



BERMUDA

PUBLIC HEALTH (COVID-19) REGULATIONS 2022

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The Minister responsible for health, in exercise of the powers conferred by sections 107 and 171 of the Public Health Act 1949, makes the following Regulations:

Citation

- 1 These Regulations may be cited as the Public Health (COVID-19) Regulations 2022.

PART 1 PRELIMINARY

Interpretation

- 2 In these Regulations—
 - “the Act” means the Public Health Act 1949;
 - “COVID-19 antigen test” means a rapid point-of-care test to detect the presence of the viral proteins of SARS-CoV-2;
 - “COVID-19 PCR test” means a polymerase chain reaction test using reverse transcription PCR (RT PCR) for the detection of nucleic acid from SARS-CoV-2;
 - “COVID-19 test” means either a COVID-19 antigen test or a COVID-19 PCR test;
 - “isolation” in relation to a person, means the separation of that person from other people in such a manner as to prevent infection or contamination (with COVID-19)—
 - (a) in that person’s home;
 - (b) in a hospital; or
 - (c) at another suitable place;
 - “Justice of the Peace” means a justice of the peace who is a magistrate under section 3(2) of the Magistrates Act 1948;
 - “Ministry of Health website” means the Ministry of Health uniform resource locator or internet address located at www.gov.bm/coronavirus;
 - “responsible adult” means, in relation to a child, a person with parental responsibility for the child (within the meaning of the Children Act 1998) or a person who has custody or charge of the child for the time being.

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PART 2

POWERS TO CONTAIN COVID-19 TO BE IN PROPORTION TO THE HEALTH RISK

Conditions applicable to the imposition of restrictions and requirements

3 (1) Where the Chief Medical Officer, Chief Environmental Health Officer or a Public Health Officer imposes restrictions and requirements under these Regulations, the Chief Medical Officer, Chief Environmental Health Officer or a Public Health Officer shall comply with the provisions of this regulation.

(2) A decision to impose a restriction or requirement under these Regulations may only be taken if it is considered, when taking the decision, that the restriction or requirement is proportionate to what is sought to be achieved by imposing it.

(3) A restriction or requirement imposed under these Regulations may be varied (orally or in writing).

(4) Where a restriction or requirement under these Regulations is imposed on or in relation to a child, a person who is a responsible adult in relation to the child must secure that the child complies with the restriction or requirement, insofar as that person is reasonably able to do so.

(5) Where a restriction or requirement is orally imposed on a person under these Regulations, or is orally varied, the person, or the responsible adult in relation to a child, shall be provided with a written notification of the requirement that has been imposed or varied.

(6) Where a restriction or requirement is imposed under these Regulations, the restriction or requirement must express it to be contingent on the risk of transmission of COVID-19 constituting a serious risk to public health.

PART 3

MEDICAL EXAMINATION AND ISOLATION OF PATIENTS

Restrictions affecting place of isolation

4 (1) Pursuant to section 85 of the Act, when any place is in use for isolation purposes, no person shall enter or leave the place and no article shall be taken to or removed from the place except as directed by a Public Health Officer.

(2) A direction by a Public Health Officer referred to under paragraph (1) may be as set out on the Ministry of Health website.

Isolation of persons suspected to be infected with COVID-19

5 (1) If in the opinion of a Public Health Officer or medical practitioner a person has or is suspected to have COVID-19, that person shall be placed in isolation.

(2) A Public Health Officer may place a person in isolation, where in his opinion—

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- (a) there are reasonable grounds to believe that person is, or may be, infected or contaminated with COVID-19; and
 - (b) there is a risk that person might infect or contaminate others.
- (3) A person who, after conducting a COVID-19 test, tests positive for COVID-19, shall place himself in isolation at his home.
- (4) A person to whom this regulation applies shall be placed, or place himself, in isolation for a period not exceeding 10 days, unless otherwise directed by the Chief Medical Officer.
- (5) A Public Health Officer may, with the approval of the Chief Medical Officer, impose on or in relation to a person one or more screening requirements under regulation 7.
- (6) Where a special restriction or requirement is imposed under this regulation, a Public Health Officer shall express it to be contingent on the risk of transmission of COVID-19 constituting a serious risk to public health.

Duties of Public Health Officer with respect to persons in isolation

6 A Public Health Officer shall notify a person placed in isolation under regulation 5 of—

- (a) the fact of the person's placement in isolation;
- (b) the powers under which the person is kept in isolation;
- (c) the reason for the person's isolation;
- (d) the next steps that may be taken and by whom;
- (e) the obligation to keep the need for the person's isolation under review;
- (f) the penalty for—
 - (i) absconding, or attempting to abscond;
 - (ii) providing false or misleading information intentionally or recklessly;
 - (iii) obstructing a person carrying out a function under these Regulations; and
- (g) the right to appeal to the Supreme Court.

Compulsory examination or screening

7 (1) The Chief Medical Officer may direct a Public Health Officer to conduct a compulsory examination, pursuant to section 69 of the Act, of a person suffering, or suspected of suffering, from COVID-19.

(2) The person required to undergo the compulsory examination under paragraph (1) shall—

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- (a) answer questions about his health or other relevant circumstances (including travel history and information about other individuals with whom he may have had contact);
 - (b) produce any documents required or which to his knowledge may be of assistance in assessing his health;
 - (c) at such time as may be specified, allow that his biological sample be taken, including a sample of his respiratory secretions, by appropriate means including by swabbing his nasopharyngeal cavity, or provide such a sample; and
 - (d) provide sufficient information to enable him to be contacted immediately during such period as the Public Health Officer may specify, where the Public Health Officer considers that such provision of information is necessary in order to reduce or remove the risk of such person infecting or contaminating others.
- (3) In the case where a child is to undergo a compulsory examination, the responsible adult shall—
- (a) secure that the child answers questions in accordance with paragraph (2)(a);
 - (b) answer the questions if the child is unable to do so or cannot reliably do so;
 - (c) produce any documents, required under paragraph (2)(b), on the child's behalf;
 - (d) allow the Public Health Officer, or a medical practitioner, to take a biological sample of the child, including a sample of the child's respiratory secretions, by appropriate means including by swabbing the child's nasopharyngeal cavity, or provide such a sample; and
 - (e) provide sufficient information where required under paragraph (2)(d).

Restrictions and requirements following examination or isolation

8 (1) A Public Health Officer may (orally or in writing) impose on a person any one or more of the requirements specified in paragraph (2) where the Officer considers that it is necessary and proportionate to do so in order to reduce or remove the risk of the person infecting or contaminating others, following—

- (a) the person's examination under regulation 7; or
- (b) the person's release from the isolation.

(2) The requirements specified in paragraph (1), which are to be provided to a medical practitioner, Public Health Officer or the Bermuda Hospitals Board, depending on where the person's examination is conducted, are for the person to—

- (a) provide his contact details;

- (b) supply information which may assist in assessing the person's health;
 - (c) at such time as may be specified, allow the medical practitioner or Public Health Officer, to take a biological sample of the person, including a sample of the person's respiratory secretions, by appropriate means including by swabbing the person's nasopharyngeal cavity, or provide such a sample;
 - (d) comply with any other specified condition or to take any other specified measure that is proportionate to preventing the risk of transmission of COVID-19 to other people.
- (3) The conditions or measures which may be specified under paragraph (2)(d) include—
- (a) a restriction on the person's travel, pursuant to section 81 of the Act;
 - (b) a restriction on the person's activities, pursuant to section 71 of the Act;
 - (c) a restriction on the person's contact with other persons, pursuant to section 85 of the Act.
- (4) A Public Health Officer may (orally or in writing)—
- (a) vary any requirement imposed under this regulation; and
 - (b) impose on the person any additional requirements specified in paragraph (2).
- (5) Before imposing or varying a requirement under this regulation, a Public Health Officer shall—
- (a) inform the person (or in the case of a child, a person who is a responsible adult in relation to the child) of the requirement or variation that the Public Health Officer deems necessary to impose or make; and
 - (b) have regard to any relevant representations by the person (or in case of a child, a person who is a responsible adult in relation to the child), as to its suitability.
- (6) Where a requirement under this regulation is imposed on or in relation to a child, or varied in relation to a child, a person who is a responsible adult in relation to the child must secure that the child complies with the requirement, insofar as that person is reasonably able to do so.
- (7) Where a Public Health Officer orally imposes a requirement on the person under this regulation, or orally varies such a requirement, he shall provide the person, or the responsible adult in relation to a child, with a written notification of the requirement that has been imposed or varied.

Change of place during isolation

- 9 (1) A Public Health Officer responsible for the isolation of a person who is about to leave Bermuda by plane or boat before the period of isolation has ended shall inform the

health authorities of the place to which such person is proceeding of his impending arrival and address there, and of the period of isolation still uncompleted.

(2) A Public Health Officer shall, in addition to complying with paragraph (1), instruct the person under isolation as to whom he shall report for medical inspection when he arrives at such other place.

Requirement of person improperly leaving place of isolation

10 Any person who, contrary to requirements under these Regulations, leaves any place in use for isolation purposes may, without prejudice to any other provision of these Regulations, be informed by a Public Health Officer or police officer, that in order to be in compliance with these Regulations, they must return to the place of isolation.

PART 4 ENFORCEMENT

Application to Justice of the Peace

11 (1) Where a person has failed to comply with an order by a Public Health Officer made under these Regulations, to take the necessary precautions to prevent the transmission in Bermuda of COVID-19, the Public Health Officer may make an application to the Justice of the Peace, as provided under section 83 of the Act, that the person has failed to—

- (a) isolate himself from other persons;
- (b) submit to an examination by a medical practitioner or Public Health Officer;
- (c) conduct himself in such a manner as not to expose another person to infection.

(2) Where the Justice of the Peace is satisfied with the application made under paragraph (1), he may, with the consent of the Minister, order that the person who has failed to comply with requirements under paragraph (1)—

- (a) isolate himself from other persons;
- (b) submit to an examination by a medical practitioner or Public Health Officer;
- (c) conduct himself in such a manner as not to expose another person to infection.

(3) The admission of the person at the place of isolation as ordered under paragraph (2) shall be at the cost of such person.

(4) The Justice of the Peace shall, when making an order under paragraph (2) advise the person who is the subject of the order to submit himself to a medical practitioner or Public Health Officer for the conduct of an examination.

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Authority to apprehend

12 (1) An order made under regulation 11 is authority for the Public Health Officer to direct a police officer to—

- (a) locate and apprehend the person who is the subject of the order; and
- (b) deliver the person who is the subject of the order to the place of isolation named in the order, or to a medical practitioner or Public Health Officer for examination.

(2) The police officer shall do all things reasonably able to be done to locate, apprehend and deliver the person to the place of isolation specified in the order.

(3) The police officer who apprehends a person who is the subject of an order pursuant to paragraph (2) shall promptly—

- (a) inform the person of the reasons for the apprehension and of the person's right to retain and instruct counsel without delay; and
- (b) tell the person where the person is being taken.

(4) An order made under regulation 11(2)(a) is authority to detain the person who is the subject of the order in the place of isolation named in the order and examine the person.

(5) Subject to regulation 14(2), an order made under regulation 11(2)(b) is authority to detain the person who is the subject of the order in the place of isolation named in the order for a period not exceeding 10 days and examine the person.

Monitoring and reporting

13 Where a person is apprehended by order of a Public Health Officer under regulation 12, the Public Health Officer shall—

- (a) monitor the person named in the order;
- (b) make a report to the Chief Medical Officer in respect of the condition of the person.

Rights of a person apprehended

14 (1) A person apprehended pursuant to regulation 12 shall be informed of the person's right to counsel.

(2) A person apprehended pursuant to regulation 12 shall not be held for longer than 72 hours unless a hearing is held within that time period and an order is made under regulation 11.

(3) A person examined pursuant to any requirement under these Regulations who is in need of care or treatment shall not be subjected to any care or treatment without the express consent of such person, or the responsible adult in relation to a child.

Right of appeal

15 A person in relation to whom—

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- (a) a restriction or requirement is imposed under these Regulations;
- (b) there is a ruling of a Justice of the Peace under regulation 11(2);
- (c) there is an order for apprehension under regulation 12,

may appeal to the Supreme Court against the requirement or restriction, ruling or order.

Technological means of appearance

16 A person who has appealed to the Court under regulation 15 may appear before the Court by any technological means satisfactory to the Court that permits the Court and such person to communicate simultaneously, if the Court is satisfied that the use of technology is necessary or prudent to prevent the spread of COVID-19.

PART 5 GENERAL

Offences

- 17 (1) A person commits an offence if he—
- (a) fails, without reasonable excuse, to comply with a restriction or requirement imposed under these Regulation;
 - (b) absconds, or attempts to abscond, from detention or isolation under these Regulations.
- (2) A person who provides false or misleading information intentionally or recklessly to any person carrying out a function under these Regulations commits an offence.
- (3) A person who obstructs, without reasonable excuse, any person carrying out a function under these Regulations commits an offence.
- (4) A responsible adult who fails, without reasonable excuse, to comply with restrictions and requirements imposed on a child under these Regulations commits an offence.
- (5) A person who refuses to answer questions as required under section 107H of the Act commits an offence.
- (6) A person guilty of an offence under this regulation shall be liable to a fine not exceeding \$6,000 in respect of a first offence; and in the case of a second or subsequent offence, to a fine not exceeding \$10,000 or imprisonment for a term not exceeding three months, or to both.
- (7) For the purposes of paragraph (6), a conviction for an offence contrary to the Public Health (COVID-19) Regulations 2020 (revoked under regulation 20(1) of these Regulations) shall be treated as a conviction for a first offence under this regulation in the case where the person commits a similar offence under these Regulations.

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Offences to which public health penalty ticket is applicable

18 (1) In accordance with Part VA of the Act, a public health penalty ticket may be issued in respect of such offences under these Regulations as are listed in Schedule 1 to the Public Health (COVID-19) Penalties Regulations 2021, and, to the extent provided in those Regulations, those Regulations shall apply in respect of those offences.

(2) A person to whom a public health penalty ticket under the Public Health (COVID-19) Penalties Regulations 2021 is issued for an offence referred to in paragraph (1) shall only be liable to pay the penalty as provided in regulation 7(1)(b) of those Regulations.

(3) For the avoidance of doubt, and in accordance with section 107J of the Act, a person to whom a public health penalty ticket is issued, as provided under paragraph (1), who fails to pay the penalty provided under the Public Health (COVID-19) Penalties Regulations 2021 within the period of 28 days or within an extended period of time, as may be granted under section 107I of the Act, is liable, on conviction of the offence stated in the ticket, to the fine as provided in regulation 17(6) of these Regulations.

Expiry

19 (1) These Regulations shall cease to have effect on 31 March 2023.

(2) This regulation does not affect the validity of anything done pursuant to these Regulations before they cease to have effect.

Revocation of Public Health (COVID-19) Regulations 2020 and savings

20 (1) The Public Health (COVID-19) Regulations 2020 are hereby revoked (hereinafter referred to as the “revoked Regulations”).

(2) Notwithstanding the revocation under paragraph (1), where under the revoked Regulations a determination, designation or decision was made—

- (a) by the Minister, such determination, designation or decision shall continue to have force as if made by the Minister under these Regulations;
- (b) by the Chief Medical Officer, such determination, designation or decision shall continue to have force as if made by the Chief Medical Officer under these Regulations;
- (c) by a Public Health Officer, Health Officer or medical practitioner, such determination, designation or decision shall continue to have force as if made by the Public Health Officer, Health Officer or medical practitioner, under these Regulations.

(3) All actions, investigations, suits or legal proceedings commenced under the revoked Regulations by or against the Ministry of Health shall be carried out or prosecuted by or against the Ministry of Health, and no such action, investigation, suit or legal proceedings shall abate or be affected by the coming into operation of these Regulations.

(4) For the avoidance of doubt, the revocation under paragraph (1) shall not affect the prosecution of a person for an offence under the revoked Regulations which was committed before the commencement of these Regulations.

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Made this 14th day of July 2022

Minister of Health

[Operative Date: 14 July 2022]