

COMMONWEALTH OF DOMINICA

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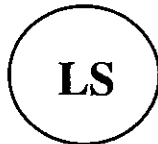
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COMMONWEALTH OF DOMINICA

ACT NO. 8 OF 1997

I assent

C. A SORHAINDO
President.

15th October, 1997

AN ACT TO MAKE PROVISION FOR THE CONSERVATION
AND MAINTENANCE OF THE ENVIRONMENT IN THE
INTEREST OF HEALTH GENERALLY AND IN RELATION
TO PLACES FREQUENTED BY THE PUBLIC.

(Gazetted 16th October, 1997)

BE IT ENACTED by the Parliament of the Commonwealth of
Dominica as follows:

PRELIMINARY

1. This Act may be cited as the –

Short title.

ENVIRONMENTAL HEALTH
SERVICES ACT 1997.

Interpretation.

2. (1) In this Act –

“air” means the unconfined portion of the atmosphere excluding that within any structure or underground space;

“animal” means any ruminant, swine, rabbit, poultry, horse, dog, cat, or wild game and includes the carcass or any part thereof;

“authorised officer” means any health officer, port officer or other person authorised by the Minister to perform any function for the purposes of this Act;

“Board” means the Environmental Health Board established by section 6;

“building” includes the curtilage of a building;

“Chief Environmental Health Officer” means the person appointed to the office of Chief Environmental Health Officer;

“Chief Medical Officer” means the person appointed to the office of Chief Medical Officer;

“contaminant or pollutant” means any solid, liquid, gas, odour, heat, sound, vibration, radiation or combination of any of them resulting directly or indirectly from the activities of man which may –

- (a) impair the quality of the natural environment by any use that can be made of it;
- (b) cause injury or damage to property or to plant or animal or animal life;
- (c) cause harm or material discomfort to any person;
- (d) adversely affect the health or impair the safety of any person; or
- (e) render any property or plant or animal life unfit for use by man;

“contamination” means the state resulting from the presence of a contaminant;

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- “Department” means the Department of Environmental Health;
- “discharge” includes, but is not limited to, any spilling, leaking, pumping, pounding, emitting, emptying or dumping of any effluent into the air, water or on land;
- “emission” means the act of passing into the air, water or on land a contaminant or gas stream, whether visible or invisible;
- “environment” means the natural, man-made or altered environment of air, land and water (including the coastal waters of the sea);
- “Environmental Health Officer” means the Chief Environmental Health Officer and any other public officer who is appointed as an Environmental Health Officer;
- “Environmental Protection Officer” means any public officer who is appointed as an Environmental Protection Officer;
- “factory” means any premises wherein any storage, manufacturing, processing or packing operation or any combination thereof is undertaken;
- “food” means any article of food or drink and any article or substance used as an ingredient or cooking medium in the manufacture or preparation thereof;
- “health officer” means the Chief Medical Officer, Chief Environmental Health Officer, a Medical Officer, an Environmental Health Officer, an Environmental Protection Officer and any other like person who is required or authorised by the Minister to perform any function under this Act;
- “house” means any dwelling place and the curtilage thereof and includes any building, vessel, tent, van, shed or similar structure used or intended for human habitation;
- “land” means surface land, land covered by water and all subsoil, or any combination or part thereof;
- “liquid waste” means –

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- (a) sewerage and human body wastes and other organic wastes and waste water from toilets and other receptacles intended to receive body wastes;
 - (b) drainage from medical premises e.g. hospitals, sick bays, dispensaries via baths, wash basins and the like fixtures;
 - (c) drainage from places where animals are held, reared or slaughtered;
 - (d) drainage and waste water from domestic, industrial, commercial and agricultural operations including the manufacture and storage of chemicals; and
 - (e) any other waste waters;

“Medical Officer” means a person appointed to the office of Medical Officer;

“Minister” means the Minister responsible for Health;

“occupier” means in the case of –

- (a) any premises or part thereof, a person in occupation of or having the charge, management or control of such premises or part thereof; and
- (b) a vessel or aircraft, the master or the person in charge thereof;

“owner” in relation to any premises, means the person for the time being entitled to receive the rent of the premises, whether on his own account or as an agent or trustee or who would be so entitled if such premises were let;

“pesticide” means any substance or mixture of substances intended for preventing, destroying, repelling or mitigating insects, rodents, nematodes, fungi, weeds or other forms of plant or animal life which are considered pests;

“pollution” means the state resulting from the presence of a pollutant;

“port officer” includes a customs guard, customs officer, an Immigration Officer or any other port officer who is employed in any capacity at a port in Dominica;

“premises” includes land whether open or closed, whether built on or not, whether public or private, and any house, aircraft, ship, vessel, boat, bulk, barge, tent, caravan, shed or similar structure;

“public place” includes any building or place to which the public is entitled or permitted to have access whether on payment or otherwise, a park, cemetery, beach, market or market place and any street, highway, road, bridge, wharf, pier, jetty, lane, footway, square, court, alley or passage whether a thoroughfare or not;

“sell” includes to offer or expose for sale or have anything in one’s possession for sale;

“solid waste” includes ashes, garbage, refuse, litter and other discarded solid material resulting from domestic, industrial, commercial and agricultural operations and from community activities, but does not include sewerage;

“vehicle” includes carriages, wagons, carts, motor vehicles, bicycles, tricycles, vans, hand carts, sledges, trucks, barrows and all other machines for the portage of goods or persons;

“Village Council” means a Village Council established under the Village Councils Ordinance;

Cap. 190.

“water” means surface water and underground water or either of them wherever located including natural and artificial drainage courses.

(2) In determining for the purposes of this Act and any proceedings thereunder whether anything is a contaminant or pollutant as defined in subsection (1), regard shall be had not only to the probable effect of that thing itself but also to the probable cumulative effect of things of substantially the same composition.

PART I

ADMINISTRATION

Responsibilities of
Minister.

3. (1) The Minister is charged with the responsibility of promoting and protecting the public health and providing for and ensuring the conservation and maintenance of the environment.

(2) In particular, it is the responsibility of the Minister to regulate, monitor and control the actual and likely contamination or pollution of the environment from any source, ensure compliance in all matters and activities relating thereto and establish minimum standards required for a clean, healthy and aesthetically pleasing environment.

Delegation by
Minister

4. (1) The Minister may, in writing, delegate to any Local Authority the power to exercise, carry out and perform within the geographical area of the Authority any of his duties, powers and functions under this Act as he deems advisable and on such terms and conditions as he may prescribe.

(2) A Local Authority to which duties, powers and functions have been delegated by the Minister under this section shall, subject to such terms and conditions as are specified in the delegation, do all things necessary for the carrying out of those duties, powers and functions.

Establishment of
environmental
health districts.

5. The Minister may establish health or environmental health districts for Dominica and fix the boundaries thereof.

Establishment of
Environmental
Health Board and
Committees.

6. (1) There shall be an Environmental Health Board which shall be responsible for advising the Minister on any matter relating to environmental health.

(2) The provisions of the Schedule shall have effect with respect to the constitution and procedure of the Board and otherwise in relation thereto.

(3) Notwithstanding anything contained in this section, the Minister may appoint committees for the purpose of advising him on any specialised area of environmental health.

(4) Persons may be appointed to any such committee for a period not exceeding three years, but any person appointed shall be eligible for reappointment.

7. (1) For the purposes of this Act the Chief Medical Officer, and the Chief Environmental Health Officer shall maintain constant consultations with the other Departments of Government Ministries, and agencies which are responsible for matters related to environmental health.

Functions of the
Chief Medical
Officer and the
Chief Environ-
mental Health
Officer.

(2) In the execution of their functions under this Act, the Chief Environmental Health Officer, the Chief Medical Officer and any health officer may call upon any police officer to lend such assistance as may be required and the police officer shall not unreasonably refuse.

(3) The Minister may, by writing under his hand, delegate to the Chief Medical Officer or the Chief Environmental Health Officer any of his functions under this Act other than the power under section 30 to make Regulations.

(4) Any delegation while in force shall not prevent the discharge by the Minister of any functions thereby delegated and may be –

(a) made subject to such conditions, qualifications and exceptions as may be specified; and

(b) revoked or varied at any time.

8. (1) The Department shall arrange and carry out all functions which are required for the proper discharge of the responsibilities and functions of the Minister under this Act, and without prejudice to the generality of the foregoing, the Department shall –

Functions of
Department of
Environmental
Health.

(a) investigate problems and institute preventive and remedial measures in respect of environmental pol-

lution, the management and disposal of solid, liquid and gaseous wastes, food and drinks management, nuisances, rodents, insect pests and general sanitation;

- (b) conduct research, studies and monitoring programmes related to the matters specified in paragraph (a);
- (c) gather, collate, analyse, publish and disseminate information relevant to the foregoing;
- (d) promote the planning, approval, funding and implementation of measures designed to ensure the wise and safe use of the environment;
- (e) provide ways and means for the training of persons involved in environmental health services;
- (f) undertake and carry out all related surveys, monitoring and investigations and prepare the necessary reports, plans and programmes;
- (g) maintain and operate the necessary laboratory, analytical and inspection facilities;
- (h) provide advice in the field of environmental health and other supportive services to the Ministry and other Government agencies in the Commonwealth of Dominica;
- (i) implement and administer approved programmes;
- (j) keep abreast of technological and other advances in the field of environmental health and initiate the updating of legislation, standards and procedures in this connection;
- (k) advise on, plan, organise and actively pursue the training of all personnel required for the proper administration of this Act; and

- (l) cause to be submitted to the Minister by the end of May in every year, in such form as the Minister may require, a report of its activities during the twelve months ending on the 31st day of December in the preceding year, and when requested, such other reports as the Minister may require concerning its operations.

9. Anything done by the Minister, the Chief Medical Officer, the Chief Environmental Health Officer, an Environmental Health Officer, an Environmental Protection Officer, or any person acting under the authority of the Minister or the Chief Environmental Health Officer shall not if such a thing was done *bona fide* for the purpose of executing any of the provisions of this Act or any regulations made thereunder, subject such persons to any action, liability, claim or demand.

Exemptions from liability.

PART II

ENVIRONMENTAL HEALTH MATTERS

10. (1) A person shall not –

- (a) construct, alter, extend or replace any plant, structure, equipment, apparatus, mechanism or thing that may emit or discharge, or from which may be emitted or discharged a contaminant or pollutant into any part of the environment;
- (b) carry on or alter a process or rate of production with the result that a contaminant or pollutant may be emitted or discharged into any part of the environment; or
- (c) carry on or alter a process or rate of production with the result that the rate, or manner of emission or discharge of a contaminant or pollutant into any part of the environment may be altered,

Certificate of approval for certain matters.

unless he has first obtained a certificate of approval issued in accordance with this section by the Chief Environmental Health Officer approving the methods or devices or both to be employed to control or prevent the emission or discharge of any contaminant or pollutant into any part of the environment.

(2) The Chief Environmental Health Officer may require an applicant for a certificate of approval under subsection (1) to submit such plans, specifications and other information as may be prescribed and to carry out and report on any tests or experiments relating to the plant, structure, equipment, apparatus, mechanism or thing or to the process, rate of production, methods and devices to be employed to control or prevent the emission or discharge of any contaminant or pollutant into any part of the environment.

(3) The Chief Environmental Health Officer shall, upon being satisfied that the methods or devices or both to be used to control or prevent the emission or discharge of any contaminant or pollutant into any part of the environment are adequate to prevent or control such emissions or discharges, grant a certificate of approval or if not so satisfied, shall refuse to grant the certificate.

(4) A certificate of approval shall be subject to such conditions as the Chief Environmental Health Officer may impose.

(5) The Chief Environmental Health Officer may from time to time vary in such manner as he deems fit the conditions contained in a certificate of approval.

(6) Where it appears to the Chief Environmental Health Officer that the holder of a certificate of approval has failed to comply with the conditions subject to which the certificate was granted he may, after giving that person a hearing, revoke the certificate.

(7) A person who is dissatisfied with –

(a) the refusal of the Chief Environmental Health Officer to issue a certificate of approval;

- (b) the terms and conditions attached to a certificate of approval;
- (c) the variation of any terms and conditions contained in a certificate of approval; or
- (d) the revocation of a certificate of approval,

may appeal to the Minister within fourteen days of being notified of the decision.

11. (1) A person shall not create or allow to exist on or emanate from premises which he owns or occupies conditions which are unsanitary or constitute a nuisance or are conducive to the breeding or harbouring of rodents, insects, pests, termites or other vermin.

Prohibitions and obligations in the interest of the environment.

(2) A person shall not dump on or otherwise deposit or leave any refuse in any public place or open space.

(3) Every owner or occupier of premises shall keep in a clean condition any open space to the front of his premises which abuts onto a public road.

(4) A person shall not keep or otherwise shelter any domestic or other animal otherwise than as prescribed in the Regulations.

(5) A person shall not transport, treat or otherwise dispose of solid and liquid wastes on and from any premises otherwise than in accordance with the Act and Regulations made thereunder.

(6) Any trade or business declared offensive by Regulations made hereunder shall not be conducted on any premises.

12. Any person who –

- (a) deposits in, adds to, emits or discharges into the environment any contaminant or pollutant; or
- (b) is the person responsible for a source of a contaminant or pollutant that is deposited in, added to, emitted or discharged into the environment,

Notification of emission or discharge, etc. of contaminant or pollution

in an amount, concentration or level in excess of that prescribed by the Regulations made pursuant to section 30 shall forthwith notify the Chief Environmental Health Officer of the deposit, addition, emission or discharge, as the case may be.

Putrid, decayed, etc.
matter on vessels.

13. (1) Any port officer or health officer who discovers or is notified of putrid, decayed or offensive matter or substance or any contaminant or pollutant on board a vessel in any port shall forthwith notify the Chief Environmental Health Officer of such discovery.

(2) In the interest of and for the protection of health the Chief Environmental Health Officer may order the –

- (a) unloading of the cargo of any vessel, and order, direct and regulate the manner in which, and place where such cargo shall be loaded and stored; or
- (b) destruction of any cargo, or portion thereof, which the Chief Environmental Health Officer considers to be in a putrescent state or is likely to promote the spread of disease or to be otherwise injurious to health.

PART III

SPECIAL POWERS OF CHIEF ENVIRONMENTAL HEALTH OFFICER

Chief Environmen-
tal Health Officer
may issue order.

14. (1) When the Chief Environmental Health Officer is of the opinion that a source of contaminant or pollutant is adding to, emitting or discharging into the environment any contaminant or pollutant that constitutes an immediate danger to life or the health of any persons or to property, he may issue an appropriate order directed to the person responsible for the source of such contaminant or pollutant to discontinue adding to, emitting or discharging such contaminant or pollutant.

(2) When, in the opinion of the Chief Environmental Health Officer it is necessary or advisable to do so, he may, by an order directed to any person, require that person to have on hand and available at all times such equipment and material as the order specifies to alleviate the effect of any contamination or pollution on the environment.

(3) A person to whom an order is directed under this section shall comply with that order.

15. (1) The Chief Environmental Health Officer or any person authorised in writing by him or by the Minister, may at any reasonable time enter any premises for the purpose of – Power of entry.

- (a) ascertaining whether there is or has been on or in connection with the premises any contravention of the provisions of this Act or any regulations made thereunder and examine the premises and take away samples of any thing by means of or in relation to which he believes any provisions of this Act has been contravened;
- (b) ascertaining whether or not circumstances exist which would authorise or require the Chief Environmental Health Officer to take any action or execute any work under this Act or any regulations made thereunder;
- (c) taking any action or executing any thing authorised or required to be done under this Act or any regulations made thereunder;
- (d) performing any function conferred on the Minister or the Chief Environmental Health Officer under this Act or any regulations made thereunder; or
- (e) generally examining and inspecting the premises.

(2) Any person claiming the right to enter any premises shall produce the document authorising him in that behalf.

(3) A document purporting to have been signed by the Minister, or Chief Environmental Health Officer, shall be deemed until the contrary is proved, to have been signed by that person.

(4) Any officer or person authorised to enter any premises which he has entered pursuant to this section, shall leave the premises as effectually secured against trespassers as he found them.

Power to compel
and execute certain
works and recover
costs.

16. (1) Where it appears to the Minister that for the protection of or in the interest of the public health any works in or on any premises are necessary, the Minister may serve or cause to be served on the owner or occupier of the premises a notice in writing signed by the Minister or by any person authorised by the Minister in that behalf requiring him to execute the works which the Minister considers necessary.

(2) A notice under subsection (1) shall indicate the nature of the works to be executed specify a period of time after the expiration of which the Minister may cause the work to be carried out if it has not previously been executed.

(3) A person served with a notice under subsection (1) or any person having an estate or interest in the premises to which the notice relates may at any time before the expiration of the period of time specified in the notice pursuant to the provisions of subsection (2) and in accordance with any rules of court for the time being in force appeal to a judge in chambers against the notice on any of the following grounds:

- (a) that the notice or requirement is not justified for the protection of or in the interest of public health;
- (b) that there is some informality, defect or error in or in connection with the notice;
- (c) that the Minister has refused unreasonably to approve the execution of alternative works;

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- (d) that work required by the notice to be executed are unreasonable in character or extent or are unnecessary;
 - (e) that the time within which works are required by the notice to be executed is not reasonably sufficient for the purpose; and
 - (f) where the work is work for the common benefit of the premises to which the notice relates and other premises, that some other person being the owner or occupier of the other premises to be benefited, ought to contribute towards the expenses of executing any works required.

(4) Where an appeal under subsection (3) is based on the grounds specified in paragraph (b) thereof, the Judge shall dismiss the appeal if he is satisfied that the informality, defect or error was not a material one.

(5) Where the grounds upon which an appeal is brought under subsection (3) include a ground specified in paragraph (f) the appellant shall serve a copy of his notice of appeal on each other person referred to therein and may serve a copy thereof on any person having an estate or interest in the premises to which the notice under subsection (1) relates.

(6) On the hearing of an appeal under subsection (3) the Judge may make such order as he thinks fit in respect of the person by whom any work is required to be executed and the contribution to be made by any other person towards the cost of the work or as to the proportion in which any expenses which may become recoverable by the Minister under subsection (11) are to be borne by the appellant and such other persons.

(7) In exercising his powers under subsection (6) the Judge shall have regard –

- (a) as between an owner and an occupier to the terms and conditions, whether contractual or statutory of the tenancy and to the nature of the work required; and

(b) in any case, to the degree of benefit to be derived by the different persons concerned.

(8) Where an appeal is brought under subsection (3) the Judge shall give directions for giving effect to his decision including, where appropriate, directions in respect of the notice to which the appeal relates or for varying the terms of such notice in favour of the appellant.

(9) Where the notice to which the appeal relates is varied, or the appeal is dismissed, the Judge may, if he thinks fit, direct that the notice shall not come into force until such date (not being more than twenty-eight days from the determination of the appeal) as he thinks fit.

(10) The determination of an appeal under subsection (3) by a judge in chambers shall be final.

(11) If at the expiration of the period specified in the notice under subsection (1) or directed by a judge in the determination of an appeal under subsection (3), the work specified in the notice or as varied by a judge has not been executed, the Minister may cause such work to be carried out and on completion thereof may recover the reasonable costs as a debt due to the State in civil proceedings before a magistrate for the district in which the premises are situated notwithstanding the provision in any enactment of a financial limit to the jurisdiction of a Magistrate's Court.

(12) In any proceedings under subsection (11) the validity of the notice to which the proceeding relates shall not be questioned on any ground specified in subsection (3).

PART IV

PROCEDURE REGARDING APPEALS AND RELATED MATTERS

17. (1) Subject to section 16, a person aggrieved by a decision of any functionary who is authorised to act under this Act or any regulations made thereunder may appeal by way of a complaint

against that decision to the Magistrate who has jurisdiction in the district in which the aggrieved person resides.

(2) The time within which an appeal under subsection (1) may be brought, shall be twenty-one days from the date on which notice of the decision concerned was given to the person desiring to appeal.

(3) In any case where an appeal under this section lies, the document notifying the person concerned of the decision of the authority in the matter shall state the right of appeal to a Magistrate's Court and the time within which the appeal may be brought.

(4) The appellant shall within the time specified in subsection (2) serve a notice in writing signed by the appellant or his counsel or attorney on the person whose decision is being appealed of his intention to appeal and of the general grounds of appeal; but any person aggrieved by any such decision may upon notice to that person apply to the Magistrate for leave to extend the time within which the notice may be served and the Magistrate upon the hearing of such application may extend the time prescribed by this section.

(5) The person whose decision is being appealed shall upon receiving the notice of appeal, transmit to the Magistrate a copy of the decision and all papers relating to the appeal.

(6) At the hearing of the appeal the appellant shall, before going into the case, state all grounds of appeal on which he intends to rely and shall not, unless by leave of the Magistrate, go into any matter not raised by the statement.

18. Where, on the hearing of an appeal mentioned in section 17, a court varies or reverses the decision of an authority, it shall be the duty of the authority to give effect to the order of the Court, and, in particular, to grant any necessary licence and to make any necessary entry in any register.

Effect of Court decision.

19. (1) Where a decision of an authority is appealable under this Act or Regulations made thereunder, and such decision makes it unlawful for a person –

Right to carry on business pending hearing of appeal.

- (a) to carry on any business which he, or his immediate predecessor in the business was lawfully carrying on at the date when the decision was given; or
- (b) to use any premises for any purpose for which he, or his immediate predecessor, was lawfully using them at the said date,

he may carry on that business and use those premises for that purpose until the time for appealing has expired and, if an appeal is brought, until the appeal is disposed of.

(2) The rights given by subsection (1) shall also apply where the decision of a court, in any proceedings in respect of an offence under this Act or Regulations made thereunder, makes it unlawful for a person to carry on a business or use premises for any purpose which he was lawfully carrying on or so using immediately before such decision was given.

PART V

OFFENCES, PENALTIES AND PROCEEDINGS

Offences.

20. (1) Any person who, otherwise than in accordance with this Act and Regulations made thereunder, deposits in, adds to, emits or discharges into the environment any contaminant or pollutant or who permits the deposit, emission or discharge into the environment of any contaminant or pollutant from any source is guilty of an offence.

- (2) Any person who –
 - (a) assaults, resists, obstructs or impedes any authorised officer in the execution of his duties under this Act; or
 - (b) knowingly makes any false or misleading statement to any authorised officer engaged in carrying out his duties under this Act,

is guilty of an offence and liable on summary conviction to a fine of five hundred dollars and three months imprisonment.

21. (1) Any person who fails to carry out or contravenes any of the provisions of this Act or any regulations made thereunder is guilty of an offence and where there is no specific penalty provided, is liable on summary conviction to a fine of ten thousand dollars and twelve months imprisonment. General penalty.

(2) In the case of a continuing offence, the offender is liable to a further fine of five hundred dollars for each day that the offence continues after the day of conviction thereof, and in default of payment to three months imprisonment.

22. Where an offence under this Act or Regulations made thereunder, has been committed by a body corporate and is proved to have been with the consent or connivance of, or to be attributable to any neglect or default on the part of any director, manager, secretary or other similar officer of the body corporate, or any person who purported to act in any such capacity, that director, manager, secretary or other officer as well as the body corporate is guilty of that offence and is liable to the penalty prescribed by this Act for that offence. Offences by body corporate.

23. (1) The Director of Public Prosecutions shall institute proceedings against any person for an offence against and for the recovery of any fine under this Act or any regulations made thereunder. Instituting proceedings, etc.

(2) A prosecution for an offence under this Act or Regulations made thereunder, may be instituted, heard, tried or determined by the Magistrate who sits in the district in which the offence was committed or in any place in which the accused is apprehended or happens to be.

24. A prosecution under this Act or Regulations made thereunder may be instituted at any time within twelve months from the time Limitation on prosecutions.

the subject matter of the prosecution arose or the offence was committed, whichever is later.

Liability of
employer.

25. In a prosecution under this Act or Regulations made thereunder, it is sufficient proof of the offence to establish that it was committed by an employee or agent of the accused or by a person ostensibly in his employment whether or not he is identified or has been prosecuted for the offence.

References to
owner or occupier
of premises.

26. Whenever in any notice or any proceedings under the provisions of this Act or Regulations made thereunder, it becomes necessary to mention or refer to the owner or occupier of any land or premises, it shall be sufficient to designate him as the "owner" or "occupier" of the premises (naming them) without further name description.

Service of notice
and documents.

27. Any notice, order or other document made or given under this Act may be served by delivering the same or a true copy thereof either to the person to whom it is addressed or to his usual or last known place of abode or business or, when addressed to the owner or occupier, then to some adult on the premises, or if there is no such person, by affixing one copy of the notice to some conspicuous part of the premises and in case of emergency, any such notice if verbally given to the person whom the Act or Regulations made thereunder require to be served or notified, shall be sufficiently given.

Documentary
evidence.

28. In any proceedings under this Act or Regulations made thereunder, any document or writing purporting to be signed by the Minister or by an officer acting under this Act is admissible in evidence in a prosecution for a violation of the Act or Regulations made thereunder, and is *prima facie* proof of the statements contained therein, but no such document or writing is receivable in evidence unless the party intending to produce it has before the trial, given to the party against whom it is intended to be produced, reasonable notice of that intention, together with a copy of the

certificate or writing and the party against whom it is produced may require the attendance of the person signing the same for the purpose of cross-examination.

29. Where any act or thing is by the Act or Regulations made thereunder prohibited or prescribed, the duty of seeing that the prohibition or prescription is complied with rests upon the person to whom the prohibition or prescription relates, whether owner, occupier, operator or other person, and in a prosecution under this Act or Regulations made thereunder the burden of proving that such prohibition or prescription was complied with rests upon that person. Onus of compliance.

PART VI REGULATIONS

30. (1) The Minister may make Regulations for the proper execution and carrying out of the purposes and provisions of this Act generally and in particular respecting the following matters: Power to make Regulations.

- (a) the prevention, treatment, mitigation and suppression of disease, including the following:
 - (i) the reporting of cases or suspected cases of communicable or notifiable disease;
 - (ii) the supplying of medical aid, accommodation and medicine and other articles or things as may be necessary for preventing, mitigating, controlling or suppressing an epidemic or any communicable or other disease;
 - (iii) the removal, keeping in charge or under surveillance of persons living in localities which are declared by the Minister to be infected localities;
 - (iv) preventing persons or conveyances passing from any locality to any other locality;

- (v) the detention of persons or conveyances that have been exposed to infection for inspection or disinfection;
- (vi) the cleansing, purification and disinfection of places and things used by persons suffering from a communicable disease;
- (vii) the establishment of quarantine or isolation hospitals and the placing therein of persons having a communicable disease or any disease dangerous to the public health;
- (viii) the treatment of persons who are infected with communicable disease or disease dangerous to the public health, including the observation of persons suspected to be so infected and the removal of persons from unhealthy houses or who are living in congested, or under unhealthy circumstances;
- (ix) regulating the entry or departure by aircraft, boat or ship to or from places in Dominica and the landing and disinfection of passengers or cargoes thereon;
- (x) inspections and house to house visitations by officers as may be necessary for the control, prevention, mitigation or suppression of disease;
- (xi) the compulsory vaccination or inoculation of persons residing in or entering Dominica not already vaccinated or inoculated or not sufficiently protected by previous vaccination or inoculation and the supply and quality of vaccine mater and serum;
- (xii) the compulsory examination by clinical and bacteriological or other methods and speci-

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- fied tests of persons and, if necessary, the compulsory treatment and detention of persons infected or suspected of being infected with any communicable or notifiable disease or disease dangerous to the public health;
- (xiii) the closing of schools and places of public assembly or entertainment for the purpose of preventing or controlling the spread of disease;
 - (xiv) the location, construction, inspection, control, licensing, operation and maintenance of nursing homes, maternity homes, convalescent homes, private hospitals, homes for children, for the aged or infirm, and homes for physically or mentally handicapped persons;
 - (xv) the protection of the health of persons exposed to conditions, substances or processes which occur in any industry or occupation and which may be injurious to health; and
 - (xvi) quarantine or other measures to be taken by and in respect of persons suffering or suspected to be suffering from any communicable or notifiable disease;
- (b) the prevention of the overcrowding of premises used for human habitation or business purposes, the amount of floor and air space for each occupant thereof and the lighting and ventilation of such premises;
- (c) the site, construction, plumbing, sewerage disposal and sanitary conditions of buildings used for human habitation or for business purposes and for the periodical inspection thereof;

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- (d) the location and construction of water closets, cesspools, privies, drains, DOWASCO sewerage systems, sewers and their cleansing;
 - (e) the inspection, cleansing, purifying, ventilating and disinfecting of premises by the owners, occupiers and persons having care and charge thereof;
 - (f) the protection of water from infection and pollution, including the following:
 - (i) the inspection and approval of sources of supply and the conditions, if any, on which approval is granted;
 - (ii) the testing and analysis of water;
 - (iii) the construction, alteration, maintenance and the purification of water supplies and water distributing systems;
 - (iv) the supervision and control of any river, stream, spring or part thereof contributing to a public water supply;
 - (v) the regulation and prohibition of persons bathing, washing clothes, cleaning vehicles, utensils or animals at or in any river, stream or spring or part thereof contributing to a public water supply;
 - (vi) prescribing or limiting the purpose for which water may be used and prescribing or defining the manner in which it shall be used and distributed;
 - (vii) the disposal of waste water and effluents;
 - (viii) the setting of standards for the hygienic maintenance and use of public sanitary conveniences, baths, washrooms, launderette, laundries and dry-cleaning establishments; and

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- (ix) the removal and disposal of derelict and abandoned vehicles;
- (g) the matters or conditions which shall be deemed to constitute a nuisance, the prevention, abatement or removal of nuisances and unsanitary conditions on public or private property which are or may become injurious to the public health;
- (h) the regulation and control of the environmental health aspects of seaports, harbours, marinas and airports;
- (i) the control and prevention of radiation hazards and the disposal of radioactive or otherwise hazardous wastes;
- (j) the prevention and control of pollution of the air, including control of emissions of smoke, gases, dust, particles, fumes or any combination of these, offensive odours or excessive noise from factories, vessels, vehicles or any other premises or thing;
- (k) the prevention and control of contamination of land and the control of the use of land for the deposit of contaminants;
- (l) the use, regulation and control of beaches and areas of the foreshore both above and below high-water mark, the removal of solid wastes therefrom, and the cleaning and keeping clean, of such beaches and areas and generally for the prevention of the presentation of the same;
- (m) for the sanitary disposal of refuse and other waste matter, including the –
- (i) fixing of times for collection and removal;
 - (ii) method of removal and disposal;
 - (iii) place of disposal;

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- (iv) duties of owners and occupiers of premises in relation to the disposal of refuse and waste matter;
 - (n) the licensing of any person, place or institution for the carrying on of any business, occupation or undertaking that is or is made subject to the regulations, in respect of the matters to which it is so subject, the fixing of the licence fee therefor, the period thereof, and for the cancellation, revocation or suspension of any such licence;
 - (o) the licensing of persons to practice any branch of the healing art not otherwise specifically provided for under any other law;
 - (p) the method of the carrying on of a trade, business or manufacture that may become offensive or that by the regulations is declared to be offensive or that may affect the public health;
 - (q) the keeping of domestic animals, including dogs and poultry, and the places where such animals may or may not be kept and the control or supervision to be exercised by the owner;
 - (r) the slaughtering or killing of animals and poultry for use as food for human consumption, the manner of slaughter, the construction, conduct, control, cleanliness, maintenance, licensing and inspection of places used therefor, including the enclosures thereto or in connection therewith;
 - (s) the examination of animals and poultry before or after a slaughter and of meat thereof and the actions to be taken resulting from such examination;
 - (t) the medical examination and licensing of persons engaged in the slaughter of animals or poultry;

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- (u) the disposal of dead animals, including the imposing on any authority or person the duty of disposal;
 - (v) the control and destruction of rodents, mosquitoes and other insects, termites and other vermin, and for the licensing and control of persons engaged in the business of their destruction;
 - (w) dairies and any premises where any business in relation to the production, sale, delivery or distribution of milk is carried on, including the construction, equipping, maintenance, licensing and inspection of such places;
 - (x) the pasteurisation of milk;
 - (y) the inspection and testing of cattle and goats, the milk of which is intended for sale for human consumption;
 - (z) the measures to be taken for the protection of the public health with respect to the production, preparation, manufacture, storage, distribution and sale of food intended for human consumption, including the following:
 - (i) the licensing and inspection of shops, restaurants and other eating establishments, including hotels and all other buildings or premises where any food, cooked or uncooked, is sold or prepared for sale, whether to be consumed on such premises or to be taken therefrom for the purpose of human consumption;
 - (ii) the location, construction, furnishing and equipment, cleanliness and maintenance of any building or premises or other place in which any article of food is manufactured, prepared, handled, stored or sold and, without limiting the generality thereof:

- (aa)* bakeries, bakeshops and bread shops;
- (bb)* meat and butcher shops;
- (cc)* dairies and milk shops;
- (dd)* grocery and provision shops;
- (ee)* markets;
- (ff)* street vending outlets;
- (gg)* aerated water factories or plants;
- (hh)* ice factories and other places where ice is manufactured;
- (ii)* confectionery and ice cream shops, including places where ice cream is manufactured;
- (iii)* the licensing and inspection of premises where any article of food is manufactured, prepared, packed, handled, stored or sold;
- (iv)* the prohibiting of sleeping in shops or places where food is manufactured, prepared, kept, stored, or sold for human consumption;
- (v)* the medical examination and registration of persons engaged in the handling of foods;
- (vi)* the regulation of the supply and treatment of water used in any aerated water factory or ice factory or other place or places in which food is manufactured, processed, prepared, packed, stored or sold;
- (vii)* the labelling and packaging and the offering, exposing and advertising for sale of foods, drugs and cosmetics;

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- (viii) the sale or condition for sale of any food, drug or cosmetic and the use of any substance as an ingredient in any food, drug or cosmetic;
 - (ix) the seizure, forfeiture and destruction of any food, drug or cosmetic, the sale of which would not be in accordance with, or would be in violation of the Regulations;
 - (x) the standards of identity, composition, strength, potency, purity, quality or other property of any article of food, drug or cosmetic;
 - (xi) the conditions under which foods, drugs or cosmetics may be imported into Dominica, subject to any law relating to customs, excise or revenue;
 - (xii) the exemption of any food, drug or cosmetic from any or all of the provisions of the Act and prescribing the conditions of the exemptions;
 - (xiii) the requirement that persons who sell foods, drugs or cosmetics, maintain books and records as the Minister considers necessary for the proper enforcement and administration of the Act and Regulations made thereunder;
 - (xiv) the powers and duties of inspectors and analysts and the taking of samples and the seizure, detention, forfeiture and disposal of articles;
 - (xv) the sale of drugs subject to special conditions in the interest of the public health;
 - (aa) the inspection, control, licensing, operation and maintenance of hotels, apartment buildings, boarding houses, lodging houses and other places where accommodation is provided for cash or other consideration;

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- (bb) the forcible entry into premises to which this Act or the Regulations applies where the owner or occupier does not give permission for the inspection and examination thereof or where the owner or occupier cannot be located;
 - (cc) the cleanliness, inspection and licensing of barbers, beauticians, barbers shops, hairdressing and beauty shops;
 - (dd) the inspection and control of beaches and swimming pools and matters ancillary thereto;
 - (ee) the medical and dental inspection of school children, the removal of children from school and closing of schools in the interest of the public health;
 - (ff) for the internment of the dead, the preparation and transportation of dead bodies, the entry of dead bodies from outside Dominica, the regulation and inspection of undertaking establishments, morgues, crematoria and other places used in connection therewith, the licensing thereof, and the management of cemeteries and the conditions upon which new cemeteries may be established;
 - (gg) respecting the performance of postmortems;

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- (hh)* pest and vector control including rodents, proofing of buildings, preventive measures and the use of pesticides;
 - (ii)* the forms to be used for the purpose of this Act; and
 - (jj)* any other matter which by this Act may be prescribed.
 - (2) The Regulations made under subsection (1) may –
 - (a)* establish procedures for the issue, variation, suspension or revocation of licences or permits in respect of any activity governed by this Act;
 - (b)* specify fees or charges or a system for fixing fees or charges to be paid for any licence, permit, examination certificate, service rendered or any other matter under this Act;
 - (c)* provide for the recovery of fees or charges payable under paragraph (b);
 - (d)* create offences for the contravention or failure to comply with any regulation made under this section which shall be punishable by way of a fine not exceeding one thousand dollars and three months imprisonment and in the case of a continuing offence the offender may be punishable by way of a further fine of five hundred dollars for each day that the offence continues after the date of conviction;
 - (e)* provide appropriate exemptions and special defences in respect of any requirements and proceedings under this Act or the Regulations;
 - (f)* provide for appeals to a court against any act or decision of any person performed or made under this Act or the Regulations;

- (g) provide for the recovery of costs and expenses incurred in carrying out any work done as a consequence of any default by any person in complying with this Act or the Regulations;
- (h) provide for compensation for damage or destruction of any property in the exercise of any powers conferred by this Act; and
- (i) provide for their application throughout the State or such part or parts thereof as may be prescribed by the Minister therein or from time to time.

By-laws respecting public health.

31. A Local Authority if otherwise empowered by law to make By-laws respecting matters relating to public health within the geographical area of that Authority, or whenever so authorised by the Minister, may make By-laws, which are not inconsistent with this Act as may be necessary for matters relating to public health.

Regulations and By-laws to have effect without publication in special circumstances.

32. (1) Notwithstanding anything contained in this Act or any other enactment, the publication of regulations or by-laws may be dispensed with if in the opinion of the person or authority empowered to make the Regulations or By-laws the time required for the publication in the Official Gazette will be prejudicial to public health by reason of any epidemic outbreak of disease or emergency.

(2) Regulations or By-laws made but not published in the circumstances referred to in subsection (1) shall have the immediate force of law, but shall be published in the Official Gazette within seven days and if not published within the stipulated time the Regulations or By-laws shall then cease to have any force or effect.

PART VII

MISCELLANEOUS

Protection of trade secrets and other confidential information.

33. (1) Any person who has acquired information in any capacity under this Act or in performing any of his functions or duties under this Act shall not without the express consent of the

person from whom that information has been received or acquired, disclose to any person any such information except –

- (a) to an authorised officer or employee of the Department for the purpose of the performance of his duties or the exercise of his functions under this Act; or
- (b) when he is lawfully required to make disclosure by a court of competent jurisdiction within Dominica.

(2) Where in any proceedings in any court the Court determines that the likelihood exists that information relating to or evidence of any trade secret or secret process or other commercial or financial information concerning the establishing of or maintaining a competitive business position may be disclosed or given the Court shall hear the information or evidence in camera and no record thereof shall be made public and on the final determination of the proceedings any such record shall be destroyed in the presence of and to the satisfaction of the affected party.

(3) Any person who contravenes the provisions of subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine of fifteen thousand dollars and two years imprisonment.

34. Notwithstanding anything contained in this Act any regulation made under the Public Health Act, 1968, shall continue in force until such time as new regulations under this Act are made to replace those Regulations. Savings.

35. The Public Health Act, 1968 is repealed.

Repeal of the
Public Health
Act.
Act. No. 15 of
1968.

(Section 6).

SCHEDULE

1. The Environmental Health Board shall consist of five members of whom:
 - (a) one shall be the Chief Environmental Health Officer *ex officio*; and
 - (b) four shall be appointed by the Minister in his discretion.
2. A member of the Environmental Health Board other than the Chief Environmental Health Officer shall, subject to the provisions of this Schedule, hold office for a period not exceeding three years and shall be eligible for reappointment.
3. The Minister shall appoint one of the members of the Environmental Health Board to be the Chairman of the Board.
4. The Minister may at any time revoke the appointment of any member of the Environmental Health Board.
5. The Environmental Health Board may regulate its own procedure.

Passed in the House of Assembly this 10th day of October, 1997.

ALEX F. PHILLIP (MRS.)
Clerk of the House of Assembly (Acting).

DOMINICA

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