



**Isle of Man**

*Ellan Vannin*

**AT 2 of 2014**

**PUBLIC HEALTH (AMENDMENT) ACT 2014**





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## PUBLIC HEALTH (AMENDMENT) ACT 2014

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## **PUBLIC HEALTH (AMENDMENT) ACT 2014**

*Signed in Tynwald:* 18 March 2014  
*Received Royal Assent:* 18 March 2014  
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**AN ACT** to make fresh provision about the control of disease; and for connected purposes.

**BE IT ENACTED** by the Queen's Most Excellent Majesty, by and with the advice and consent of the Council and Keys in Tynwald assembled, and by the authority of the same, as follows:—

### **1 Short title**

The short title of this Act is the Public Health (Amendment) Act 2014.

### **2 Commencement**

- (1) This Act, other than section 1 and this section, comes into operation on such day as the Department of Environment, Food and Agriculture may by order appoint.
- (2) Before making an order under subsection (1) the Department of Environment, Food and Agriculture must consult the Department of Health.
- (3) An order under subsection (1) may contain such consequential, incidental, supplemental, transitional and transitory provisions as the Department considers appropriate.

### **3 Expiry**

- (1) This Act expires —
  - (a) if all its provisions are in operation on its promulgation, on the day after its promulgation; or
  - (b) otherwise, on the day after the last of its provisions is brought into operation.
- (2) The expiry does not —

- (a) revive any provision it amended as it operated before the amendment commenced;
- (b) revive anything not in operation or existing when the amendment took effect; or
- (c) affect the continuing operation of the amendment.

#### 4 **Amendment of the Public Health Act 1990**

The Public Health Act 1990 is amended as follows.

#### 5 **Part II (Control of Disease) repealed**

Part II (including Schedule 2) is repealed.

#### 6 **Part IIA inserted**

Before Part III insert —

### **“PART IIA — PUBLIC HEALTH PROTECTION**

#### *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.

#### *Power to make regulations*

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

- (1) The Department 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.
- (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).

### **51C Health protection regulations: domestic**

- (1) The Department may by regulations make provision for the purpose of preventing, protecting against, controlling or providing a public health response to the incidence or spread of infection or contamination in the Island (whether from risks originating there or elsewhere).
- (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.

#### **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 Department considers, when making the regulations, that the restriction or requirement is proportionate to what is sought to be achieved by imposing it.
- (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.

#### **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.

#### **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.
- (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 £20,000;
  - (b) a further fine not exceeding £100 for each day on which the default continues after conviction.
- (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.

*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 Department 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).
- (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.

#### **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 Department 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).
- (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.

### **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 Department 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).

(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.

## 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.

### 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.

#### **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 Department may prescribe.
- (4) The Department 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).

**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 Department 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).
- (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 Department.

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

- (1) The Department may by regulations make provision about the taking of measures pursuant to health measures orders.
- (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.

#### **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 Department or a local authority to take any action, or execute any work, under such a provision or in relation to such an order;
  - (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 Department or a local authority; or

- (d) generally, for the purpose of the performance by the Department or a local authority of their functions under such a provision.
- (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.

### **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.

*Regulations under this Part: general*

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

- (1) This section applies to a public document issued by the Department under this Part.
- (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 sitting of Tynwald following that before which it is laid, unless before that time Tynwald has approved it.
- (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.

*General*

**51R Application to territorial sea**

The provisions of this Part have effect in relation to the territorial sea adjacent to the Island.

**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.
- (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. 

**7 Section 92 substituted**

For section 92 (application to ships) substitute —

**“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.”.

## 8 Part VI inserted

After section 92 insert —

### **PART VI — INVESTIGATIVE POWERS**

#### **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.

**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.

**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.

#### **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.

#### **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.

#### 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.

#### 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.

## 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. **22**.

## 9 Part VII constituted

Immediately before section 93 insert the following heading—

**“PART VII — CLOSING PROVISIONS”.**

## 10 Section 97 amended

- (1) Section 97 (application of provisions of the Local Government Act 1985) is amended as follows.
- (2) In subsection (1) “after “*Local Government Act 1985*” insert **23** (“the 1985 Act”) **22**.
- (3) Subsection (2) is repealed.
- (4) In subsection (3)—
  - (a) for “35 to 41” substitute “38 to 41”;

- (b) for “the said Act of 1985” substitute “the 1985 Act”.
- (5) Subsections (3A) to (3D) (which are superseded by provisions in the new Part VI of the 1990 Act constituted by section 8 of this Act) are repealed.
- (6) In subsections (4) and (5) for “the said Act of 1985” substitute “the 1985 Act”.

## 11 Schedule 4 amended

In the table in Schedule 4 –

- (a) omit the entries relating to offences under Part II (*i.e.* the entries relating to offences under sections 20(2) to 42);
- (b) at the appropriate points insert the entries shown in the table below –

51P(1)	Failure to comply with a restriction or a requirement imposed under Part 2A.	Summarily	£20,000
92H	Failure to comply with a specified requirement in sections 92A to 92G.	Summarily	£2,500

## 12 Consequential repeal

Section 4 of the *Local Government (Miscellaneous Provisions) Act 2001* is repealed.