3) must be laid before Tynwald after it is made.
- (5) A public document to which subsection (3) applies ceases to have effect at the end of the period of 14 days beginning with the day on which it is made unless, before that time, Tynwald has approved it with or without amendment.<sup>40</sup>
- (5A) If Tynwald is not due to sit during the period referred to in subsection (5) the President of Tynwald must summon Tynwald to meet on a day specified by the President within that period.<sup>41</sup>
- (5B) Where it is not reasonably practicable for Tynwald to sit within the period referred to in subsection (5A), the President of Tynwald must summon Tynwald to sit on the earliest day it is capable of sitting thereafter.<sup>42</sup>
- (5C) Where subsection (5B) applies, a public document shall continue in operation pending its approval (or otherwise) by Tynwald.<sup>43</sup>
- (6) But if on any day during that period, on proceedings on a motion that (or to the effect that) the public document be so approved, Tynwald comes to a decision rejecting the public document, it ceases to have effect at the end of that day instead.
- (7) Subsections (5) and (6) do not —
  - (a) affect anything done in reliance on the public document before it ceased to have effect; or
  - (b) prevent the making of a further public document to the like effect.<sup>44</sup>

### *General*

#### **51R Application to territorial sea**

The provisions of this Part have effect in relation to the territorial sea adjacent to the Island.<sup>45</sup>

#### **51S Further definitions**

- (1) This Part is to be read in accordance with this section.
- (2) “**Enactment**” means an enactment whenever passed or made.
- (3) “**Medical examination**” includes microbiological, radiological and toxicological tests.
- (3A) “**Regulations**” means regulations made by the Cabinet Office, and “prescribed” is to be construed accordingly.<sup>46</sup>

- (4) “**Special restriction or requirement**” has the meaning given by section 51C(6).
- (5) “**Thing**” includes —
  - (a) human tissue;
  - (b) a dead body or human remains;
  - (c) animals; and
  - (d) plant material.
- (6) Any reference to giving effect to an international agreement or arrangement includes a reference to giving effect to a recommendation issued under such an agreement or arrangement.<sup>47</sup>

### PART III – RATS AND MICE

#### 52 Duty of occupants of land

[P1949/55/3]

- (1) The occupier of any land shall give to the Department notice forthwith if it comes to his knowledge that rats or mice are living on or resorting to the land in substantial numbers.
- (2) Subject to subsection (6), the occupier of any land shall take such steps as may from time to time be necessary and reasonably practicable for the destruction of rats and mice on the land, or for preventing the land from being infested with rats and mice.
- (3) Any person who fails to comply with subsection (1) or (2) shall be guilty of an offence.
- (4) If the Department is satisfied that the occupier of any land has failed to take such action as is required by subsection (2), it shall either —
  - (a) serve a notice on him requiring him to take such steps for any of the purposes mentioned in subsection (2) as are specified in the notice within such time as may be so specified; or
  - (b) after not less than 48 hours’ previous notice to him, enter on the land and take that action,and the Department may recover from the occupier any expenses reasonably incurred in exercising the powers conferred by paragraph (b).
- (5) A notice under subsection (4)(a) may (without prejudice to the generality of that subsection) require —
  - (a) the application to the land of any form of treatment specified in the notice; or
  - (b) the carrying out on the land of any works so specified.

- (6) It shall be a defence in any proceedings for an offence consisting of a failure to comply with subsection (2) for the person accused to show that he has complied with subsection (1) and that no notice has been served on him under subsection (4)(a).
- (7) This section does not apply in the case of rats or mice which are kept on any premises —
  - (a) as pets; or
  - (b) in the course of the business of keeping a pet shop on the premises; or
  - (c) for research or educational purposes by any school or other educational or scientific institution;provided that the rats or mice are adequately confined and that all reasonable steps are taken to prevent their escape from confinement.

### **53 Vessels**

- (1) Section 52 applies to a vessel as it applies to land, with the substitution for references to the occupier of references to the master of the vessel.
- (2) The Department may by notice to the master of a vessel require him to take such steps as are specified in the notice and are necessary and reasonably practicable for preventing the escape of rats and mice from the vessel.
- (3) If the master of a vessel fails to comply with a notice served on him under subsection (2) he shall be guilty of an offence.

### **54 Orders requiring special measures**

- (1) The Department may by order require such action to be taken for the extermination of rats and mice as may be specified in the order.
- (2) An order under this section may apply either —
  - (a) to such districts, or to such persons, as may be specified therein; or
  - (b) to the whole of the Island.
- (3) The Department shall give notice of an order under this section —
  - (a) if it is applicable only to specified persons, by serving a copy thereof on every such person;
  - (b) otherwise, by publication in one or more newspapers published and circulating in the Island.
- (4) Any person who contravenes an order under this section shall be guilty of an offence.

## 55 General functions of the Department

- (1) The Department shall make such arrangements as appear to it to be necessary for the provision of the services of persons to carry out the destruction and extermination of rats and mice and the prevention of infestation by rats and mice.
- (2) The Department may purchase poisons or other substances or devices for the destruction of rats and mice, and may distribute them to such persons as the Department thinks fit.
- (3) Nothing in subsection (2) affects the *Poisons Act 1979* or any rules having effect by virtue of that Act.
- (4) The Department may by public notice give instruction as to the most effective methods of preventing damage by rats and mice and for the extermination of rats and mice.

## 56 Powers of entry

- (1) Section 35(3) of the *Local Government Act 1985* (powers of entry), as it has effect by virtue of section 97(3), applies to this Part with the addition of the following paragraph —
  - “(f) may lay any trap, poison or poisonous bait (including test baits) for the purpose of destroying rats or mice, but shall notify the occupier of the land thereof, of any risk of harm or injury to persons or domestic animals that may be thereby caused, and of the steps necessary to prevent and to treat any such harm or injury;”.
- (2) Any person who —
  - (a) intentionally obstructs a person acting on behalf of the Department in the exercise of the powers conferred by the said section 35; or
  - (b) knowingly interferes with any trap, poison or bait laid in pursuance of those powers,shall be guilty of an offence.

## PART IV – REFUSE DISPOSAL

### *Licensing of disposal of waste*

## 57 Prohibition of unlicensed disposal of waste

[P1974/40/3]

- (1) Except in prescribed cases, a person shall not —
  - (a) deposit controlled waste (as defined in section 77) on any land or cause or knowingly permit controlled waste to be deposited on any land; or

- (b) use any plant or equipment, or cause or knowingly permit any plant or equipment to be used, for the purpose of disposing of controlled waste or of dealing in a prescribed manner with controlled waste,
- unless the land on which the waste is deposited or, as the case may be, which forms the site of the plant or equipment is occupied by the holder of a licence issued in pursuance of section 59 (a “disposal licence”) which authorises the deposit or use in question, and the deposit or use is in accordance with the conditions, if any, specified in the licence.
- (2) Except in a case falling within subsection (3), a person who contravenes subsection (1) shall be guilty of an offence.
- (3) A person who contravenes subsection (1)(a) in a case where —
- (a) the waste in question is of a kind which is poisonous, noxious or polluting; and
  - (b) its presence on the land is likely to give rise to an environmental hazard; and
  - (c) it is deposited on the land in such circumstances or for such a period that whoever deposited it there may reasonably be assumed to have abandoned it there or to have brought it there for the purpose of its being disposed of (whether by himself or others) as waste;
- shall be guilty of an offence.
- (4) It shall be a defence for a person charged with an offence under this section to prove —
- (a) that he —
    - (i) took care to inform himself, from persons who were in a position to provide the information, as to whether the deposit or use to which the charge relates would be in contravention of subsection (1), and
    - (ii) did not know and had no reason to suppose that the information given to him was false or misleading and that the deposit or use might be in contravention of subsection (1); or
  - (b) that he acted under instructions from his employer and neither knew nor had reason to suppose that the deposit or use was in contravention of subsection (1); or
  - (c) in the case of an offence of making, causing, or permitting a deposit or use otherwise than in accordance with conditions specified in a disposal licence, that he took all such steps as were reasonably open to him to ensure that the conditions were complied with; or
  - (d) that the acts specified in the charge were done in an emergency in order to avoid danger to the public and that, as soon as reasonably

practicable after they were done, particulars of them were furnished to the Department.

- (5) Subject to subsection (6), where a person is charged with an offence under this section of making or causing a deposit on any land, he shall be convicted if it is proved that he had at some time been in possession or control of some or all of the waste in question.
- (6) Where subsection (5) applies, it shall be a defence for such a person to prove either —
- (a) that the deposit was made or caused by some other person; or
  - (b) that he ceased to be in possession or control of the waste by delivering it to some other person (whether for the purpose of disposal or otherwise) or by its being taken against his will;

but he shall not be entitled to raise a defence under this subsection unless, before the beginning of the period of 7 days ending with the date when the hearing of the charge is begun, he serves on the prosecutor a notice identifying that other person (if any) and specifying the circumstances in which the waste was deposited, delivered or taken, as the case may be.

## 58 Provisions supplementary to s 57

[P1974/40/4]

- (1) Nothing in section 57(1) applies to household waste from a private dwelling which is deposited, disposed of or dealt with within the curtilage of the dwelling by or with the permission of the occupier of the dwelling.
- (2) For the purposes of section 57(3) —
- (a) the presence of waste on land gives rise to an environmental hazard if it has been deposited in such a manner or in such a quantity (whether by itself or cumulatively with other deposits of the same or different substances) as to subject persons or animals to a material risk of death, injury or impairment of health or as to threaten the pollution (whether on the surface or underground) of any water supply; and
  - (b) the fact that waste is deposited in containers shall not of itself be taken to exclude any risk which might be expected to arise if the waste were not in containers.
- (3) In the case of any deposit of waste, the degree of risk relevant for the purposes of subsection (2) shall be assessed with particular regard —
- (a) to the measures, if any, taken by the person depositing the waste, or by the owner or occupier of the land, or by others, for minimising the risk; and
  - (b) to the likelihood of the waste, or any container in which it is deposited, being tampered with by children or others.

**59 Licences to dispose of waste**

[P1974/40/5]

- (1) An application for a disposal licence in respect of any land shall be made in writing to the Department and include such information as is prescribed.
- (2) A disposal licence shall not be issued for a use of land, plant or equipment for which planning approval is required in pursuance of the *Town and Country Planning Act 1999* unless such approval is in force; but provision may be made by regulations for —
  - (a) an application for a disposal licence to be considered while an application for any relevant planning approval is pending; and
  - (b) any proceedings connected with either application to be conducted concurrently with any proceedings connected with the other application.<sup>48</sup>
- (3) Where the Department receives an application for a disposal licence for a use of land, plant or equipment for which such planning approval is in force, the Department shall not reject the application unless the Department is satisfied that its rejection is necessary for the purpose of preventing pollution of water or danger to public health.
- (4) Where the Department proposes to issue a disposal licence, it shall before it does so —
  - (a) refer the proposal to the Water Authority and to any other prescribed person; and<sup>49</sup>
  - (b) give public notice of the proposal in one or more newspapers published and circulating in the Island; and
  - (c) consider any representations about the proposal which it receives during the period of 21 days beginning with that on which the first such notice is published.
- (5) A person who, in an application for a disposal licence, makes any statement which he knows to be false in a material particular or recklessly makes any statement which is false in a material particular, shall be guilty of an offence.

**60 Provisions supplementary to s 59**

[P1974/40/6]

- (1) A disposal licence may include such conditions as the Department sees fit to specify in the licence; and such conditions may (among other things) relate to —
  - (a) the duration of the licence;
  - (b) the supervision by the holder of the licence of activities to which the licence relates;

- (c) the kinds and quantities of waste which may be dealt with in pursuance of the licence or which may be so dealt with during a specified period, the methods of dealing with them and the recording of information relating to them;
- (d) the precautions to be taken on any land to which the licence relates;
- (e) the steps to be taken with a view to facilitating compliance with any conditions of such planning approval as is mentioned in section 59(2);
- (f) the steps to be taken to prevent or minimise any health hazard or environmental hazard;
- (g) the hours during which waste may be dealt with in pursuance of the licence; and
- (h) the works to be carried out or other action to be taken, in connection with the land, plant or equipment to which the licence relates, before the activities authorised by the licence are begun, while they are continuing or after they have ceased;<sup>50</sup>

and a condition may require the carrying out of works or the doing of any other thing which the Department considers appropriate in connection with the licence, notwithstanding that the licence holder is not entitled as of right to carry out the works or do the thing.

- (2) The Department shall —
  - (a) maintain a register containing copies of all disposal licences which are for the time being in force; and
  - (b) cause the register to be made available for inspection by the public at its office free of charge at all times when those offices are open to the public; and
  - (c) supply a copy of any entry in the register to any person requesting the same, at such reasonable charge as the Department may determine.

## **61 Variation of conditions and revocation of licences**

[P1974/40/7]

- (1) Where it appears to the Department that any modification of the conditions specified in a disposal licence is desirable and is unlikely to require unreasonable expenditure by the licence holder, the Department may on its own initiative serve a notice on the licence holder modifying the conditions accordingly.
- (2) On the application of the holder of a disposal licence, the Department may serve a notice on him modifying the conditions specified in the licence in accordance with the application.
- (3) Subject to subsection (5), where it appears to the Department that any modification of the conditions specified in a disposal licence is required



for the purpose of ensuring that the activities to which the licence relates do not cause pollution of water or danger to public health or become seriously detrimental to the amenities of the locality affected by the activities, the Department shall serve a notice on the licence holder modifying the conditions accordingly.

- (4) Section 59(4) applies to a proposal to serve a notice under subsection (1), (2) or (3) as it applies to a proposal to issue a disposal licence, except that the Department may postpone the reference and notice under section 59(4) so far as it considers that by reason of an emergency it ought to do so; and section 59(5) applies to an application under subsection (2) as it applies to an application for a disposal licence.
- (5) Where a disposal licence is in force and it appears to the Department —
- (a) that the continuation of activities to which the licence relates would cause pollution of water or danger to public health, or would be so seriously detrimental to the amenities of the locality affected by the activities that the continuation of them ought not to be permitted; and
  - (b) that the pollution, danger or detriment cannot be avoided by modifying the conditions specified in the licence;

the Department shall by a notice served on the holder of the licence revoke the licence.

- (5A) Where a disposal licence is in force and it appears to the Department that any charges due to it under section 62A in respect of the licence are unpaid, the Department may by a notice served on the holder of the licence suspend the licence; and where a notice is served under this subsection the licence shall be of no effect until the notice is withdrawn under subsection (5B).<sup>51</sup>
- (5B) Where a notice has been served under subsection (5A) and the charges in question have been paid, the Department shall by a further notice served on the holder of the licence withdraw that notice.<sup>52</sup>
- (6) A notice under this section shall state the time at which the modification, suspension or revocation in question is to take effect.<sup>53</sup>

## 62 Transfer and relinquishment of licences

[P1974/40/8]

- (1) The holder of a disposal licence may, with the consent of the Department, transfer the licence to another person.
- (2) If by operation of law the right of the holder of a disposal licence to occupy the relevant land is transferred to some other person, that person shall be deemed to be the holder of the licence during the period of 3 months beginning with the date of the transfer.

- (3) The holder of a disposal licence may, with the consent in writing of the Department, by notice surrender the licence to the Department.<sup>54</sup>
- (4) The Department shall not give its consent to the surrender of a disposal licence unless it is satisfied, after inspecting the land to which the licence relates and considering any information and evidence available to it (whether or not provided pursuant to subsection (5)), that it is unlikely that the condition of the land, so far as that condition is the result of the use of the land for the purpose of any activity relating to waste (whether or not in pursuance of the licence), will cause pollution of the environment or harm to human health.<sup>55</sup>
- (5) Where an application is made to the Department for its consent to the surrender of a disposal licence –
- (a) the holder of the licence, and
  - (b) any person (other than the holder of the licence) who is, or has been during the currency of the licence, the owner or occupier of the land to which the licence relates,

shall provide the Department with such information and evidence relating to the condition of the land, and any use of the land for the purpose of any the activity relating to waste (whether or not in pursuance of the licence), as the Department may reasonably require.<sup>56</sup>

- (6) A person who –
- (a) fails without reasonable excuse to comply with a requirement under subsection (5), or
  - (b) in connection with an application for the Department's consent to the surrender of a disposal licence, makes any statement which he knows to be false in a material particular or recklessly makes any statement which is false in a material particular,

shall be guilty of an offence.<sup>57</sup>

### 62A Charges for disposal licences etc

- (1) The Department may require the payment to it by an applicant for a disposal licence of such charges as may be prescribed in respect of the application.
- (2) The Department may require the payment to it by the holder of a disposal licence of such charges as may be prescribed in respect of –
- (a) an application for –
    - (i) a modification of the conditions specified in the licence; or
    - (ii) consent to the transfer of the licence; or
  - (b) the grant, variation, transfer, revocation or surrender of the licence;
  - (c) the modification of any conditions specified in the licence;

- (d) the performance of any prescribed functions under sections 57 to 63 or in connection with the conditions of the licence.
- (3) Without prejudice to section 61(5A), any charges made under this section may be recovered in any court of competent jurisdiction.<sup>58</sup>

### 63 Supervision of licensed activities

[P1974/40/9]

- (1) While a disposal licence is in force the Department shall take the steps needed —
  - (a) for the purpose of ensuring that the activities to which the licence relates do not cause pollution of water or danger to public health or become seriously detrimental to the amenities of the locality affected by the activities; and
  - (b) for the purpose of ensuring that the conditions specified in the licence are complied with.
- (2) For the purpose of subsection (1), any authorised officer of the Department may, if it appears to him that by reason of an emergency it is necessary to do so, carry out work on the relevant land and on any plant or equipment to which the licence relates.
- (3) Where the Department incurs any expenditure under subsection (2), the Department may recover the amount of the expenditure from the holder of the disposal licence in question or, if the licence has been revoked or cancelled, from the last holder of it, except in relation to work with respect to which the holder or last holder of the licence shows that there was no emergency or that the expenditure was unnecessary.
- (4) Where it appears to the Department that a condition specified in a disposal licence is not being complied with, then, without prejudice to section 57(1), the Department may —
  - (a) serve on the licence holder a notice requiring him to comply with the condition before a time specified in the notice; and
  - (b) if in the opinion of the Department the licence holder has not complied with the condition by that time, serve on him a further notice revoking the licence at a time specified in the further notice.
- (5) Where —
  - (a) a disposal licence has been revoked or cancelled, and
  - (b) it appears to the Department that a condition specified in the licence has not been complied with, being a condition requiring works to be carried out or other action to be taken in connection with the land to which the licence relates after the activities authorised by the licence have ceased,

the Department may serve on the owner or the occupier of the land a notice requiring him, within such time as is specified in the notice, to carry

out such works or to take such other action as appears to the Department to be necessary to comply with the condition and is so specified.<sup>59</sup>

## **64 Special provisions for land occupied by the Department of Infrastructure**

[P1974/40/11]

- (1) Nothing in section 57(1) applies to —
  - (a) the deposit of controlled waste on land which is occupied by the Department of Infrastructure; or<sup>60</sup>
  - (b) the use on land so occupied of any plant or equipment for the purpose of disposing of controlled waste or of dealing with controlled waste in a manner prescribed under section 57(1)(b),  
if the deposit is made or the plant or equipment is used by the Department of Infrastructure or is made or used with the consent of the Department and in accordance with the conditions, if any, to which the consent is subject.<sup>61</sup>
- (2) If any land occupied by the Department of Infrastructure is used by the Department of Infrastructure as a site on which to deposit or permit other persons to deposit controlled waste or on which to use or permit other persons to use any plant or equipment for the purpose aforesaid, the Department of Infrastructure shall ensure that the land is used in accordance with conditions which are —
  - (a) calculated to prevent its use from causing pollution of water, danger to public health and serious detriment to the amenities of the locality in which the land is situated; and
  - (b) specified in a direction given by the Department in accordance with the following provisions of this section.<sup>62</sup>
- (3) Where the Department of Infrastructure proposes that any land which it occupies or intends to occupy should be used by it as mentioned in subsection (2), the Department shall before effect is given to the proposal —
  - (a) prepare a statement of the conditions which it intends to specify in a direction to be given in pursuance of paragraph (d);
  - (b) give public notice of the proposal in one or more newspapers published and circulating in the Island, and refer the proposal and the statement to the Water Authority and to any other prescribed person;<sup>63</sup>
  - (c) consider any representations about the proposal and statement which the Department receives during the period of 21 days beginning with that on which the first such notice is published; and

- (d) give a direction specifying the conditions in accordance with which the land in question is to be used by the Department of Infrastructure as mentioned in subsection (2).<sup>64</sup>
- (4) The conditions specified in a direction under subsection (3)(d) shall include a condition specifying the steps to be taken to prevent or minimise any health hazard or environmental hazard.
- (5) The Department may by a subsequent direction vary or rescind a direction under subsection (3)(d) or this subsection.
- (6) Subsection (3)(a) to (c) shall with the necessary modifications apply to a proposal to give a direction under subsection (5) and to such a direction as it applies to a proposal mentioned in subsection (3) and to a direction under subsection (3)(d) except that —
  - (a) it shall not apply to, or to a proposal to give a direction which only rescinds a previous direction; and
  - (b) the Department may postpone the reference under subsection (3) so far as the Department considers it appropriate by reason of an emergency.
- (7) If while a direction is in force in pursuance of this section it appears to the Department —
  - (a) that the continuation of activities to which the direction relates would cause pollution of water or danger to public health, or would be so seriously detrimental to the amenities of the locality affected by the activities that the activities ought not to continue; and
  - (b) that the pollution, danger or detriment cannot be avoided by modifying the conditions relating to the carrying on of the activities,the Department shall rescind the direction and the Department of Infrastructure shall discontinue the activities.<sup>65</sup>
- (8) While a direction under subsection (3) or (5) is in force the Department shall secure that a copy of the direction is included in the register maintained under section 60(2).

*Collection and disposal of waste*

**65 Collection of waste**

- (1) A local authority shall make arrangements for the collection of household waste and commercial waste from premises within its district, except waste of the following descriptions —
  - (a) waste which is at a place which is so isolated or inaccessible that the cost of collecting it would be unreasonably high;

- (b) waste, adequate arrangements for the disposal of which have been or can reasonably be expected to be made by a person who controls the waste;
  - (c) waste which is collected by the Department of Infrastructure under subsection (3).<sup>66</sup>
- (2) Any dispute as to whether or not any waste falls within subsection (1)(a) or (b) shall be referred to and determined by the Department.
- (3) The Department of Infrastructure may arrange for the collection from any premises of household waste or commercial waste of such classes or descriptions as may be prescribed.<sup>67</sup>
- (4) Where a local authority or the Department of Infrastructure collects household waste or commercial waste from premises, it may as a condition of doing so require the occupier of the premises to store in a particular way any household waste or commercial waste of a kind which can be used again or from which substances can be reclaimed.<sup>68</sup>
- (5) A local authority or the Department of Infrastructure shall make such reasonable charges as it may determine in respect of the collection under subsection (1) or (3) of commercial waste, and may make such reasonable charges as it may determine in respect of the collection under subsection (1) or (3) of household waste.<sup>69</sup>
- (6) Where a local authority or the Department of Infrastructure makes a charge in respect of the collection of household waste or commercial waste, the authority or Department of Infrastructure may recover any such charge —
  - (a) where the waste is collected at the request of any person, from that person; or
  - (b) otherwise, from the occupier of the premises from which the waste is collected.<sup>70</sup>
- (7) The Department of Infrastructure or, with the consent of the Department of Infrastructure, a local authority may, if requested by the occupier of any premises to collect any industrial waste from the premises, arrange for the collection of the waste on payment of such charges as may be agreed between the Department or local authority and the occupier.<sup>71</sup>
- (8) The Department of Infrastructure or a local authority may contribute towards the cost incurred by another person in providing or maintaining plant or equipment intended to deal with waste before it is collected under this section.<sup>72</sup>
- (9) Subject to section 67(1), anything collected under arrangements made by the Department of Infrastructure or a local authority in pursuance of this section shall belong to the Department of Infrastructure or that authority, as the case may be, and may be dealt with accordingly.<sup>73</sup>

**66 Dustbins etc**

[P1974/40/13]

- (1) Where a local authority has a duty by virtue of section 65(1) to arrange for the collection of household waste and commercial waste from any premises, then, subject to any regulations under subsection (9), the authority may, by a notice served on the occupier of the premises, require him to place the waste for collection in receptacles which are of a kind and number reasonably specified in the notice; and a person who fails to comply with such a requirement shall be guilty of an offence.<sup>74</sup>
- (2) A notice served by an authority under subsection (1) may provide for the receptacles in question to be provided by the authority free of charge or —
  - (a) if the recipient of the notice agrees, by the authority on payment by the recipient of the notice of such a single payment or such periodical payments as he agrees with the authority; or
  - (b) by the recipient of the notice, if he does not enter into an agreement in pursuance of paragraph (a) within a period specified in the notice or the notice does not propose such an agreement.<sup>75</sup>
- (3) [Repealed]<sup>76</sup>
- (4) The recipient of a notice under subsection (1) requiring the provision of receptacles may within the period of 21 days beginning with the last day of the period specified under subsection (2)(b) or, where no period is so specified, beginning with the day on which the notice is served on him, appeal to a court of summary jurisdiction against the notice on the ground —
  - (a) that the kind or number of the receptacles required for the notice is unreasonable, or
  - (b) that the receptacles in which household waste or commercial waste, or both, on the premises in question is placed for collection are adequate.<sup>77</sup>
- (5) Where such an appeal is brought —
  - (a) the notice shall be of no effect pending the determination of the appeal; and
  - (b) the court shall either quash or modify the notice or dismiss the appeal.
- (6) No question as to whether the kind or number of receptacles specified in a notice under subsection (1) is unreasonable shall be entertained in any proceedings for an offence under this section in respect of the notice.
- (7) The Department of Infrastructure or any local authority may at the request of any person supply him with receptacles for industrial waste which he has requested the Department of Infrastructure or the authority to arrange

to collect, and shall make a reasonable charge for any receptacle so supplied.<sup>78</sup>

- (8) If it appears to the Department of Infrastructure that there is likely to be on any premises commercial waste or industrial waste of a kind which, if not stored in receptacles of a particular kind, is likely to cause a nuisance or to be detrimental to the amenities of the locality in which the premises are situated, the Department of Infrastructure may, by a notice served on the occupier of the premises, require him to provide at the premises for the storage of the waste receptacles which, subject to subsection (9), are of a kind and number reasonably specified in the notice; and a person who fails to comply with such a requirement shall be guilty of an offence.<sup>79</sup>
- (9) Regulations made by the Department of Infrastructure (following consultation with the Department) may provide for —
- (a) the size, construction and maintenance of receptacles for controlled waste;
  - (b) the placing of the receptacles on premises for the purpose of facilitating the emptying of them, and access to the receptacles for that purpose;
  - (c) the placing of the receptacles for that purpose on highways, and the liability for any damage arising out of the placing of the receptacles on highways in pursuance of regulations;<sup>80</sup>
  - (d) the substances which may and may not be put into the receptacles and the precautions to be taken where particular substances are put into them;
  - (e) the steps to be taken by occupiers of premises for the purpose of facilitating the collection of waste from receptacles for controlled waste which are provided in connection with the premises;
  - (f) the giving of directions by local authorities with respect to matters mentioned in paragraphs (a) to (e) and compliance with the directions by occupiers of premises and other persons; and
  - (g) a contravention of the regulations or directions given in pursuance of the regulations to be an offence punishable on summary conviction by a fine of a prescribed amount not exceeding £1,000.<sup>81</sup>
- (10) Regulations made by the Department of Infrastructure (following consultation with the Department) may also require local authorities to take steps under subsections (1) to (8) to secure that controlled waste of a kind specified in the regulations, being waste suitable for treatment under section 73, is kept separate from waste of any other kind.<sup>82</sup>
- (11) In this section “receptacle” includes a holder for a receptacle.



**67 Disposal of waste**

[P1974/40/14]

- (1) Subject to section 68, each local authority shall deliver to the Department of Infrastructure, at such places and in such manner as the Department of Infrastructure directs, all waste which is collected by the authority under section 65 (except waste dealt with under section 73(2)), and anything delivered to the Department of Infrastructure under this subsection shall belong to the Department of Infrastructure and may be dealt with accordingly.<sup>83</sup>
- (1A) A local authority may provide places at which to deposit waste temporarily before delivering it to the Department of Infrastructure under subsection (1).<sup>84</sup>
- (1B) The Department of Infrastructure, after consultation with the Treasury, may give financial assistance towards expenditure incurred by a local authority in the provision of places under subsection (1A).<sup>85</sup>
- (2) Where waste of a kind specified in regulations under section 66(10) is separate from waste of any other kind when it is collected by a local authority, the authority shall secure that such waste is kept separate from such other waste until it is delivered to the Department of Infrastructure under subsection (1).<sup>86</sup>
- (3) The Department of Infrastructure shall arrange for the disposal of the waste collected by it under section 65 or delivered to it under subsection (1) and, without prejudice to the Department of Infrastructure's powers apart from this subsection, the Department of Infrastructure may for that purpose —
  - (a) provide places at which to deposit the waste before the Department of Infrastructure transfers it to a place or plant or equipment provided under paragraph (b); and<sup>87</sup>
  - (b) provide places at which to dispose of the waste and plant or equipment for processing it or otherwise disposing of it.<sup>88</sup>
- (4) The Department of Infrastructure may permit another person to use facilities provided by the Department of Infrastructure under this section and may provide for the use of another person any such facilities as the Department of Infrastructure may provide under this section; and —
  - (a) the Department of Infrastructure shall make a reasonable charge in respect of the use by another person of the facilities unless the Department of Infrastructure considers it appropriate not to make a charge; and<sup>89</sup>
  - (b) [Repealed]<sup>90</sup>
  - (c) anything delivered to the Department of Infrastructure by another person in the course of using the facilities shall belong to the Department of Infrastructure and may be dealt with accordingly.<sup>91</sup>

- (5) A local authority and the Department of Infrastructure may enter into an agreement for the making of either to the other of such payments as may be determined by or under the agreement in respect of waste collected by the local authority under section 65.<sup>92</sup>
- (6) Except as otherwise agreed under subsection (5), a local authority shall pay to the Department of Infrastructure such reasonable charges as the Department of Infrastructure may determine in respect of the disposal of waste delivered to the Department of Infrastructure by the authority under this section; and any question under this subsection as to what charges are reasonable shall, in default of agreement, be determined by arbitration.<sup>93</sup>

## 68 Arrangements for disposal

- (1) This section applies where arrangements made by the Department of Infrastructure for the disposal of waste, or waste of any description, under section 67(3) involve the disposal of the waste by another person (“the contractor”).<sup>94</sup>
- (2) Where this section applies, each local authority shall deliver to the contractor, at such places and in such manner as the Department of Infrastructure directs, all waste, or all waste of that description, as the case may be, which is collected by the authority under section 65, and anything delivered to the contractor under this subsection shall belong to the contractor and may be dealt with accordingly.<sup>95</sup>
- (3) The powers conferred on the Department of Infrastructure by section 67(3)(a) and (b), (4), (5) and (6) are exercisable in relation to waste to be disposed of by a contractor under this section as well as waste to be disposed of by the Department under that section, and the references in sections 67(6) and 69(5) to waste delivered to the Department of Infrastructure include references to waste delivered to the contractor.<sup>96</sup>
- (4) Provision may be made by regulations made by the Department (following consultation with the Department of Infrastructure) —
  - (a) for regulating the disposal of waste by a contractor in pursuance of such arrangements;
  - (b) without prejudice to the generality of paragraph (a), for controlling the emission of dust, effluvia or smoke from any plant or equipment used by the contractor for processing or otherwise disposing of the waste; and
  - (c) for empowering the Department of Infrastructure, after consultation with the contractor, to make an order requiring the contractor to do, or not to do, such things as are specified in the order, within such reasonable time as is so specified, for the purpose of securing compliance with regulations under paragraph (a) or (b).<sup>97</sup>

**69 Provision by local authorities for deposit of refuse**

[P1978/3/1]

- (1) A local authority may provide places where household waste may be deposited at all reasonable times by any person on payment of such charges (if any) as the authority thinks fit.<sup>98</sup>
- (2) The Department of Infrastructure may provide places where household waste may be deposited at all reasonable times by any person on payment of such charges (if any) as the Department of Infrastructure thinks fit.<sup>99</sup>
- (3) The Department of Infrastructure or a local authority may permit, on such terms as it thinks fit, the deposit of commercial waste at a place provided by it under this section.<sup>100</sup>
- (4) The Department of Infrastructure's or local authority's powers under subsection (1) or (2) include power to enter into an agreement with any other person for the provision of facilities by him for the purpose at any place under his control.<sup>101</sup>
- (5) For the purposes of this Part, waste deposited at a place provided by a local authority or the Department of Infrastructure under this section shall be treated as waste collected by the authority under section 65 or delivered to the Department of Infrastructure under section 67, as the case may be.<sup>102</sup>

**70 Removal of waste deposited in breach of licensing provisions**

[P1974/40/16]

- (1) If any controlled waste is deposited on any land in contravention of section 57(1), the Department may serve a notice on the occupier of the land requiring him to do either or both of the following —
  - (a) to remove the waste from the land within a period specified in the notice, being not less than 21 days beginning with the date of service of the notice; or
  - (b) to take within such a period such steps as are so specified with a view to eliminating or reducing the consequences of the deposit of the waste.
- (2) If it appears to the Department that waste has been deposited as mentioned in subsection (1) and that —
  - (a) in order to remove or prevent pollution of water or danger to public health it is necessary forthwith to remove the waste or to take other steps with a view to eliminating or reducing the consequences of the deposit of it or necessary forthwith to remove the waste and to take such other steps; or
  - (b) there is no occupier of the land in question; or
  - (c) the occupier of the land neither made nor knowingly permitted the deposit of the waste,

the Department may remove the waste from the land or take such other steps as aforesaid or, as the case may require, may remove it and take such other steps.

- (3) Where the Department exercises in respect of any land a power conferred on it by subsection (2) it shall be entitled to recover the cost of so doing and of disposing of any waste removed in the exercise of the power —
- (a) in a case falling within subsection (2)(a), from the occupier of the land unless he proves that he neither made nor caused nor knowingly permitted the deposit in question;
  - (b) in any case, from any person who deposited or caused or knowingly permitted the deposit of any of the waste in question on the land,
- except such of the cost as the occupier or other person shows was incurred unnecessarily.
- (4) Any waste removed by the Department in pursuance of this section shall belong to the Department and may be dealt with accordingly.

## **71 Dangerous or intractable waste**

[P1974/40/17]

- (1) If the Department considers that controlled waste of any kind is or may be so dangerous or difficult to dispose of that special provision is required for its disposal, it shall make provision by regulations for the disposal of waste of that kind (“special waste”).
- (2) Without prejudice to the generality of subsection (1), any such regulations may include provision —
- (a) for the giving of directions by the Department with respect to matters connected with the disposal of special waste;
  - (b) for securing that special waste is not, while awaiting disposal in pursuance of the regulations, kept at any one place in quantities greater than those which are prescribed and in circumstances which differ from those which are prescribed;
  - (c) for requiring the occupier of premises on which special waste is situated to give notice of that fact and other prescribed information to the Department;
  - (d) for the keeping of records by persons who produce or dispose of special waste or transfer it to another person for disposal, for the inspection of the records and for the furnishing by such persons to the Department of copies of or information derived from the records;
  - (e) prescribing the maximum penalty for a contravention of the regulations (which shall not exceed, on summary conviction, a fine

of £5,000 and, on conviction on information, imprisonment for a term of 2 years and a fine).

- (3) Without prejudice to the generality of subsection (1), any such regulations may include provision –
- (a) requiring special waste of particular kinds to be disposed of only by the Department or the Department of Infrastructure;<sup>103</sup>
  - (b) for the supervision by the Department (whether by the application with modifications of provisions of section 63 or otherwise) of activities authorised by virtue of the regulations;
  - (c) as to the recovery of expenses or other charges for disposals by the Department or the Department of Infrastructure in pursuance of the regulations.<sup>104</sup>
- (4) Provision may also be made by regulations –
- (a) for the giving of a direction, in respect of any place in respect of which a disposal licence is in force, requiring the holder of the licence to accept and dispose of at the place, on such terms as are specified in the direction (including terms as to the making of payments to the recipient of the direction), such special waste as is so specified;
  - (b) as to the consents to be obtained and the other steps to be taken before a direction may be given under the regulations;
  - (c) providing that a person shall not be guilty of an offence under any prescribed enactment by reason only of anything necessarily done or omitted in order to comply with such a direction.

### **71A Control of movement of waste into or out of the Island**

- (1) The Department may make regulations prohibiting or regulating the removal into or out of the Island of waste.<sup>105</sup>
- (2) Without prejudice to the generality of subsection (1), any such regulations may include provision –
- (a) requiring prescribed notice of the intended removal of waste into or out of the Island to be given to such authorities in the Island, and in any country or territory outside the Island through, to or from which the waste is to be removed, as may be prescribed;<sup>106</sup>
  - (b) prohibiting the removal of waste into or out of the Island without the authorisation of a prescribed authority;<sup>107</sup>
  - (c) enabling such authorisation to be given subject to compliance with prescribed conditions or with conditions imposed by the prescribed authority;

- (d) enabling such conditions to require the provision of security for compliance with the conditions, or insurance against risks arising from the movement of waste, or both;<sup>108</sup>
- (e) enabling such conditions to require the consent or approval of a prescribed authority to or of any action or other matter so authorised;
- (f) providing for appeals to a prescribed authority, court or tribunal against any refusal of or other decision relating to any authorisation, consent or approval under the regulations;
- (g) requiring prescribed persons to give information to a prescribed authority concerning any matter relating to waste;<sup>109</sup>
- (h) providing for the transmission of information between any of the authorities mentioned in paragraph (a);
- (i) providing for the inspection and testing by or on behalf of a prescribed authority of any matter which is or is reasonably believed to be waste and any container, vehicle or vessel within which waste is, was or will be or is reasonably believed to be or to have been;<sup>110</sup>
- (j) requiring the keeping of records by prescribed persons in connection with the removal of waste, and the inspection of, and furnishing of copies of and information derived from, such records;<sup>111</sup>
- (k) enabling a prescribed authority to take prescribed action or carry out prescribed works in default of compliance with any requirement of the regulations, and providing for the recovery from any person in default of the expenses of such action or works;
- (l) enabling a prescribed authority to charge a prescribed fee, or a fee calculated in a prescribed manner, on an application for or the granting of any authorisation, consent or approval, or the making of any inspection or the carrying out of any test, under the regulations, and providing for the recovery of such fees;
- (m) conferring powers of entry and search, and the issue and enforcement of warrants giving effect to those powers, in connection with any inspection, testing, action or works in pursuance of the regulations;
- (n) providing for the return to the Island of waste removed from the Island in breach of any requirements of the regulations, and for the disposal of waste so returned;
- (o) making any contravention of or failure to comply with any requirement of the regulations an offence;
- (p) prescribing the maximum penalty for any such contravention or non-compliance (which shall not exceed, on summary conviction,

a fine of £5,000 or, on conviction on information, custody for a term not exceeding 2 years or a fine or both);

- (q) applying, with or without modifications, any provision of this Act or the *Local Government Act 1985* for the purpose of the regulations.
- (3) Regulations under this section may make provision as respects —
  - (a) waste generally, or
  - (b) such classes or descriptions of waste as may be prescribed.<sup>112</sup>

### **71B Duty of care etc as respects waste**

- (1) Subject to subsection (2), it is the duty of any person who produces, carries, keeps, deals in a prescribed manner with or disposes of controlled waste to take all such measures as are reasonable in the circumstances —
  - (a) to prevent any contravention by any other person of section 57 or regulations under section 71 or 71A in relation to the waste; and
  - (b) to prevent the escape of the waste from his control or that of any other person.
- (2) The duty imposed by subsection (1) does not apply to an occupier of a dwelling as respects the household waste produced in, or in the curtilage of, the dwelling.
- (3) The Department may by regulations impose prescribed requirements on any person who is subject to the duty imposed by subsection (1) as respects the making and retention of documents and the furnishing of documents or copies of documents.
- (4) Any person who —
  - (a) fails to comply with the duty imposed by subsection (1), or
  - (b) fails to comply with any requirement imposed under subsection (3),is guilty of an offence.
- (5) The Department may, after consultation with such persons or bodies as appear to it representative of the interests concerned, prepare and issue, and from time to time revise, a code of practice for the purpose of providing to persons practical guidance on how to discharge the duty imposed on them by subsection (1).
- (6) A code of practice issued under subsection (5) —
  - (a) shall be laid before Tynwald; and
  - (b) shall be admissible in evidence;and if any provision of such a code appears to a court to be relevant to any question arising in any proceedings before the court, it shall be taken into account in determining that question.<sup>113</sup>

**72 Power as respects other waste**

[P1974/40/19]

The Department or the Department of Infrastructure may collect information about, and make arrangements for the disposal of, waste which is not controlled waste; but nothing in section 35 of the *Local Government Act 1985* (powers of entry) shall apply to functions conferred on the Department or the Department of Infrastructure or information collected by the Department or the Department of Infrastructure under this section.<sup>114</sup>

*Reclamation of waste etc.*

**72A Removal of litter from streets etc**

- (1) A local authority may remove litter from any street in its district.
- (2) A local authority may make arrangements with the occupier of any land in its district other than a street, being a place in the open air to which the public are entitled or permitted to have access (whether on payment or otherwise), for the removal of litter from that land, upon such terms as to payment or otherwise as it may agree with the occupier.
- (3) For the purposes of this Part, litter removed by a local authority under this section shall be treated as waste collected by the authority under section 65.<sup>115</sup>

**73 Reclamation of waste**

- (1) Without prejudice to the powers of the Department of Infrastructure apart from this section, the Department of Infrastructure may —
  - (a) do such things as the Department of Infrastructure (following consultation with the Department) considers appropriate for the purpose of —
    - (i) enabling waste belonging to the Department of Infrastructure or belonging to another person who requests the Department of Infrastructure to deal with it in pursuance of this section, to be used again, or<sup>116</sup>
    - (ii) enabling substances to be reclaimed from such waste;<sup>117</sup>
  - (b) buy or otherwise acquire waste with a view to its being used again or to the reclamation of substances from it; and
  - (c) use, sell or otherwise dispose of waste belonging to the Department of Infrastructure or anything produced from such waste.<sup>118</sup>
- (2) Without prejudice to the powers of local authorities apart from this section, a local authority may —
  - (a) do such things as the authority considers appropriate for the purpose of —



- (i) enabling waste collected by the authority to be used again, or
  - (ii) enabling substances to be reclaimed from such waste; and
- (b) use, sell or otherwise dispose of waste collected by the authority or anything produced from such waste.<sup>119</sup>
- (3) The Department of Infrastructure, after consultation with the Treasury, may give financial assistance towards expenditure incurred by a local authority in the provision of plant or equipment to be used for any purpose mentioned in subsection (2).<sup>120</sup>

#### 74 Production of energy from waste etc

[P1974/40/21; P1976/56/11]

- (1) The Department of Infrastructure may, subject to subsection (2) —
  - (a) use waste belonging to the Department of Infrastructure for the purpose of producing energy from it;<sup>121</sup>
  - (b) establish and operate such generating stations and other installations as the Department of Infrastructure thinks fit for that purpose; and<sup>122</sup>
  - (c) where the Department of Infrastructure operates an installation in which waste is usually used as the main fuel for the purpose of producing energy, use other fuel instead of waste to produce the energy;<sup>123</sup>
  - (d) buy or otherwise acquire energy.<sup>124</sup>
- (2) Where the Department of Infrastructure produces electricity by virtue of this section the Department —
  - (a) may use any of the electricity at the installation at which it was produced and on any premises occupied by the Department of Infrastructure in connection with the installation and at any premises adjacent thereto but shall not use any of it elsewhere;<sup>125</sup>
  - (b) may sell any of the electricity, on such terms as may be agreed, to the Manx Utilities Authority, but shall not sell or otherwise dispose of any of it to any other person.<sup>126</sup>
- (3) The Department of Infrastructure may —
  - (a) use, sell or otherwise dispose of energy (other than electricity) produced or acquired by the Department of Infrastructure by virtue of this section;<sup>127</sup>
  - (b) without prejudice to the generality of paragraph (a), enter into and carry out agreements for the supply by the Department of Infrastructure to premises of such energy as is mentioned in paragraph (a).<sup>128</sup>

- (4) The Department of Infrastructure may —
- (a) construct, lay and maintain apparatus for the purpose of conveying energy produced or acquired by the Department of Infrastructure by virtue of this section;<sup>129</sup>
  - (b) contribute towards the cost incurred by another person in providing or maintaining apparatus which is connected to apparatus provided by the Department of Infrastructure under paragraph (a).<sup>130</sup>
- (5) For the purposes of its functions under subsection (4)(a) the Department of Infrastructure may —
- (a) open and break up any street;
  - (b) open and break up any sewers, drains or tunnels in or under any street;
  - (c) place, repair, alter or remove any apparatus in or under any street;<sup>131</sup>
  - (d) remove and use all earth and materials in or under any street.<sup>132</sup>
- (6) In this section —
- “apparatus” includes —
- (a) pipes and associated works; and
  - (b) electric lines and electrical plant;<sup>133</sup>
- “associated works”, in relation to pipes, includes any of the following connected with the pipes, namely any valve, filter, stopcock, pump, meter, inspection chamber and manhole and such other works as are prescribed;
- “electric line” and “electric plant” have the same meanings as in the *Electricity Act 1996*;<sup>134</sup>
- “energy” means heat, electricity or any other form of energy, and includes steam produced from, and air, water or other media heated by, such energy.

## 75 Provisions supplementary to s 74

[P1976/57/12]

- (1) In relation to the supply of heat, steam or hot air, water or other media in pursuance of section 74 the Department of Infrastructure may make regulations —
- (a) with respect to the works and apparatus to be provided or used by persons other than the Department of Infrastructure in connection with the supply;<sup>135</sup>
  - (b) for preventing waste and unauthorised use of the supply and unauthorised interference with works and apparatus used by the Department of Infrastructure or any other person in connection with the supply.<sup>136</sup>

- (2) Any authorised officer of the Department of Infrastructure may, at any reasonable time, enter any premises —
- (a) for the purpose of installing, servicing, maintaining, examining, adjusting, removing or reading any meter used or to be used by the Department of Infrastructure for measuring the heat, steam, hot air, water or other media supplied or to be supplied by the Department of Infrastructure;<sup>137</sup>
  - (b) for the purpose of installing, servicing, maintaining, examining, adjusting or removing any equipment associated with the supply, measurement or control of such heat, hot air, water or other medium or steam.<sup>138</sup>
- (3) Section 35(3) to (6) (powers of entry) of the *Local Government Act 1985* applies with any necessary modifications to the powers of an authorised officer of the Department of Infrastructure under subsection (2) as it applies to the powers of a person specified in section 35(2).<sup>139</sup>
- (4) The Department of Infrastructure may by order provide that section 74 and subsections (1) to (3) shall apply to a contractor as they apply to the Department of Infrastructure, subject to such modifications as are specified in the order.<sup>140</sup>
- (5) Without prejudice to the rights and obligations of the parties under any agreement between the Department of Infrastructure and the contractor, an order under subsection (4) shall make provision, in the event of the termination of the arrangements in question —
- (a) for anything done or suffered by the contractor under section 74 or subsections (1) to (3), or any provision of the road works code, to be treated as done or suffered by the Department of Infrastructure; and<sup>141</sup>
  - (b) for any property, rights and liabilities of the contractor held, enjoyed or incurred for the purposes of those sections or the road works code to vest in the Department of Infrastructure;<sup>142</sup>
- and may make such further provision as appears to the Department of Infrastructure to be necessary or expedient in consequence of the termination.<sup>143</sup>
- (6) In subsection (5) “the road works code” means the provisions of Schedule 4 to the *Highways Act 1986*.

### *General*

## **76 Interference with refuse tips and dustbins etc**

[P1974/40/27]

- (1) No person shall sort over or disturb —

- (a) anything deposited at a place provided by the Department of Infrastructure or a local authority for the deposit of waste or in a receptacle for waste which is provided by the Department of Infrastructure or a local authority for public use; or<sup>144</sup>
- (b) the contents of any receptacle for waste which, in accordance with regulations under section 66(9), is placed on any highway or in any other place with a view to its being emptied,

unless he is authorised to do so by the Department of Infrastructure or the authority or, as the case may be, he is a person entitled to the custody of the receptacle or is authorised to do so by such a person or has the function of emptying the receptacle.<sup>145</sup>

- (2) A person who contravenes subsection (1) shall be guilty of an offence.

## 77 Interpretation of Part IV

- (1) In this Part —

“**collection area**”, has the meaning given by section 65(1);

“**contractor**” means a person other than the Department of Infrastructure by whom waste is to be disposed of under arrangements made under section 67(3);<sup>146</sup>

“**controlled waste**” means household, industrial and commercial waste or any such waste;

“**disposal licence**” means a licence issued under section 59, and “**holder**” in relation to such a licence means (except as provided by section 62(1) and (2)) the person to whom the licence was issued;

“**environmental hazard**” and “**health hazard**” (in sections 60 and 64) shall be construed in accordance with subsections (4) to (7);

“**land**” includes water covering land above low-water mark of ordinary spring tides;

“**private dwelling**” means premises used wholly for the purpose of a private dwelling or private dwellings;

“**relevant land**” means —

- (a) in relation to a proposal to issue a disposal licence, the land on which activities may be carried on in pursuance of the licence if it is issued in accordance with the proposal; and
- (b) in relation to a disposal licence, the land on which activities may be carried on in pursuance of the licence;

“**special waste**” means waste of a kind provided for by regulations under section 71(1);

“**waste**” includes —

- (a) any substance which constitutes a scrap material or an effluent or other unwanted surplus substance arising from the application of any process; and
- (b) any substance or article which requires to be disposed of as being broken, worn out, contaminated or otherwise spoiled,

but does not include an explosive substance; and for the purposes of this Part any thing which is discarded or otherwise dealt with as if it were waste shall be presumed to be waste unless the contrary is proved;

“**the Water Authority**” means the Manx Utilities Authority.<sup>147</sup>

- (2) Subject to subsection (3), for the purposes of this Act —
  - (a) household waste consists of waste from a private dwelling or residential home or from premises forming part of a college or school or other educational establishment or forming part of a hospital or adult care home;<sup>148</sup>
  - (b) industrial waste consists of waste from any factory or workshop and any premises occupied by a body corporate established by or under any enactment for the purpose of carrying on under national ownership any industry or part of an industry or any undertaking, excluding waste from any mine or quarry; and
  - (c) commercial waste consists of waste from premises used wholly or mainly for the purposes of a trade or business or of sport, recreation or entertainment, excluding —
    - (i) household and industrial waste, and
    - (ii) waste from any mine or quarry and waste from premises used for agriculture within the meaning of the *Agricultural Holdings Act 1969*;
    - (iii) waste of any other description prescribed for the purposes of this sub-paragraph.
- (3) Regulations may provide that waste of a prescribed description shall be treated for the purposes of prescribed provisions of this Part as being or not being household waste or industrial waste or commercial waste; but no regulations shall be made by virtue of this subsection in respect of such waste as is mentioned in subsection (2)(c)(ii), and references in this subsection and subsection (2) to waste do not include sewage except so far as regulations provide otherwise.

In this subsection “sewage” includes matter in or from a privy or latrine.

- (4) For the purposes of sections 60 and 64 —
  - (a) any deposit of waste on land, gives rise to an environmental hazard if the waste is deposited in such a manner or in such a quantity (whether by itself or cumulatively with other deposits of the same or different substances), and

- (b) the use of any plant or equipment for disposing of or dealing with waste gives rise to an environmental hazard if it is carried on in such a manner or to such a degree,

as to cause or threaten to a material degree the pollution of air, water or land or to threaten to a material degree the living resources which they or any of them support.

- (5) The reference in subsection (4) to the pollution of air, water or land includes the pollution, on the surface or underground, of any water supply, but excludes the pollution of the land on which the waste is or is to be deposited or which forms the site of the plant or equipment in question, as the case may be.

- (6) For the purposes of sections 60 and 64 —

- (a) any deposit of waste on land gives rise to a health hazard if the waste is deposited in such a manner or in such a quantity (whether by itself or cumulatively with other deposits of the same or different substances), and

- (b) the use of any plant or equipment for disposing of or dealing with waste gives rise to a health hazard if it is carried on in such a manner or to such a degree,

as to subject persons or animals to a material risk of death, injury or impairment of health.

- (7) The degree of risk relevant for the purposes of subsections (4) and (6) shall be assessed with particular regard —

- (a) to the measures, if any, to be taken by the person depositing the waste, or the owner or occupier of the land, or the person using the plant or equipment in question, as the case may be, for preventing or minimising the risk; and

- (b) in relation to the deposit or presence of waste, to the likelihood of the waste, or any container in which it is deposited, being tampered with by children or others;

and for the purposes of this subsection a risk shall be taken to be prevented or minimised if the person in question has taken the best practicable means (within the meaning of Part I) to prevent or minimise that risk.

## 78 Amendments to the Litter Act 1972

- (1) [Amends section 1 of the *Litter Act 1972*.]  
(2) [Inserts section 5A in the *Litter Act 1972*.]

## 79 Amendments to the Litter Act 1972

- (1) [Amends section 1 of the *Litter Act 1972*.]  
(2) [Inserts section 4A in the *Litter Act 1972*.]

## PART V – MISCELLANEOUS AND SUPPLEMENTAL

### *Miscellaneous public health matters*

#### **80 Cleaning of verminous persons**

[P1936/49/85; P1980/14/49]

- (1) If it appears to an authorised officer of a local authority that there is reasonable cause to suspect that any person, or the clothing of any person, is verminous, he may, with that person's consent, cause him to be removed to a place where he may be cleaned.
- (2) If such a person does not so consent, the authorised officer may apply to a justice who may, if he is satisfied that that person or his clothing should be examined and, if found to be verminous, should be cleaned, make an order for his removal to such a place and for his detention there for such period and subject to such conditions as may be specified in the order.
- (3) Where a person has been removed in pursuance of subsection (1) or (2), the authorised officer shall cause such measures to be taken as may, in his opinion, be necessary to free that person and his clothing from vermin.
- (4) The examination or cleaning of females under this section shall be carried out only by a doctor or by a woman duly authorised by the director of public health.<sup>149</sup>
- (5) Any consent required to be given for the purposes of this section may, in the case of a person under the age of 16 years, be given by his parent or guardian.
- (6) No charge shall be made in respect of the cleaning of a person or his clothing, or in respect of his removal to or maintenance at any place under subsection (1) or (2).

#### **81 Cleaning of filthy or verminous premises**

[P1936/49/83; P 1961/64/35]

- (1) Where a local authority is satisfied that any premises —
  - (a) are in such a filthy or unwholesome condition as to be prejudicial to health, or
  - (b) are verminous,the authority shall give notice to the owner or occupier of the premises requiring him to take such steps as may be specified in the notice to remedy the conditions of the premises by cleaning and disinfecting them.
- (2) A notice under subsection (1) may require among other things —
  - (a) the removal of wallpaper or other covering of the walls;

- (b) in the case of verminous premises, the taking of such steps as may be necessary for destroying or removing the vermin;
- (c) the interior surface of premises used for human habitation or as shops or offices to be papered, painted or distempered; and
- (d) the interior surface of any other premises to be painted, distempered or whitewashed;

and shall allow the person on whom the notice is served, or in his default the local authority, to choose, in a case under paragraph (c), between papering, painting or distempering or, in a case under paragraph (d), between painting, distempering or whitewashing.

- (3) Where a local authority takes action under subsection (1)(b), its notice may require that it be allowed to employ gas for the purpose of destroying vermin on the premises, but in that case —
  - (a) the notice shall be served on both the owner and the occupier of the premises, and
  - (b) the authority shall bear the cost of its operations and may provide temporary shelter or house accommodation for any person compelled to leave the premises by reason of its operations.
- (4) This section does not apply to a factory, mine or quarry.

## 82 Removal of noxious matter

[P1936/49/79]

- (1) If it appears to an authorised officer of a local authority that any accumulation of noxious matter ought to be removed, he shall serve notice on the owner thereof, or on the occupier of the premises on which it is found, requiring him to remove it, and if the notice is not complied with within 24 hours after service, the officer may remove the matter.
- (2) Section 58 of the *Local Government Act 1985* (appeals etc.) does not apply to a notice under subsection (1).
- (3) A local authority may recover the expenses of any action reasonably taken by its officer under subsection (1) from the owner or occupier in default.

## 83 Cleaning of common courts, stairs etc

[P1936/49/78]

- (1) If any court, yard, stair or passage which is used in common by the occupants of 2 or more buildings, dwellings or other premises, but is not a highway maintainable at the public expense, is not regularly swept and kept clean and free from rubbish or other accumulation to the satisfaction of the local authority, the authority may cause it to be swept and cleaned.
- (2) The local authority may recover any expenses reasonably incurred by it under this section from the occupiers of the buildings, dwellings or other



premises which front or abut on the court or yard, or to which the stair or passage affords access, in such proportions as may be determined by the authority or, in case of dispute, by a court of summary jurisdiction.

#### **84 Removal of manure etc from stables**

[P1936/49/80]

- (1) A local authority may give notice to the occupier of any stables or riding premises requiring him, at such intervals as may be specified in the notice, periodically to remove manure or other refuse from the stables or premises.
- (2) If a person on whom a notice under subsection (1) has been served fails to comply therewith, he shall be guilty of an offence; and the local authority may itself remove the manure or refuse and recover from him the expenses reasonably incurred in so doing.
- (3) In this section “riding premises” means the premises where a riding establishment (within the meaning of the *Riding Establishments (Inspection) Act 1968*) is kept.

#### **85 Closure of polluted water supply**

[P1936/49/140]

- (1) If a local authority is of opinion that the water in or obtained from any well, tank or other source of supply, which is or is likely to be used —
  - (a) for domestic purposes, or
  - (b) in the preparation of food for human consumption,is or is likely to become so polluted as to be prejudicial to health, the authority may apply to a court of summary jurisdiction for an order under this section.
- (2) Notice of the time and place for the hearing of an application under subsection (1) shall be given to the owner or occupier of the premises to which the source of supply belongs, or to any other person alleged in the application to have control thereof.
- (3) On an application under subsection (1) the court shall hear any user of the water who requires to be heard, and may cause the water to be analysed at the expense of the local authority.
- (4) On an application under subsection (1) the court may make —
  - (a) an order directing —
    - (i) the source of supply to be permanently or temporarily closed or cut off, or
    - (ii) the water therefrom to be used for certain purposes only, or

- (b) such other order as appears to the court to be necessary to prevent injury or danger to the health of persons using the water, or consuming food or drink prepared therewith or therefrom.
- (5) If a person against whom an order under this section is made fails to comply therewith, the local authority may do whatever may be necessary for giving effect to the order, and may recover from the person in default any expenses reasonably incurred by the authority in so doing.

## **86 Nuisances in connection with moveable dwellings**

[P1936/49/268]

- (1) For the purposes of Part I a moveable dwelling used for human habitation —
  - (a) which is in such a state, or so overcrowded, as to be prejudicial to the health of the occupants; or
  - (b) the use of which, by reason of the absence of proper sanitary accommodation or otherwise, give rise, whether on the site or on other land, to a nuisance or to conditions prejudicial to health,shall be a statutory nuisance, and “occupier” in relation to such a dwelling includes any person for the time being in charge of it.
- (2) Where such a nuisance as is mentioned in subsection (1)(b) is alleged to arise, wholly or in part, from the use for human habitation of any moveable dwelling, then (without prejudice to the liability of the occupants or other users of it) an abatement notice may be served on, and proceedings under Part I may be taken against, the occupier of the land on which it is placed, erected or kept.

## **87 Smoke control**

Schedule 3 shall have effect with respect to the designation and enforcement of smoke control areas.

## **88 Air quality standards**

- (1) The Department shall make regulations designating substances the presence of which in the air is prejudicial to health (“prescribed substances”), and prescribing —
  - (a) the permitted level of concentration in the air of every prescribed substance; and
  - (b) the manner in which the concentration in the air of every prescribed substance is to be measured.
- (2) The Department shall, not less often than once in every 3 years, prepare and lay before Tynwald a statement indicating —

- (a) in summary form, the results of measurements of prescribed substances taken in accordance with regulations under subsection (1)(b);
- (b) in general terms, where those measurements show that any level of concentration prescribed under subsection (1)(a) is persistently exceeded in any locality, the steps (if any) which it considers ought to be taken (whether by the Department or by any other person) to reduce the concentration of the substance in question to that level; and
- (c) any proposals of the Department for making new or amending regulations under subsection (1).<sup>150</sup>

## 89 Implementation of air quality standards<sup>151</sup>

- (1) This section applies where —
  - (a) the concentration of any prescribed substance in the air in any locality, measured in accordance with regulations under section 88(1)(b), persistently exceeds the level prescribed under section 88(1)(a);
  - (b) that concentration is caused or significantly contributed to by any activity carried on on any land by the occupier thereof; and
  - (c) it appears to the Department that it is reasonably practicable for steps to be taken by the occupier to reduce that concentration.
- (2) Where this section applies, the Department may serve a notice on the occupier specifying —
  - (a) the prescribed substance in question, the level of concentration of that substance which subsists in the locality and the place or places at which, and the manner in which, that level has been measured;
  - (b) the activity which is alleged to cause or significantly to contribute to the concentration of that substance;
  - (c) the steps to be taken by the occupier to reduce the concentration of the prescribed substance in question; and
  - (d) the time within which those steps are to be taken.
- (3) A person served with a notice under subsection (2) may, within such time as may be prescribed by rules of court, appeal to the High Court on any of the following grounds —
  - (a) that the level of concentration of the prescribed substance, measured in accordance with regulations under section 88(1)(b), is significantly lower than as stated in the notice;
  - (b) that the level of concentration of that substance, as stated in the notice, has not been measured in accordance with those regulations;

- (c) that the activity in question does not cause or significantly contribute to the concentration of that substance;
  - (d) that the best practicable means (within the meaning of Part I) have been taken to reduce or mitigate the effect of the activity on the level of concentration of that substance in the air;
  - (e) that the steps required by the notice to be taken, or any of them, will not serve to reduce the concentration of the substance, or are otherwise unreasonable or unnecessary;
  - (f) that the time within which those steps, or any of them, are to be taken is not reasonably sufficient.
- (4) On an appeal under subsection (3) the High Court may confirm or quash the notice, or modify any requirement thereof.
- (5) Subject to any order made on appeal, any person who fails to comply with the requirements of a notice served on him under section (2) shall be guilty of an offence; and in proceedings against any person for an offence under this section it shall not be open to him to raise any question which he could have raised on an appeal under subsection (3).
- (6) Where this section applies in relation to land occupied by the Department of Infrastructure, the Department shall prepare and lay before Tynwald a statement specifying the matters mentioned in subsection (2)(a), (b), (c) and (d).<sup>152</sup>

## 90 Consent to emission of prescribed substance

- (1) Subject to subsection (2), no person shall on any land carry on any activity as a result of which a prescribed substance may be emitted into the air in any significant quantity unless the Department has given its consent thereto under this section.
- (2) Subsection (1) does not apply to an activity lawfully carried on on the land in question immediately before the commencement of this section.
- (3) Any person intending to carry on an activity referred to in subsection (1) shall apply to the Department in writing, and the application shall contain particulars of –
- (a) the activity and the land on which, and the method by which, it is to be carried on;
  - (b) the prescribed substance which the activity is likely to emit into the air, and the quantity and density in which it is likely to be emitted;
  - (c) the means by which that substance, and any substance containing that substance, are intended to be emitted; and
  - (d) the steps proposed to be taken to reduce or mitigate the effect of the activity on the level of concentration of that substance in the air.
- (4) If it appears to the Department that –

- (a) the application contains sufficient information for the purpose; and
- (b) if the activity is carried on in accordance with the application, the permitted level of any prescribed substance will not be exceeded in the locality of the land in question;

it shall give its consent to the activity, but shall otherwise refuse the application.

- (5) In granting its consent under this section the Department may —
  - (a) attach such conditions to the consent as the Department thinks appropriate to secure that the permitted level of any prescribed substance will not in consequence of the activity be exceeded in the locality of the land in question;
  - (b) limit or qualify the consent to allow for any change in circumstances; and
  - (c) limit the duration of the consent.
- (6) The Department may, on an application in writing by the occupier of the land to which a consent under this section relates, revoke or vary the terms of the consent; and subsections (3), (4) and (5) apply with the necessary modifications to an application under this subsection as they apply to an application for a consent under this section.
- (7) If it appears to the Department that, in consequence of the coming into operation of regulations under section 88(1)(a) since the grant or any previous variation of a consent under this section, the carrying on of the activity permitted by the consent in accordance with the terms thereof will cause the permitted level of any prescribed substance to be exceeded in the locality of the land to which the consent relates, the Department may, after consultation with the occupier of the land —
  - (a) revoke the consent, or
  - (b) vary the terms of the consent so as to secure that the activity will not cause that level to be exceeded.
- (8) In this section “the permitted level”, in relation to a prescribed substance, means the level of concentration of that substance in the air, measured in accordance with regulations under section 88(1)(b), which is permitted by regulations under section 88(1)(a).<sup>153</sup>

## **91 Consent to emission of prescribed substance: supplementary**

- (1) If the Department —
  - (a) refuses an application for a consent under section 90, or for the variation of the terms of a consent under subsection (6) of that section, or
  - (b) attaches any condition to the consent or varies such a condition, or limits or qualifies the consent in any way,

the applicant may, within such time as may be prescribed by rules of court, appeal to the High Court.

- (2) If the Department revokes or varies such a consent under section 90 (7), the occupier of the land in question may, within such time as may be prescribed by rules of court, appeal to the High Court.
- (3) On determining an appeal under this section the High Court may give such directions as appear to it to be appropriate, and the Department shall comply with those directions.
- (4) Any person who carries on any activity in contravention of section 90(1) shall be guilty of an offence.
- (5) Any person who knowingly carries on an activity, or permits an activity to be carried on, in contravention of a condition imposed under section 90(5)(a), (6) or (7) shall be guilty of an offence.
- (6) Where a consent has been given, revoked or varied under section 90 and the activity in question is carried out by a person other than the applicant for the consent or variation, the applicant shall take all reasonable steps to bring the terms of the consent, or the revocation or variation, to the notice of that person; and if he fails to do so he shall be guilty of an offence.
- (7) The Department shall forthwith notify the applicant for a consent, or for the revocation or variation of a consent, under section 90 of its decision on the application, and shall forthwith notify the occupier of the land in question of the revocation or variation of a consent under subsection (7) of that section.
- (8) The Department shall enter in a register particulars of every consent granted under section 90 and the terms thereof, and of every variation or revocation of such a consent, and shall —
  - (a) cause the register to be made available for inspection by the public at its office free of charge at all times when that office is open to the public; and
  - (b) supply a copy of an entry in the register to any person requesting the same, at such reasonable charge as the Department may determine.<sup>154</sup>

### *Supplemental*

## **92 Application to aircraft and vessels**

- (1) Parts I, IIA, VI and VII and this Part (“the relevant provisions”) have effect subject to the modifications in subsections (2) and (3) in relation to—
  - (a) vessels in the Island or lying in the territorial waters adjacent to the Island; and
  - (b) aircraft in the Island or in those waters.

- (2) The relevant provisions shall have effect in relation to a vessel as if—
  - (a) the vessel were a house, building or premises within the district of the local authority in which it is lying, or, if there is no such district, within the district of the local authority that includes the point on land nearest to the spot where it is lying; and
  - (b) the master or other officer or person in charge, of the vessel were the occupier.
- (3) Subsection (2) shall have effect in relation to an aircraft as if —
  - (a) a reference to a vessel were to an aircraft; and
  - (b) a reference to the master of the vessel were to the commander of the aircraft.
- (4) Nothing in this section applies to —
  - (a) any vessel or aircraft in the service of Her Majesty or under the command or charge of an officer holding Her Majesty’s commission; or
  - (b) any vessel or aircraft belonging to a foreign government.<sup>155</sup>

## PART VI — INVESTIGATIVE POWERS<sup>156</sup>

### 92A Public health inspection

- (1) In this Part, a “**public health inspection**” means an inspection to determine whether a contravention of this Act (or any public document made under it) has occurred.
- (2) A public health inspection may be carried out by an authorised officer.
- (3) If an authorised officer considers it necessary for the purpose of, or in connection with, a public health inspection, the officer may, subject to section 92E(1), exercise —
  - (a) the powers relating to entry to premises mentioned in section 92B;
  - (b) the other investigative powers mentioned in section 92C; and
  - (c) the power to ask questions mentioned in section 92D.<sup>157</sup>

### 92B Powers relating to entry to premises

- (1) The powers referred to in section 92A(3)(a) are —
  - (a) subject to section 92E, to enter at any reasonable time any premises which the authorised officer has reason to believe it is necessary to enter;
  - (b) on entering any premises by virtue of paragraph (a), to take —

- (i) any other person authorised by the officer and, if the officer has reasonable cause to expect any serious obstruction in obtaining access, a constable; and
  - (ii) any equipment or materials required for any purpose for which the power of entry is being exercised;
- (c) as regards any premises which the officer may enter by virtue of paragraph (a), to direct that —
  - (i) those premises (or any part of them) are; or
  - (ii) any thing in or on them is,to be left undisturbed (whether generally or in particular respects) for so long as the officer considers appropriate.
- (2) An officer who enters any unoccupied premises in the exercise of a power conferred by virtue of subsection (1)(a) must leave the premises as effectively secured against unauthorised entry as the officer found them.<sup>158</sup>

### 92C Other investigative powers

- (1) The investigative powers referred to in section 92A(3)(b) are —
  - (a) to take such measurements and photographs and make such recordings as the officer considers necessary for the purpose of the public health inspection;
  - (b) to obtain and to take samples (or cause samples to be taken) of —
    - (i) any articles or substances found in or on any premises which the officer has power under section 92B to enter; and
    - (ii) the air, water or land in, on, or in the vicinity of, the premises;
  - (c) in the case of any article or substance found in or on any premises which the officer has power to enter, being an article or substance which appears to the officer to be the cause of the contravention, to cause it to be dismantled or subjected to any process or test (but not so as to damage or destroy it, unless that is necessary);
  - (d) in the case of any article or substance referred to in paragraph (c), to take possession of it and detain it for so long as is necessary for all or any of the following purposes—
    - (i) to examine it (or cause it to be examined) and to do (or cause to be done) to it anything which the officer has power to do under that paragraph;
    - (ii) to ensure that it is not tampered with before examination of it is completed;
    - (iii) to ensure that it is available for use as evidence in any proceedings for an offence under any enactment or rule of law;



- (e) to —
- (i) require the production of (or, where the information is recorded electronically, the furnishing of extracts from) any records that the officer needs to see for the purposes of the inspection; and
  - (ii) examine and take copies of, or of any entry in, the records;
- (f) to make such examination and investigation as may in the circumstances be necessary.
- (2) If an authorised officer proposes to exercise the power conferred by subsection (1)(c), the officer must, if so requested by a person who at the time is present on the premises and has responsibilities in relation to those premises, cause anything which is done by virtue of that power to be done in the presence of that person.
- (3) Before exercising the power conferred by subsection (1)(c), an authorised officer must consult —
- (a) such persons having duties on the premises where the article or substance is to be dismantled or subjected to the process or test; and
  - (b) such other persons,
- as appear to the officer to be appropriate for the purpose of ascertaining what dangers, if any, there may be in doing anything which the officer proposes to do (or cause to be done) under the power.
- (4) The information that a person may be required to provide under subsection (1)(e) includes information which, although it is not in the possession of that person or would not otherwise come into the possession of that person, is information which it is reasonable to require that person to obtain for the purposes of complying with the requirement.
- (5) Nothing in this section compels the production by any person of a privileged document.
- (6) A document is privileged if a person would be entitled to refuse to produce it on grounds of legal professional privilege in proceedings in the High Court.<sup>159</sup>

## 92D Power to ask questions

- (1) The power referred to in section 92A(3)(c) is to require any person whom the authorised officer has reasonable cause to believe has any information relevant to the public health inspection to answer such questions as the officer considers it appropriate to ask.
- (2) A person required to answer questions under subsection (1) may nominate one other person to be present during questioning.
- (3) When a person answers questions under subsection (1), the only other persons who may be present (apart from the authorised officer) are —

- (a) the person (if any) nominated under subsection (2); and
  - (b) any person authorised by the authorised officer to be present.
- (4) No answer given by a person in pursuance of a requirement imposed under subsection (1) is admissible in evidence against the person in any criminal proceedings.<sup>160</sup>

### 92E Supplementary

- (1) An authorised officer entitled to exercise a power under section 92B, 92C or 92D must, if requested to do so, produce a document showing that officer's authority.
- (2) An authorised officer may require any person to provide the officer with such facilities and assistance with respect to any matters or things —
  - (a) within that person's control; or
  - (b) in relation to which that person has responsibilities,as are necessary to enable the officer to exercise any of the powers conferred by sections 92B, 92C and 92D.
- (3) The Department may, by regulations, confer on authorised officers such powers as it considers necessary for the purposes of public health inspections.
- (4) Regulations under subsection (3) may modify any enactment (including this Act) for the purposes of the regulations.
- (5) The powers conferred by this Part are not limited by any other powers conferred on an authorised officer by —
  - (a) this Act or any other enactment; or
  - (b) any rule of law.<sup>161</sup>

### 92F Entry to dwellinghouses

- (1) If an authorised officer proposes, in the exercise of a power conferred by section 92B, to enter a dwellinghouse, the conditions set out in subsections (2) and (3) must be satisfied.
- (2) The first condition is that the officer has given 24 hours' notice of the proposed entry to a person who appears to be the occupier of the dwellinghouse.
- (3) The second condition is that —
  - (a) the person who appears to be the occupier of the dwellinghouse has consented; or
  - (b) entry is effected under the authority of a warrant issued in accordance with section 92G.

- (4) In this Part, “**dwellinghouse**” means any premises or part of premises which are wholly or mainly occupied as a person’s dwelling.<sup>162</sup>

### 92G Inspection warrants

- (1) This section applies if —
- (a) an authorised officer entitled to enter premises under section 92B —
    - (i) has been refused entry; or
    - (ii) reasonably anticipates entry being refused;
  - (b) premises which an authorised officer is entitled to enter are unoccupied;
  - (c) the occupier of such premises is temporarily absent and there is urgency;
  - (d) an authorised officer entitled to exercise a power under section 92C or 92D —
    - (i) has been prevented from exercising that power; or
    - (ii) reasonably anticipates being prevented from doing so; or
  - (e) an application for admission to the premises would defeat the object of the public health inspection.
- (2) If this section applies a justice may, on the application of the authorised officer, by warrant authorise the officer —
- (a) to enter the premises;
  - (b) on entering premises by virtue of paragraph (a), to take —
    - (i) any other person authorised by the officer and, if the officer has reasonable cause to expect any serious obstruction in obtaining access, a constable; and
    - (ii) any equipment or materials required for any purpose for which the power of entry is being exercised;
  - (c) to direct that —
    - (i) those premises (or any part of them); or
    - (ii) any thing in or on them,must be left undisturbed (whether generally or in particular respects) for so long as the officer considers appropriate;
  - (d) to exercise any power mentioned in sections 92B to 92D.
- (3) The justice must not, under subsection (2), grant a warrant in relation to a dwellinghouse unless the justice is satisfied that —
- (a) the notice required by section 92F(2) has been given; and
  - (b) the period of notice has expired.
- (4) The power of entry in this section —

- (a) may be exercised at any time; and
  - (b) includes power to use reasonable force.
- (5) If the authorised officer enters premises by virtue of this section, section 92A(2) applies.
- (6) A warrant under this section continues in force until the purpose for which it is issued is fulfilled.<sup>163</sup>

## 92H Public health inspection offences

- (1) A person commits an offence if the person, without reasonable excuse —
- (a) fails to comply with a requirement imposed under section 92B, 92C, 92D or 92E;
  - (b) intentionally obstructs an investigator in the exercise of powers under those sections;
  - (c) fails or refuses to —
    - (i) provide facilities or assistance;
    - (ii) provide information; or
    - (iii) permit inspection,where it is reasonably required by an investigator exercising powers under those sections;
  - (d) prevents any other person from —
    - (i) appearing before an authorised officer; or
    - (ii) answering a question to which an authorised officer may require an answer pursuant to section 92D(1);
  - (e) in purported compliance with a requirement imposed under section 92D(1)—
    - (i) makes a statement which the person knows to be false or misleading in a material particular;
    - (ii) recklessly makes a statement which is false or misleading in a material particular; or
    - (iii) intentionally fails to disclose any material particular;
  - (f) causes or permits another person to commit an offence under paragraphs (a) to (e).
- (2) In proceedings for an offence under subsection (1), it is a defence for a person to prove that the person exercised all due diligence and took all reasonable steps to avoid committing the offence.
- (3) If the commission by a person of an offence under subsection (1) is due to the act or omission of another person, that other person may be charged with and convicted of the offence whether or not proceedings for the offence are taken against the first person.<sup>164</sup>

## PART VII – CLOSING PROVISIONS<sup>165</sup>

### 93 Offences

- (1) Schedule 4 shall have effect with respect to the prosecution and punishment of offences under this Act or regulations made thereunder; and in that Schedule –
  - (a) column 1 shows the provision by or under which the offence is created;
  - (b) column 2 shows the general nature of the offence;
  - (c) column 3 shows whether the offence is punishable on summary conviction or on information or either way; and
  - (d) column 4 shows the maximum punishment by way of fine or imprisonment that may be imposed on a person convicted of the offence in the way specified in column 3, a reference in column 4 to a period being construed as a reference to a term of imprisonment of that duration.
- (2) Section 63 (offences by corporations) of the *Local Government Act 1985* applies to every offence under this Act, whether or not the enactment creating the offence is one specified in that section.

### 94 Subordinate legislation

- (1) Subject to subsection (1A), the Department may by regulations prescribe any matter which by this Act is to be prescribed.<sup>166</sup>
- (1A) The Department of Infrastructure may by regulations prescribe any matter which by this Act is to be prescribed by it.<sup>167</sup>
- (2) Regulations may provide that any person contravening the regulations shall be guilty of an offence; but this subsection is without prejudice to any express provision of this Act enabling regulations to prescribe a penalty for contravention thereof.
- (3) Orders, rules and regulations made by the Department or the Department of Infrastructure under this Act shall not have effect unless they are approved by Tynwald.<sup>168</sup>

### 95 Interpretation: general

In this Act –

“**adult care home**” means an adult care home under the *Regulation of Care Act 2013*;<sup>169</sup>

“**authorised officer**”, in relation to the Department, the Department of Infrastructure or a local authority, means (subject to section 2(3) of the *Local Government Act 1985*) an officer of that Department or authority duly

authorised by it in writing either generally or specially to act in any matter specified or in matters of any specified kind; but the director of public health nominated by the Cabinet Office under section 1(1) of the Local Government Act 1985, or an environmental health officer of the Department shall be deemed to be an authorised officer of that Department and of any local authority for any purpose of this Act;<sup>170</sup>

“**the Department**” means the Department of Environment, Food and Agriculture;<sup>171</sup>

“**district**”, in relation to a joint board, means the area of the board;

“**doctor**” means a registered medical practitioner;

“**factory**” has the same meaning as in the *Factories and Workshops Act 1909*;

“**the Health Department**” [Repealed]<sup>172</sup>

“**independent hospital**” means an independent hospital under the *Regulation of Care Act 2013*;<sup>173</sup>

“**justice**” means a justice of the peace;

“**mine**” has the same meaning as in the *Mines and Quarries Regulation Act 1950*;

“**moveable dwelling**” means any tent, caravan, van or other conveyance (whether or not on wheels, and whether or not capable of being used on roads), and any shed or similar structure, which is used either regularly or intermittently for human habitation, but does not include a building or other structure to which building regulations apply;<sup>174</sup>

“**notice**” means a notice in writing;

“**prescribed**” means prescribed by regulations;

“**prescribed substance**” means a substance designated by regulations under section 88(1);

“**quarry**” has the same meaning as in the *Mines and Quarries Regulation Act 1950*;

“**regulations**” means regulations made by the Department or, where so specified, the Cabinet Office (see section 51S(3A)) or the Department of Infrastructure;<sup>175</sup>

“**vermin**”, in relation to insects and parasites, includes their eggs, larvae and pupae, and “**verminous**” shall be construed accordingly;

“**vessel**” has the same meaning as in the Merchant Shipping Act 1894 (an Act of Parliament), except that it includes a hovercraft within the meaning of the Hovercraft Act 1968 (an Act of Parliament), and “**master**” shall be construed accordingly;

“**workplace**” means any place (except a factory) in which persons are employed otherwise than in domestic service;

“**workshop**” has the same meaning as in the *Factories and Workshops Act 1909*.

**96 Transitional provisions and repeals**

- (1) The transitional and saving provisions contained in Schedule 5 shall have effect.
- (2) The enactments specified in Schedule 6 are repealed to the extent specified in column 3 of that Schedule.

**97 Application of provisions of 1985 Act**

- (1) Section 5 (default powers) of the *Local Government Act 1985* (“the 1985 Act”) applies to functions conferred on local authorities by this Act.<sup>176</sup>
- (2) [Repealed]<sup>177</sup>
- (3) Sections 38 to 41, 46 to 49 and 57 to 62 of the 1985 Act have effect in relation to functions of the Department or the Department of Infrastructure under this Act (as the context requires) as if for references therein to a local authority there were substituted references to the Department or the Department of Infrastructure (as the context requires).<sup>178</sup>
- (3A) to (3D) [Repealed]<sup>179</sup>
- (4) Section 58 (appeals etc.) of the 1985 Act does not apply to a notice under Part I (except a notice under section 12).<sup>180</sup>
- (5) Section 73 (interpretation) of the 1985 Act applies to this Act.<sup>181</sup>

**98 Short title and commencement**

- (1) This Act may be cited as the Public Health Act 1990.
- (2) This Act, except the provisions mentioned in subsection (3), shall come into operation on the expiration of 3 months beginning with the date on which it is passed.
- (3) Sections 88 to 91 shall come into operation on such day as the Department may by order appoint.





**SCHEDULE 1****OFFENSIVE TRADES**

Section 15(6)(a)

Blood boiler.  
 Bone boiler.  
 Bone crusher.  
 Fellmonger.  
 Soap boiler.  
 Tallow melter.  
 Tripe boiler.

**SCHEDULE 2<sup>182</sup>****SCHEDULE 3****SMOKE CONTROL**

Section 87

*Smoke control areas*

1. (1) The Department may by order declare any area to be a smoke control area.
- (2) An order under this paragraph may —
  - (a) make different provision for different parts of the smoke control area;<sup>183</sup>
  - (b) limit the operation of this paragraph to specified classes of building in the area;
  - (c) exempt specified buildings or classes of building or specified fireplaces or classes of fireplace in the area from the operation of this Schedule, subject to such conditions as may be specified in the order.

*Procedure for orders under paragraph 1*

2. (1) Before making an order under paragraph 1 the Department shall publish once at least in 2 successive weeks in one or more newspapers published and circulating in the Island a notice —
  - (a) stating that the Department proposes to make the order and its general effect;
  - (b) specifying a place where a draft of the order and of any map or plan referred to in it may be inspected by any person free of charge at all

reasonable times during a period of not less than 6 weeks from the date of the first publication of the notice; and

- (c) stating that within that period any person who will be affected by the order may by notice in writing to the Department object to the making of the order.

(2) The Department shall also post, and keep posted throughout the said period, copies of the notice in such conspicuous places within the area to which the order will relate as appear to it necessary for the purpose of bringing the proposal to make the order to the notice of persons who will be affected.

(3) If an objection is duly made to the Department within the said period and is not withdrawn, the Department shall not make the order without first considering the objection.

(4) An order under paragraph 1 (other than an order varying a previous order so as to exempt specified buildings or classes of building or specified fireplaces or classes of fireplace from the operation of this Schedule) shall not come into operation earlier than 6 months after the date on which it is approved by Tynwald.

#### *Emission of smoke in a smoke control area*

3. (1) Subject to any exemptions and limitations for the time being in force under this Schedule, if smoke is emitted from a chimney of any building within a smoke control area, the occupier of the building shall be guilty of an offence.

(2) In proceedings for an offence under this paragraph it shall be a defence to prove that the emission of smoke was not caused by the use of any fuel other than an authorised fuel.

(3) If in the opinion of an authorised officer of a local authority an offence is being committed under this paragraph, he shall, unless he has reason to believe that such notification has already been given, as soon as may be notify the occupier of the premises and, if his notification is not in writing, shall before the end of 3 days next following the day on which he became aware of the offence, confirm the notification in writing.

(4) In proceedings for an offence under this paragraph it shall be a defence to prove that sub-paragraph (3) has not been complied with in the case of the offence, and if no such notification as is required by that sub-paragraph has been given before the end of 3 days next following the day of the offence, it shall be presumed that that sub-paragraph has not been complied with unless the contrary is proved.

#### *Exemption of fireplaces*

4. The Department may by order exempt any class of fireplace from the operation of this Schedule, subject to such conditions as may be specified in the order, if it is satisfied that such fireplaces can be used for burning fuel other than authorised fuels without producing any smoke or a substantial quantity of smoke.

*Adaptation of fireplaces*

5. (1) If after the making of an order under paragraph 1 the owner or occupier, or any person interested in, any private dwelling which is or will be within a smoke control area as a result of the order, not being a new dwelling, incurs expenditure on necessary adaptations, the Department shall repay to him such fraction of that expenditure as may be prescribed, and may if it thinks fit repay to him the whole or any part of the rest of that expenditure.

(2) Sub-paragraph (1) does not apply to any expenditure unless either —

- (a) it is incurred before the coming into operation of the order and with the approval of the Department given for the purposes of this sub-paragraph, or
- (b) it is reasonably incurred in carrying out adaptations required by a notice under sub-paragraph (3),

and the adaptations in question are carried out to the satisfaction of the Department.

(3) The Department may, by notice in writing served on the owner or occupier of a private dwelling which is, or when an order under paragraph 1 comes into force will be, within a smoke control area, require the carrying out of necessary adaptations.

(4) Section 58(7)(b) (recovery of expenses) of the *Local Government Act 1985* applies to works required by a notice under sub-paragraph (3) with the modification that the reference to the expenses reasonably incurred in executing the works shall be construed as a reference to those expenses, less the fraction thereof prescribed for the purpose of sub-paragraph (1).

*Acquisition and sale of unauthorized fuel*

6. (1) Any person who —

- (a) acquires any solid fuel, other than an authorised fuel, for use in a building in a smoke control area, otherwise than in a building or fireplace exempted from operation of this Schedule; or
- (b) sells by retail any solid fuel, other than an authorised fuel, for delivery by him or on his behalf to a building in a smoke control area,

shall be guilty of an offence.

(2) Sub-paragraph (1) has effect, in its application to a smoke control area in which the operation of this Schedule is limited by an order under paragraph 1 to specified classes of buildings, as if references to a building were references to a building of a class specified in the order.

(3) In proceedings for an offence under this paragraph consisting of the sale of fuel for delivery to a building it shall be a defence for the accused to prove that he reasonably believed —

- (a) that the building was exempted from the operation of this Schedule or, in a case where the operation of this Schedule is limited to specified classes of building, was not of a specified class; or
- (b) that the fuel was acquired for use in a fireplace so exempted.

*Suspension of smoke control*

7. (1) If at any time it appears to the Department necessary or expedient to do so, it may direct that the operation of this Schedule shall be suspended or relaxed in relation to the whole or any part of a smoke control area for such period as may be specified in the direction.

(2) As soon as practicable after the making of a direction under this paragraph or the revocation or variation of such a direction, the Department shall take such steps as appear to it suitable for bringing the effect of the direction to the notice of persons affected.

*Interpretation*

8. (1) In this Schedule —

“**authorised fuel**” means such fuel as may be prescribed for the purposes of this Schedule;

“**conditional sale agreement**” and “**hire-purchase agreement**” have the same meanings as in the Hire-Purchase Acts 1939 to 1973;

“**fireplace**” includes any furnace, grate or stove, whether open or closed;

“**heating**” includes the heating of water;

“**necessary adaptations**”, in relation to a dwelling, means (subject to subparagraph (2)) any of the following works (whether inside or outside the dwelling) —

- (a) adapting or converting any fireplace;
- (b) replacing any fireplace by another fireplace or by some means of heating or cooking;
- (c) altering any chimney which serves any fireplace;
- (d) providing gas ignition, electric ignition or any other special means of ignition; or
- (e) carrying out any operation incidental to any of those operations;

being works which are reasonably necessary in order to make what is in all the circumstances suitable provision for heating and cooking without contravention of paragraph 3;

“**occupier**”, in relation to a building different parts of which are occupied by different persons, means the occupier or other person in control of the part of the building in which the relevant fireplace is situated;

“**private dwelling**” means a building or part of a building used or intended to be used as such, and includes a dwelling notwithstanding that the person who resides or is to reside there is or is to be required to do so in consequence of his employment or of holding an office.

(2) Works which make suitable provision for heating and cooking without contravention of paragraph 3 shall not be treated as falling outside the definition of “necessary adaptations” by reason only that they go beyond what is reasonably necessary for that purpose, but any expenditure incurred in executing them in excess of the expenditure which would have been reasonably incurred in doing what was reasonably necessary shall be left out of account.

(3) In considering for the purposes of this Schedule whether any, and if so what, works are reasonably necessary in order to make suitable provision for heating and cooking without contravention of paragraph 3, regard shall be had to any difficulty there may be in obtaining, or in obtaining otherwise than at a high price, any fuel which would have to be used but for execution of the works.

(4) For the purposes of this Schedule expenditure incurred in the execution of works includes the cost of any fixed cooking or heating appliance installed by means of the execution of the works, notwithstanding that the appliance can be readily removed from the dwelling without injury to itself or the fabric of the dwelling.

(5) For the purposes of this Schedule a person who enters into a conditional sale agreement for the sale to him, or a hire-purchase agreement for the bailment to him, of a cooking or heating appliance shall be treated as having incurred on the date of the agreement expenditure of an amount equal to the price which would have been payable therefor if he had purchased it for cash on that date.

## SCHEDULE 4<sup>184</sup>

### PROSECUTION ETC. OF OFFENCES

#### Section 93(1)

<i>Section</i>	<i>Nature of offence</i>	<i>How triable</i>	<i>Maximum penalty</i>
2(5)	Use of building in breach of prohibition under s 2(3).	Summarily	£5,000
3(6)	Failure to comply with nuisance order.	Summarily	£5,000
12(8)	Contravention of notice as to noise from construction works.	Summarily	£5,000
13(6)	Contravention of condition of consent under s 13.	Summarily	£5,000
13(11)	Failure to notify person carrying out works of consent under s 13.	Summarily	£2,500
14(4)	Use of loudspeaker in breach of s 14(1).	Summarily	£2,500
15(1)	Carrying on or establishing offensive trade without consent.	Summarily	£5,000

51P(1)	Failure to comply with a restriction or a requirement imposed under Part IIA.	Summarily	4 times level 5 on the standard scale <sup>185</sup>
52(3)	Failure to give notice of rats or mice, or to take steps for their destruction.	Summarily	£1,000
53(3)	Failure to comply with notice requiring steps to prevent escape of rats and mice from vessel.	Summarily	£1,000
54(4)	Failure to comply with order for extermination of rats and mice.	Summarily	£2,500
56(2)	Obstruction of person entering land to deal with rats and mice etc.	Summarily	£1,000
57(2)	Depositing controlled waste etc. without a disposal licence.	Summarily	6 months or £5,000 or both.
		On information	2 years or a fine or both.
57(3)	Depositing noxious waste without a disposal licence.	Summarily	6 months or £5,000 or both.
		On information	5 years or a fine or both.
59(5)	Making false statement in application for disposal licence.	Summarily	6 months or £5,000 or both.
		On information	2 years or a fine or both.
62(6)	Failure to comply with requirement to provide information etc., or making false statement, in connection with surrender of disposal licence.	Summarily	£5,000 or 6 months or both
		On information	2 years or a fine or both
66(1)	Failure to comply with notice requiring household waste to be put in dustbins.	Summarily	£1,000
66(8)	Failure to comply with notice requiring provision of bins for commercial or industrial waste.	Summarily	£5,000
71B(4)(a)	Failure to comply with duty of care in relation to controlled waste.	Summarily	£5,000
		On information	A fine
71(4)(b)	Failure to comply with requirement as to documents in relation to controlled waste.	Summarily	£1,000
76(2)	Sorting over tips.	Summarily	£2,500
84(2)	Failure to comply with notice requiring removal of manure from stables etc.	Summarily	£2,500
89(5)	Failure to comply with notice	Summarily	£5,000

	under s 89(2).		
91(4)	Carrying on polluting activity without consent.	On information Summarily	A fine £5,000
91(5)	Contravening conditions of consent to polluting activity.	On information Summarily	A fine £5,000
91(6)	Failure to notify terms of consent to polluting activity.	On information Summarily	A fine £1,000
92H	Failure to comply with a specified requirement in sections 92A to 92G.	Summarily	£2,500
94(2)	Contravention of regulations.	Summarily	£2,500 or such less amount as is prescribed.
Schedule 3 paragraph 3(1)	Emission of smoke in smoke control area.	Summarily	£2,500
Schedule 3 paragraph 6(1)	Acquisition or sale of unauthorised fuel.	Summarily	£2,500

## SCHEDULE 5

### TRANSITIONAL PROVISIONS AND SAVINGS

#### Section 96(1)

#### *Offensive trades*

1. Any consent or authority given by a local authority or the High Court under section 120 of the *Local Government Consolidation Act 1916* to or for the establishment of an offensive trade on any premises shall be treated as having been given by the Department under section 15(1).

#### *Control of disease*

2. (1) Where immediately before the commencement of Part II any sum is due from a local authority to any person under —

- (a) section 24(2) (payment to principal of school for list of pupils);
- (b) section 25(4) (payment to library of value of book destroyed); or
- (c) section 27 (compensation for cleaning etc. of filthy articles);

of the *Local Government Amendment Act 1922* but has not been paid, the said sum shall be paid by the local authority notwithstanding the repeal of the relevant section.

(2) The Local Government (Infectious Diseases) Regulations 1955 shall be deemed to have been made under section 17, and may be amended or revoked accordingly.

*Refuse disposal*

3. (1) A licence granted by the Department or a local authority under section 2 of the *Local Government (Refuse) Act 1957* and in force immediately before the commencement of Part IV shall be treated for the purposes of that Part as a disposal licence issued by the Department under section 59.

(2) [Repealed]<sup>186</sup>

*Litter*

4. Section 78 does not apply in relation to an offence committed before the commencement of that section.

**SCHEDULE 6****ENACTMENTS REPEALED**

Section 96(2)

**PART I – REPEALS CONSEQUENTIAL ON PART I**

[Part I repeals the following Acts in part –

Local Government Consolidation Act 1916  
 Local Government (Amendment) Act 1945  
 Local Government (Miscellaneous Provisions) Act 1976  
 Fines Act 1986.]

**PART II – REPEALS CONSEQUENTIAL ON PART II**

[Part II repeals the following Acts in part –

Local Government Consolidation Act 1916  
 Local Government Amendment Act 1922  
 Local Government Amendment Act 1929  
 Local Government (Amendment) Act 1945  
 Food and Drugs Act 1963  
 Local Government Act 1963  
 Fees, Charges Etc. Enabling Act 1972  
 Local Government (Miscellaneous Provisions) Act 1976  
 Medical Act 1985  
 Treasury Act 1985  
 Fines Act 1986  
 Health and Social Security Act 1986.]



**PART III – REPEALS CONSEQUENTIAL ON PART III**

[Part III repeals the following Acts wholly –

Local Government (Extermination of Rats) Act 1917

Local Government (Extermination of Rats and Mice) Act 1928

Local Government (Extermination of Rats) Act 1938

and the following Acts in part –

Local Government Act 1963

Local Government (Miscellaneous Provisions) Act 1976

Fines Act 1986.]

**PART IV – REPEALS CONSEQUENTIAL ON PART IV**

[Part IV repeals the following Acts wholly –

Local Government (Removal of Refuse) Act 1937

Local Government (Refuse) Act 1957

and the following Acts in part –

Local Government Consolidation Act 1916

Local Government Amendment Act 1929

Litter Act 1972

Local Government (Miscellaneous Provisions) Act 1976

Statute Law Revision Act 1982

Local Government (Miscellaneous Provisions) Act 1984

Fines Act 1986.]

**PART V – REPEALS CONSEQUENTIAL ON PART V**

[Part V amends the following Acts in part –

Local Government Consolidation Act 1916

Local Government Act 1963

Local Government (Miscellaneous Provisions) Act 1976

Fines Act 1986.]



## ENDNOTES

### Table of Endnote References

---

- <sup>1</sup> Subs (2) amended by Building Control Act 1991 Sch 4.
- <sup>2</sup> Part II repealed by Public Health (Amendment) Act 2014 s 5.
- <sup>3</sup> Ss 17 to 51 repealed by Public Health (Amendment) Act 2014 s 5.
- <sup>4</sup> Part IIA inserted by Public Health (Amendment) Act 2014 s 6.
- <sup>5</sup> S 51A inserted by Public Health (Amendment) Act 2014 s 6.
- <sup>6</sup> Subs (1) amended by SD2020/0066 and by Courts, Tribunals and Local Authority Procedures, and Miscellaneous Provisions Act 2020 s 28.
- <sup>7</sup> S 51B inserted by Public Health (Amendment) Act 2014 s 6.
- <sup>8</sup> Subs (1) amended by SD2020/0066 and by Courts, Tribunals and Local Authority Procedures, and Miscellaneous Provisions Act 2020 s 28.
- <sup>9</sup> S 51C inserted by Public Health (Amendment) Act 2014 s 6.
- <sup>10</sup> Subs (1) amended by SD2020/0066 and by Courts, Tribunals and Local Authority Procedures, and Miscellaneous Provisions Act 2020 s 28.
- <sup>11</sup> S 51D inserted by Public Health (Amendment) Act 2014 s 6.
- <sup>12</sup> S 51E inserted by Public Health (Amendment) Act 2014 s 6.
- <sup>13</sup> Para (i) inserted by Courts, Tribunals and Local Authority Procedures, and Miscellaneous Provisions Act 2020 s 28.
- <sup>14</sup> Para (a) amended by Interpretation Act 2015 s 55.
- <sup>15</sup> Para (c) inserted by Courts, Tribunals and Local Authority Procedures, and Miscellaneous Provisions Act 2020 s 28.
- <sup>16</sup> S 51F inserted by Public Health (Amendment) Act 2014 s 6.
- <sup>17</sup> Subs (7) amended by SD2020/0066 and by Courts, Tribunals and Local Authority Procedures, and Miscellaneous Provisions Act 2020 s 28.
- <sup>18</sup> S 51G inserted by Public Health (Amendment) Act 2014 s 6.
- <sup>19</sup> Subs (6) amended by SD2020/0066 and by Courts, Tribunals and Local Authority Procedures, and Miscellaneous Provisions Act 2020 s 28.
- <sup>20</sup> S 51H inserted by Public Health (Amendment) Act 2014 s 6.
- <sup>21</sup> Subs (6) amended by Courts, Tribunals and Local Authority Procedures, and Miscellaneous Provisions Act 2020 s 28.
- <sup>22</sup> S 51I inserted by Public Health (Amendment) Act 2014 s 6.
- <sup>23</sup> S 51J inserted by Public Health (Amendment) Act 2014 s 6.
- <sup>24</sup> S 51K inserted by Public Health (Amendment) Act 2014 s 6.
- <sup>25</sup> Subs (3) amended by SD2020/0066 and by Courts, Tribunals and Local Authority Procedures, and Miscellaneous Provisions Act 2020 s 28.
- <sup>26</sup> Subs (4) amended by SD2020/0066 and by Courts, Tribunals and Local Authority Procedures, and Miscellaneous Provisions Act 2020 s 28.
- <sup>27</sup> S 51L inserted by Public Health (Amendment) Act 2014 s 6.

- 
- <sup>28</sup> Subs (2) amended by SD2020/0066 and by Courts, Tribunals and Local Authority Procedures, and Miscellaneous Provisions Act 2020 s 28.
- <sup>29</sup> Subs (10) amended by SD2020/0066 and by Courts, Tribunals and Local Authority Procedures, and Miscellaneous Provisions Act 2020 s 28.
- <sup>30</sup> S 51M inserted by Public Health (Amendment) Act 2014 s 6.
- <sup>31</sup> Subs (1) amended by SD2020/0066 and by Courts, Tribunals and Local Authority Procedures, and Miscellaneous Provisions Act 2020 s 28.
- <sup>32</sup> S 51N inserted by Public Health (Amendment) Act 2014 s 6.
- <sup>33</sup> Para (b) amended by SD2020/0066 and by Courts, Tribunals and Local Authority Procedures, and Miscellaneous Provisions Act 2020 s 28.
- <sup>34</sup> Para (c) amended by SD2020/0066 and by Courts, Tribunals and Local Authority Procedures, and Miscellaneous Provisions Act 2020 s 28.
- <sup>35</sup> Para (d) amended by SD2020/0066 and by Courts, Tribunals and Local Authority Procedures, and Miscellaneous Provisions Act 2020 s 28.
- <sup>36</sup> S 51O inserted by Public Health (Amendment) Act 2014 s 6.
- <sup>37</sup> S 51P inserted by Public Health (Amendment) Act 2014 s 6.
- <sup>38</sup> S 51PA inserted by SD2020/0066 and by Courts, Tribunals and Local Authority Procedures, and Miscellaneous Provisions Act 2020 s 28.
- <sup>39</sup> Subs (1) amended by SD2020/0066 and by Courts, Tribunals and Local Authority Procedures, and Miscellaneous Provisions Act 2020 s 28.
- <sup>40</sup> Subs (5) substituted by Courts, Tribunals and Local Authority Procedures, and Miscellaneous Provisions Act 2020 s 28.
- <sup>41</sup> Subs (5A) inserted by Courts, Tribunals and Local Authority Procedures, and Miscellaneous Provisions Act 2020 s 28.
- <sup>42</sup> Subs (5B) inserted by Courts, Tribunals and Local Authority Procedures, and Miscellaneous Provisions Act 2020 s 28.
- <sup>43</sup> Subs (5C) inserted by Courts, Tribunals and Local Authority Procedures, and Miscellaneous Provisions Act 2020 s 28.
- <sup>44</sup> S 51Q inserted by Public Health (Amendment) Act 2014 s 6.
- <sup>45</sup> S 51R inserted by Public Health (Amendment) Act 2014 s 6.
- <sup>46</sup> Subs (3A) inserted by SD2020/0066.
- <sup>47</sup> S 51S inserted by Public Health (Amendment) Act 2014 s 6.
- <sup>48</sup> Subs (2) amended by Town and Country Planning Act 1999 Sch 9.
- <sup>49</sup> Para (a) amended by SD155/10 Schs 3 and 11.
- <sup>50</sup> Para (h) substituted by Public Health (Amendment) Act 2000 s 1.
- <sup>51</sup> Subs (5A) inserted by Public Health (Amendment) Act 2000 s 2.
- <sup>52</sup> Subs (5B) inserted by Public Health (Amendment) Act 2000 s 2.
- <sup>53</sup> Subs (6) amended by Public Health (Amendment) Act 2000 s 2.
- <sup>54</sup> Subs (3) substituted by Public Health (Amendment) Act 2000 s 3.
- <sup>55</sup> Subs (4) added by Public Health (Amendment) Act 2000 s 3.
- <sup>56</sup> Subs (5) added by Public Health (Amendment) Act 2000 s 3.
- <sup>57</sup> Subs (6) added by Public Health (Amendment) Act 2000 s 3.
- <sup>58</sup> S 62A inserted by Public Health (Amendment) Act 2000 s 2.

- 
- <sup>59</sup> Subs (5) added by Public Health (Amendment) Act 2000 s 1.
- <sup>60</sup> Para (a) amended by SD155/10 Sch 5.
- <sup>61</sup> Subs (1) amended by SD155/10 Sch 5.
- <sup>62</sup> Subs (2) amended by SD155/10 Sch 5.
- <sup>63</sup> Para (b) amended by SD155/10 Schs 3 and 11.
- <sup>64</sup> Subs (3) amended by SD155/10 Sch 5. Para (d) amended by SD155/10 Sch 5.
- <sup>65</sup> Subs (7) amended by SD155/10 Sch 5.
- <sup>66</sup> Para (c) amended by SD155/10 Sch 5.
- <sup>67</sup> Subs (3) amended by SD155/10 Sch 5.
- <sup>68</sup> Subs (4) amended by SD155/10 Sch 5.
- <sup>69</sup> Subs (5) amended by SD155/10 Sch 5.
- <sup>70</sup> Subs (6) amended by SD155/10 Sch 5.
- <sup>71</sup> Subs (7) amended by SD155/10 Sch 5.
- <sup>72</sup> Subs (8) amended by SD155/10 Sch 5.
- <sup>73</sup> S 65 substituted by Public Health (Amendment) Act 2000 s 4. Subs (9) amended by SD155/10 Sch 5.
- <sup>74</sup> Subs (1) amended by Public Health (Amendment) Act 2000 Sch.
- <sup>75</sup> Subs (2) amended by Public Health (Amendment) Act 2000 Sch.
- <sup>76</sup> Subs (3) repealed by Public Health (Amendment) Act 2000 Sch.
- <sup>77</sup> Para (b) substituted by Public Health (Amendment) Act 2000 Sch.
- <sup>78</sup> Subs (7) substituted by Public Health (Amendment) Act 2000 Sch and amended by SD155/10 Sch 5.
- <sup>79</sup> Subs (8) amended by SD155/10 Sch 5.
- <sup>80</sup> Para (c) amended by SD486/94 and by SD155/10 Schs 3, 5 and 11.
- <sup>81</sup> Subs (9) amended by SD155/10 Sch 5.
- <sup>82</sup> Subs (10) amended by SD155/10 Sch 5.
- <sup>83</sup> Subs (1) amended by Public Health (Amendment) Act 2000 s 7 and by SD155/10 Sch 5.
- <sup>84</sup> Subs (1A) inserted by Public Health (Amendment) Act 2000 Sch and amended by SD155/10 Sch 5.
- <sup>85</sup> Subs (1B) inserted by Public Health (Amendment) Act 2000 Sch and amended by SD155/10 Sch 5.
- <sup>86</sup> Subs (2) amended by SD155/10 Sch 5.
- <sup>87</sup> Para (a) amended by SD155/10 Sch 5.
- <sup>88</sup> Subs (3) amended by SD155/10 Sch 5.
- <sup>89</sup> Para (a) amended by Public Health (Amendment) Act 2000 s 6 and by SD155/10 Sch 5.
- <sup>90</sup> Para (b) repealed by Public Health (Amendment) Act 2000 s 6.
- <sup>91</sup> Subs (4) amended by SD155/10 Sch 5. Para (c) amended by SD155/10 Sch 5.
- <sup>92</sup> Subs (5) amended by SD155/10 Sch 5.
- <sup>93</sup> Subs (6) substituted by Public Health (Amendment) Act 2000 s 6 and amended by SD155/10 Sch 5.
- <sup>94</sup> Subs (1) amended by SD155/10 Sch 5.

- 
- <sup>95</sup> Subs (2) amended by SD155/10 Sch 5.
- <sup>96</sup> Subs (3) amended by Public Health (Amendment) Act 2000 s 6 and by SD155/10 Sch 5.
- <sup>97</sup> Para (c) amended by SD155/10 Sch 5.
- <sup>98</sup> Subs (1) substituted by Public Health (Amendment) Act 2000 s 4.
- <sup>99</sup> Subs (2) amended by SD155/10 Sch 5.
- <sup>100</sup> Subs (3) amended by SD155/10 Sch 5.
- <sup>101</sup> Subs (4) amended by SD155/10 Sch 5.
- <sup>102</sup> Subs (5) amended by SD155/10 Sch 5.
- <sup>103</sup> Para (a) amended by SD155/10 Sch 5.
- <sup>104</sup> Para (c) amended by SD155/10 Sch 5.
- <sup>105</sup> Subs (1) amended by Public Health (Amendment) Act 2000 s 8.
- <sup>106</sup> Para (a) amended by Public Health (Amendment) Act 2000 s 8.
- <sup>107</sup> Para (b) amended by Public Health (Amendment) Act 2000 s 8.
- <sup>108</sup> Para (d) amended by Public Health (Amendment) Act 2000 s 8.
- <sup>109</sup> Para (g) amended by Public Health (Amendment) Act 2000 s 8.
- <sup>110</sup> Para (i) amended by Public Health (Amendment) Act 2000 s 8.
- <sup>111</sup> Para (j) amended by Public Health (Amendment) Act 2000 s 8.
- <sup>112</sup> S 71A inserted by Public Health (Amendment) Act 1995 s 1. Subs (3) added by Public Health (Amendment) Act 2000 s 8.
- <sup>113</sup> S 71B inserted by Public Health (Amendment) Act 2000 s 5.
- <sup>114</sup> S 72 amended by SD155/10 Sch 5.
- <sup>115</sup> S 72A inserted by Statute Law Revision Act 1992 Sch 1.
- <sup>116</sup> Subpara (i) amended by SD155/10 Sch 5.
- <sup>117</sup> Para (a) amended by SD155/10 Sch 5.
- <sup>118</sup> Subs (1) amended by SD155/10 Sch 5. Para (c) amended by SD155/10 Sch 5.
- <sup>119</sup> Subs (2) added by Public Health (Amendment) Act 2000 s 7.
- <sup>120</sup> Subs (3) added by Public Health (Amendment) Act 2000 s 7 and amended by SD155/10 Sch 5.
- <sup>121</sup> Para (a) amended by SD155/10 Sch 5.
- <sup>122</sup> Para (b) amended by SD155/10 Sch 5.
- <sup>123</sup> Para (c) amended by SD155/10 Sch 5.
- <sup>124</sup> Subs (1) amended by SD155/10 Sch 5.
- <sup>125</sup> Para (a) amended by SD155/10 Sch 5.
- <sup>126</sup> Subs (2) amended by SD155/10 Sch 5 and by SD2014/06.
- <sup>127</sup> Para (a) amended by SD155/10 Sch 5.
- <sup>128</sup> Subs (3) amended by SD155/10 Sch 5. Para (b) amended by SD155/10 Sch 5.
- <sup>129</sup> Para (a) amended by SD155/10 Sch 5.
- <sup>130</sup> Subs (4) substituted by Gas and Electricity Act 2003 s 8 and amended by SD155/10 Sch 5. Para (b) amended by SD155/10 Sch 5.
- <sup>131</sup> Para (c) amended by Gas and Electricity Act 2003 s 8.
- <sup>132</sup> Subs (5) amended by SD155/10 Sch 5.
- <sup>133</sup> Definition of “apparatus” inserted by Gas and Electricity Act 2003 s 8.



- 
- <sup>134</sup> Definitions of “electric line” and “electric plant” inserted by Gas and Electricity Act 2003 s 8.
- <sup>135</sup> Para (a) amended by SD155/10 Sch 5.
- <sup>136</sup> Subs (1) amended by SD155/10 Sch 5. Para (b) amended by SD155/10 Sch 5.
- <sup>137</sup> Para (a) amended by SD155/10 Sch 5.
- <sup>138</sup> Subs (2) amended by SD155/10 Sch 5.
- <sup>139</sup> Subs (3) amended by SD155/10 Sch 5.
- <sup>140</sup> Subs (4) amended by SD155/10 Sch 5.
- <sup>141</sup> Para (a) amended by SD155/10 Sch 5.
- <sup>142</sup> Para (b) amended by SD155/10 Sch 5.
- <sup>143</sup> Subs (5) amended by SD155/10 Sch 5.
- <sup>144</sup> Para (a) amended by SD155/10 Sch 5.
- <sup>145</sup> Subs (1) amended by SD155/10 Sch 5.
- <sup>146</sup> Definition of “contractor” amended by SD155/10 Sch 5.
- <sup>147</sup> Definition of “the Water authority” amended by SD155/10 Sch 9 and by SD2014/06.
- <sup>148</sup> Para (a) amended by Regulation of Care Act 2013 s 205.
- <sup>149</sup> Subs (4) amended by Public Health (Amendment) Act 2000 s 12.
- <sup>150</sup> S 88 not in operation.
- <sup>151</sup> S 89 not in operation.
- <sup>152</sup> Subs (6) amended by SD155/10 Sch 5.
- <sup>153</sup> S 90 not in operation.
- <sup>154</sup> S 91 not in operation.
- <sup>155</sup> S 92 substituted by Public Health (Amendment) Act 2014 s 7.
- <sup>156</sup> Part VI inserted by Public Health (Amendment) Act 2014 s 8.
- <sup>157</sup> S 92A inserted by Public Health (Amendment) Act 2014 s 8.
- <sup>158</sup> S 92B inserted by Public Health (Amendment) Act 2014 s 8.
- <sup>159</sup> S 92C inserted by Public Health (Amendment) Act 2014 s 8.
- <sup>160</sup> S 92D inserted by Public Health (Amendment) Act 2014 s 8.
- <sup>161</sup> S 92E inserted by Public Health (Amendment) Act 2014 s 8.
- <sup>162</sup> S 92F inserted by Public Health (Amendment) Act 2014 s 8.
- <sup>163</sup> S 92G inserted by Public Health (Amendment) Act 2014 s 8.
- <sup>164</sup> S 92H inserted by Public Health (Amendment) Act 2014 s 8.
- <sup>165</sup> Part VII heading inserted by Public Health (Amendment) Act 2014 s 9.
- <sup>166</sup> Subs (1) amended by SD155/10 Sch 5.
- <sup>167</sup> Subs (1A) inserted by SD155/10 Sch 5.
- <sup>168</sup> Subs (3) amended by SD155/10 Sch 5.
- <sup>169</sup> Definition of “adult care home” inserted by Regulation of Care Act 2013 s 205.
- <sup>170</sup> Definition of “authorised officer” amended by Public Health (Amendment) Act 2000 s 12, by SD155/10 Sch 5 and by SD2020/0066.
- <sup>171</sup> Definition of “the Department” amended by SD155/10 Sch 3.
- <sup>172</sup> Definition of “the Health Department” repealed by SD155/10 Sch 4.
- <sup>173</sup> Definition of “independent hospital” inserted by Regulation of Care Act 2013 s 205.
- <sup>174</sup> Definition of “moveable dwelling” amended by Building Control Act 1991 Sch 4.
-

<sup>175</sup> Definition of “regulations” amended by SD155/10 Sch 5 and by SD2020/0066.

<sup>176</sup> Subs (1) amended by Public Health (Amendment) Act 2014 s 10.

<sup>177</sup> Subs (2) repealed by Public Health (Amendment) Act 2014 s 10.

<sup>178</sup> Subs (3) amended by SD155/10 Sch 5 and by Public Health (Amendment) Act 2014 s 10.

<sup>179</sup> Subss (3A) to (3D), which are superseded by provisions in the new Part VI, repealed by Public Health (Amendment) Act 2014 s 10.

<sup>180</sup> Subs (4) amended by Statute Law Revision Act 1997 Sch 1 and by Public Health (Amendment) Act 2014 s 10.

<sup>181</sup> Subs (5) amended by Public Health (Amendment) Act 2014 s 10.

<sup>182</sup> Sch 2 repealed by Public Health (Amendment) Act 2014 s 5.

<sup>183</sup> Item (a) amended by Statute Law Revision Act 1992 Sch 1.

<sup>184</sup> Sch 4 amended by Public Health (Amendment) Act 2000 ss 3 and 5 and by Public Health (amendment) Act 2014 s 11.

<sup>185</sup> Entry amended by Interpretation Act 2015 s 55.

<sup>186</sup> Subpara (2) repealed by Statute Law Revision Act 1997 Sch 2.