

No. 8 of 2020.

***National Pandemic Act 2020.***

**Certified on : 16 JUN 2020**



No. 8 of 2020.

*National Pandemic Act 2020.*

**ARRANGEMENT OF SECTIONS.**

**PART I. - PRELIMINARY.**

1. Compliance with constitutional requirements.
2. Interpretation -
  - “aircraft”
  - “Authorised Person”
  - “Controller”
  - “Declaration”
  - “Declared Period”
  - “Deputy Controller”
  - “governmental body”
  - “Minister”
  - “National Control Centre”
  - “National Response”
  - “National Response Plan”
  - “pandemic”
  - “pestilence”
  - “positive test”
  - “Premises”
  - “Provincial Control Centre”
  - “Provincial Response Plan”
  - “Public Health Emergency”
  - “Quarantine”
  - “the State”
  - “vehicle”
  - “vessel”.
3. Application.
4. Declarations.

**PART II. - ADMINISTRATION.**

*Division 1. - National Coordination.*

5. National Response.

6. National Control Centre.
7. Controller.
8. Functions of the Controller.
9. Powers of the Controller.
10. Delegation.
11. The Deputy Controller.
12. Functions of the Deputy Controller.
13. Technical Advisory Council.
14. Authorised Persons.
15. Committees and experts.

***Division 2. - Provincial Coordination.***

16. Provincial Control Centres.
17. Provincial Advisory Committee.
18. Provincial Response Plan.
19. Reporting.
20. Accountability.

**PART III. - STAKEHOLDER ENGAGEMENT.**

21. Governmental bodies.
22. Defence Force (Aid to Civilian Authorities).
23. International Partners.
24. Private Sector and Non-Government Organisations.
25. Accountability.

**PART IV. - MEASURES.**

26. Application of the *Public Health Act* (Chapter 226) and the *Quarantine Act* (Chapter 234).
27. Publication and notices.
28. International entry points.
29. Travel restrictions.
30. Border surveillance.
31. Testing.
32. Quarantine.
33. Isolation.
34. Check points and quarantine stations.
35. Monitoring and treatment of persons.
36. Restrictions on transportation and premises.
37. Prohibited items.
38. Deceased persons.
39. Other measures.
40. Exemptions.

**PART V. - ENFORCEMENT OF MEASURES.**

***Division 1. - General Enforcement.***

41. Exercise of Powers.
42. Directions.

43. Spot fines.

***Division 2. - Search and Seizure.***

44. Application of the *Search Act* (Chapter 341).
45. Search and seizure.
46. Disposal of seized items.

**PART VI. - OFFENCES AND PENALTIES.**

47. Administrative offences and penalties.
48. Criminal offences and penalties.
49. Misconduct.

**PART VII. - FINANCES AND PROCUREMENT.**

50. Application of Part VII.
51. Application of the *National Procurement Act 2018* and the *Public Finances (Management) Act 1995*.
52. Trust Account.
53. Procurement.
54. The Finance and Procurement Committee.
55. Report and audit.
56. Financial instructions, etc.

**PART VIII. - TRANSITIONAL AND SAVINGS.**

57. Interpretation.
58. Repeal.
59. Transitional.
60. Savings.

**PART IX. - MISCELLANEOUS.**

61. Protection for actions or omissions in good faith.
62. Regulations.
63. Final report.
64. Transfer of assets and liabilities.
65. Suspension of this Act.



No. 8 of 2020.

AN ACT

entitled

***National Pandemic Act 2020.***

Being an Act -

- (a) for the purpose of responding to a pandemic, pestilence or a Public Health Emergency; and
  - (b) to enable the delivery of a pandemic, pestilence or a National Response to a Public Health Emergency,
- and for related purposes.

MADE by the National Parliament to come into force upon certification by the Speaker of Parliament.

**PART I - PRELIMINARY.**

**1. COMPLIANCE WITH CONSTITUTIONAL REQUIREMENTS.**

(1) Being an Act to regulate or restrict certain rights and freedoms referred to in Subdivision III.3.C (*Qualified Rights*) of the *Constitution*, namely -

- (a) the liberty of persons conferred by Section 42; and
- (b) the freedom from arbitrary search and entry conferred by Section 44; and
- (c) the freedom of expression conferred by Section 46; and
- (d) the freedom of assembly and association conferred by Section 47; and
- (e) the right to privacy conferred by Section 49; and
- (f) the right to freedom of information conferred by Section 51; and
- (g) the right to freedom of movement conferred by Section 52; and
- (h) the protection from unjust deprivation of property conferred by Section 53,

is a law that is made under Section 38 of the *Constitution*, taking into account the National Goals and Directive Principles and Basic Social Obligations, made for the purpose of giving effect to the public interest in public health, public safety, public order, and public welfare.

(2) For the purposes of Section 204(2)(c) of the *Constitution*, this Act provides for a callout of the Defence Force in aid to a civilian authority.

(3) For the purposes of Section 41 of the *Organic Law on Provincial Governments and Local-Level Governments*, it is hereby declared that this Act relates to a matter of national interest.

## *National Pandemic*

### 2. INTERPRETATION.

(1) In this Act, unless the contrary intention appears -

“aircraft” has the same meaning under the *Civil Aviation Act 2000*;

“Authorised Person” means a person appointed in accordance with Section 14;

“Controller” means the Controller appointed under Section 7;

“Declaration” means a declaration made by the Head of State under Section 4(1);

“Declared Period” means the period beginning on the date a Declaration is made by the Head of State under Section 4(1), to the date it is declared to have ended under Section 4(2);

“Deputy Controller” means the Deputy Controller appointed under Section 11;

“governmental body” has the same meaning under Schedule 1.2 of the *Constitution*;

“Minister” means the Minister responsible for this Act in accordance with a Ministerial Determination made in accordance with Section 148 of the *Constitution*;

“National Control Centre” means the National Control Centre established under Section 16;

“National Response” means a coordinated State effort to respond to a pandemic or pestilence or a Public Health Emergency;

“National Response Plan” means a strategic and operational document outlining a plan for the delivery of a National Response during a Declared Period;

“pandemic” means the global spread of a disease;

“pestilence” means any infectious disease as defined under the *Public Health Act* (Chapter 226);

“positive test” means a test confirming that a person has contracted a virus or disease which is the subject of a Public Health Emergency to which a Declaration has been made;

“Premises” means a property, building, facility, messuages, lands and hereditaments of every tenure;

“Provincial Control Centre” means a Provincial Control Centre established under Section 16

“Provincial Response Plan” means a plan for the delivery of a National Response in a Province;

“Public Health Emergency” means an extraordinary event which is determined to constitute a public health emergency of international concern as declared by the World Health Organisation;

“Quarantine” has the same meaning under the *Quarantine Act* (Chapter 234);

“the State” refers to the Independent State of Papua New Guinea;

“vehicle” has the same meaning under the *Road Traffic Act 2014*;

“vessel” has the same meaning under the *Fisheries Management Act 1998*.

(2) Unless the contrary intention appears, the provisions of the *Interpretation Act* (Chapter 2) apply to this Act.

### 3. APPLICATION.

(1) This Act applies -

(a) to the area of Papua New Guinea; and

(b) notwithstanding any other laws.

(2) For the avoidance of doubt, this Act is not an *Emergency Law* for the purpose of Part X of the *Constitution*.

## *National Pandemic*

### **4. DECLARATIONS.**

(1) The Head of State, acting on advice, shall make a Declaration of the existence of a pandemic, pestilence or a Public Health Emergency for the purposes of this Act.

(2) A Declaration shall be revoked by the Head of State, acting on advice.

(3) Declarations made under this section shall be published in the National Gazette and notified to the public.

(4) The Minister shall present a report to Parliament at the next meeting of the Parliament following a Declaration.

## **PART II. - ADMINISTRATION.**

### *Division 1. - National Coordination.*

### **5. NATIONAL RESPONSE.**

Where a Declaration has been made, the State shall coordinate a National Response through a National Control Centre.

### **6. NATIONAL CONTROL CENTRE.**

(1) Immediately after a Declaration has been made, a National Control Centre shall be established.

(2) The National Control Centre shall be an *ad-hoc* body established for a Declared Period.

(3) The National Control Centre shall consist of the Controller, a Deputy Controller, Authorised Persons, and other persons approved by the Controller to provide operational, administrative and ancillary support.

### **7. CONTROLLER.**

(1) When a Declaration is made, the Head of State, acting on advice, shall appoint the Controller for a Declared Period.

(2) As soon as practicable after the Controller has been appointed, the appointment shall be published in the National Gazette and notified to the public.

(3) The person appointed to be the Controller shall be a public office-holder.

(4) Where the Controller is unable to undertake his duties for any reason, the Deputy Controller shall act in his place, until the Controller returns to duties or a new appointment is made under Subsection (1).

### **8. FUNCTIONS OF THE CONTROLLER.**

(1) The Controller shall -

(a) give full effect to the purposes and objectives of this Act; and

## *National Pandemic*

- (b) manage the National Control Centre; and
- (c) have overall command over the National Response; and
- (d) monitor the delivery of the National Response; and
- (e) develop a National Response Plan; and
- (f) monitor the implementation of the National Response Plan; and
- (g) carry out directions from the National Executive Council; and
- (h) provide regular reports to the Minister and the National Executive Council; and
- (i) do such things as he considers necessary and within his powers to give full effect to the purposes and objectives of this Act.

(2) The Controller shall, in consultation with the Minister, be responsible for the dissemination of information pertinent to the National Response to the public.

(3) The Controller may seek the appropriate expert advice from the Technical Advisory Council, in performing his functions and exercising his powers.

### **9. POWERS OF THE CONTROLLER.**

(1) The Controller shall have the power to do all things necessary to carry out the functions under Section 8. The powers shall include, but are not limited to the following:

- (a) issue directions; and
- (b) impose measures; and
- (c) issue directions for the movement of persons; and
- (d) coordinate measures to regulate business activities; and
- (e) give direction with respect to the occupation and operation of premises, including the disinfecting and cleaning of such premises; and
- (f) enter and search premises and seize items; and
- (g) require a person to provide information or answer questions; and
- (h) direct the destruction or disposal of items; and
- (i) direct a person to be quarantined or remain quarantined for necessary periods; and
- (j) direct a person to undergo medical observation, medical examination, medical treatment, vaccination or surveillance; and
- (k) direct the evacuation of any premises or area; and
- (l) coordinate the regulation of all modes of transportation; and
- (m) procure the necessary goods, works or services for the purposes of the National Response; and
- (n) enter into and execute contracts for goods, works or services for the purposes of the National Response; and
- (o) issue relevant notices; and
- (p) impose administrative fines; and
- (q) coordinate Provincial Control Centres; and
- (r) give any other directions reasonably necessary to achieve the purposes of this Act.

(2) The Controller, the Deputy Controller and Authorised Persons, in exercising powers under this Act, shall take all reasonable and practicable steps to ensure that any exercise of powers under this Act -

- (a) are necessary for achieving the purposes and objectives of this Act; and
- (b) are the least restrictive as possible; and



## *National Pandemic*

- (c) are the least intrusive and invasive as possible; and
- (d) take into full account the human rights of the persons affected by such actions, directions or measures.

### **10. DELEGATION.**

(1) The Controller may delegate his functions or powers under this Act to the Deputy Controller, or an Authorised Person, except this power of delegation.

(2) The Controller may delegate certain functions and powers to a Provincial Administrator as an Authorised Person.

(3) Notwithstanding Section 9(2), a Provincial Administrator may sub-delegate certain functions and powers delegated to him by the Controller.

(4) The Controller shall -

- (a) express the power to sub-delegate certain functions and powers by the Provincial Administrator; and
- (b) specify the functions and powers that may be sub-delegated by the Provincial Administrator,

in a notice published in the National Gazette.

### **11. THE DEPUTY CONTROLLER.**

(1) When a Declaration is made, the Head of State, acting on advice, shall appoint a Deputy Controller for a Declared Period.

(2) The appointment under Subsection (1) shall be made concurrently with the appointment of the Controller.

(3) As soon as practicable after the Deputy Controller has been appointed, the appointment shall be published in the National Gazette and notified to the public.

(4) The person appointed to be the Deputy Controller shall be a public office-holder.

### **12. FUNCTIONS OF THE DEPUTY CONTROLLER.**

(1) The Deputy Controller shall -

- (a) provide the managerial and operational support to the Controller; and
- (b) assist the Controller in carrying out his functions under this Act; and
- (c) provide reports to the Controller; and
- (d) carry out any other functions as delegated by the Controller.

(2) The Deputy Controller shall have the power to do all things necessary to carry out the functions under Subsection (1).

### **13. TECHNICAL ADVISORY COUNCIL.**

(1) An *ad-hoc* Technical Advisory Council shall be established for a Declared Period to provide technical and expert advice to the Controller.

## *National Pandemic*

- (2) The Technical Advisory Council shall be chaired by the Controller and shall have -
- (a) primary membership consisting of the heads of governmental bodies or a senior nominee (at deputy level), responsible for the following matters:
    - (i) health; and
    - (ii) finance; and
    - (iii) treasury; and
    - (iv) justice; and
    - (v) national security; and
    - (vi) immigration; and
    - (vii) border protection; and
    - (viii) public safety; and
    - (ix) provincial affairs; and
  - (b) optional membership from the Heads of the governmental bodies or a senior nominee (at deputy level), responsible for matters listed below, who the Controller may require from time to time -
    - (i) commerce and industry; or
    - (ii) foreign affairs; or
    - (iii) education; or
    - (iv) transport; or
    - (v) other matters pertinent to the National Response.

(3) The Technical Advisory Council shall meet as soon as possible, but no later than seven days after a Declaration and shall meet as frequently as required by the Controller.

### **14. AUTHORISED PERSONS.**

- (1) The Controller may, by notice in the National Gazette, appoint a person or a class of persons to be Authorised Persons under this Act.
- (2) A notice under Subsection (1) shall include, among other things -
- (a) the details of persons appointed; and
  - (b) where a person is appointed in an official capacity, the title and the name of the organisation; and
  - (c) the powers conferred; and
  - (d) the date of commencement of the notice; and
  - (e) the term of appointment; and
  - (f) the conditions attached to the appointment.

### **15. COMMITTEES AND EXPERTS.**

The Controller may, from time to time, establish committees or request experts as may be necessary and appropriate, to provide advice or carry out certain tasks pertinent to this Act.

### *Division 2. - Provincial Coordination.*

### **16. PROVINCIAL CONTROL CENTRES.**

- (1) The Controller may establish Provincial Control Centres.

## *National Pandemic*

(2) Provincial Control Centres shall be *ad-hoc* bodies established for the duration of a Declared Period for the purposes of coordinating the delivery of the National Response in the provinces.

(3) Provincial Control Centres shall be managed by the respective Provincial Administrators in close consultation with the respective Provincial Health Authorities.

### **17. PROVINCIAL ADVISORY COMMITTEE.**

(1) The Provincial Control Centres shall be supported through Provincial Advisory Committees.

(2) The Provincial Advisory Committee shall consist of the following members:

- (a) the Provincial Police Commander; and
- (b) the Chief Executive Officer of the Provincial Health Authority; and
- (c) the Chief Executive Officers of District Development Authorities; and
- (d) any other persons who the Provincial Administrator considers necessary for the purposes of this Division.

(3) The Provincial Advisory Committee shall convene as soon as possible, but no later than seven days after being established, with the view of developing a Provincial Response Plan.

### **18. PROVINCIAL RESPONSE PLAN.**

(1) The Provincial Administrator shall ensure that a Provincial Response Plan is developed, consistent with the National Response Plan.

(2) The Provincial Response Plan shall clearly outline, amongst other things -

- (a) the key actions for implementation in the province; and
- (b) the allocation of core responsibilities.

(3) The Provincial Administrator must furnish the Provincial Response Plan to the National Control Centre as soon as practicable.

### **19. REPORTING.**

(1) The Provincial Administrator shall ensure regular reports are provided to the National Control Centre.

(2) The contents and the frequency of the reports shall be as determined by the Controller, but should contain at the least -

- (a) details on the implementation of the Provincial Response Plans; and
- (b) the exercise of powers and functions in the provinces.

### **20. ACCOUNTABILITY.**

(1) Non-compliance at the provincial level under this Division shall be dealt with in accordance with Part VI.

(2) Action taken under Part VI does not exclude the application of other relevant laws.

**PART III. - STAKEHOLDER ENGAGEMENT.**

**21. GOVERNMENTAL BODIES.**

(1) The Controller may require governmental bodies to provide support for the delivery of the National Response.

(2) Where the Controller requires the support of governmental bodies under Subsection (1), governmental bodies and their employees shall provide such support as required.

(3) Support provided by employees from governmental bodies shall be considered as normal duties.

**22. DEFENCE FORCE (AID TO CIVILIAN AUTHORITIES).**

(1) Pursuant to Section 204(2)(c) of the *Constitution*, the Defence Force or part of the Defence Force may be called out by the Head of State, acting on advice, to provide assistance to civilian authorities for the Declared Period.

(2) The Controller may make a request to the National Executive Council to advise the Head of State to call-out the Defence Force, in accordance with Section 204(2)(c) and the *Constitution*.

**23. INTERNATIONAL PARTNERS.**

The Controller may request the assistance of international partners to provide support for the delivery of the National Response and shall coordinate this assistance.

**24. PRIVATE SECTOR AND NON-GOVERNMENT ORGANISATIONS.**

The Controller may request assistance from the private sector and non-government organisations to provide support for the delivery of the National Response and shall coordinate this assistance.

**25. ACCOUNTABILITY.**

(1) Governmental bodies and their employees providing support to the Controller in the delivery of the National Response shall be subject to the command of the Controller.

(2) All persons referred to under Sections 23 and 24 providing support to the Controller in the delivery of the National Response, shall do so in accordance with the provision of this Act.

(3) Non-compliance by persons referred to in this part shall be dealt with in accordance with Part VI.

(4) Action taken under Subsection (3) does not exclude the application of other relevant laws.

**PART IV. - MEASURES.**

**26. APPLICATION OF THE *PUBLIC HEALTH ACT* (CHAPTER 226) AND THE *QUARANTINE ACT* (CHAPTER 234).**

(1) The provisions of the *Quarantine Act* (Chapter 234) and the *Public Health Act* (Chapter 226) may apply under this Act, insofar as this Act does not make specific provisions on certain matters pertinent to the purposes and objectives of this Act.

## *National Pandemic*

(2) The provisions of the *Quarantine Act* (Chapter 234) and the *Public Health Act* (Chapter 226) shall apply to the extent that they are not inconsistent with the purposes and objectives of this Act.

### **27. PUBLICATION AND NOTICES.**

(1) The Controller may, for the purposes of this Act, impose measures under this Part, which shall -

- (a) be in writing; and
- (b) state the date on which it is made; and
- (c) state the date on which it comes into effect; and
- (d) state the date on which it expires, if applicable; and
- (e) be made public.

(2) A variation, amendment, exemption or termination of a measure shall be made in accordance with Subsection (1).

### **28. INTERNATIONAL ENTRY POINTS.**

(1) The Controller may declare -

- (a) a port of entry to be a port of first entry for aircrafts or vessels entering Papua New Guinea; or
- (b) a point of first entry for vehicles.

(2) A determination under Subsection (1) shall be made after consultation with the relevant authorities.

### **29. TRAVEL RESTRICTIONS.**

(1) The Controller may restrict international or domestic travel by air, sea or land.

(2) Subsection (1) may include restrictions on travel to and from places designated by the Controller.

### **30. BORDER SURVEILLANCE.**

(1) The Controller shall coordinate the conduct of patrols and surveillance at Papua New Guinea's international and provincial borders.

(2) The Controller may impose measures for border patrols and surveillance and require implementation by the relevant authorities.

### **31. TESTING.**

(1) For the purpose of this section "testing" includes the collection of specimens.

(2) The Controller may require the following persons to be tested:

- (a) persons presenting with symptoms; or
- (b) persons who came into contact with a person who tested positive; or
- (c) persons deemed to be a suspected case by appropriate health authorities.

(3) The Controller may designate a facility to be a facility for testing.

*National Pandemic*

- (4) Regulations or directions may specifically provide for -
- (a) approved testing platforms;
  - (b) the manner in which testing is conducted; and
  - (c) who may conduct testing; and
  - (d) the handling of results and other related information; and
  - (e) any other related matters.

(5) All information obtained or produced as a result of testing in accordance with this section shall observe strict confidentiality requirements.

(6) A person required for testing under Subsection (2) who refuses to be tested shall be liable to a spot fine of K10,000.00 or be dealt with under Part VI.

**32. QUARANTINE.**

(1) The Controller may designate a facility to be a quarantine facility for the purposes of this Part.

(2) Subject to Subsection (3), a person may be required to be quarantined for a period determined by the Controller, where, the person -

- (a) has travelled from a place designated by the Controller; or
- (b) has returned a positive test; or
- (c) has come into contact with a person who has returned a positive test; or
- (d) any other person or a class of persons as determined from time to time by the Controller.

(3) The costs of quarantine shall be borne by the person required to be quarantined under Subsection (2), or as otherwise determined by the Controller.

(4) A person who refuses to be quarantined in accordance with Subsection (2) shall be liable to a spot fine of K10,000.00 or dealt with under Part VI.

**33. ISOLATION.**

(1) The Controller may designate a facility to be an isolation facility for the purposes of this Part.

(2) The Controller may require a person to be isolated for a certain period, if that person has returned a positive test.

(3) Regulations or directions may provide specifically for all matters relating to isolation.

(4) A person who refuses to be isolated in accordance with Subsection (2) shall be liable to a spot fine of K10,000.00 or dealt with under Part VI.

**34. CHECK POINTS AND QUARANTINE STATIONS.**

The Controller may designate an area to be a check-point or temporary quarantine station for the performance of health and safety checks or quarantine.

## *National Pandemic*

### **35. MONITORING AND TREATMENT OF PERSONS.**

- (1) The Controller may require a person who has been tested or quarantined to -
  - (a) undergo further medical observation or be monitored for a reasonable period as determined by the Controller; or
  - (b) undertake vaccination or medical treatment.

(2) The imposition of measures under this section shall be done in consultation with the National Department of Health and in accordance with the relevant laws.

### **36. RESTRICTIONS ON TRANSPORTATION AND PREMISES.**

The Controller may -

- (a) impose restrictions or conditions on all transportation by aircraft, vessel, or vehicle; or
- (b) require an aircraft, vessel, or vehicle to be disinfected or cleaned; or
- (c) require a premises to be disinfected or cleaned.

### **37. PROHIBITED ITEMS.**

(1) The Controller may designate items to be prohibited items.

(2) A prohibited item shall be permanently seized in accordance with Part V.

### **38. DECEASED PERSONS.**

The Controller may impose restrictions or conditions on -

- (a) the manner in which the body of a deceased person is handled or disposed; and
- (b) a wake (hauskrai) or a burial.

### **39. OTHER MEASURES.**

The Controller may impose other measures necessary for the National Response, including matters related to business activities.

### **40. EXEMPTIONS.**

The Controller may, in writing, exempt a person or a class of persons from any of the measures imposed under this Part.

## **PART V. - ENFORCEMENT OF MEASURES.**

### *Division 1. - General Enforcement.*

### **41. EXERCISE OF POWERS.**

Where powers are exercised under this Part, all reasonable and practicable steps must be taken to ensure that the exercise of these powers -

- (a) are necessary for achieving the purposes and objectives of this Act; and
- (b) are the least restrictive as possible; and
- (c) are the least intrusive and invasive as possible; and
- (d) take into full account the human rights of the persons affected by such actions, directions or measures.

**42. DIRECTIONS.**

The Controller may issue directions -

- (a) imposing measures under Part IV; or
- (b) pertinent to his functions and powers; or
- (c) which are necessary to achieve the purposes and objectives of this Act.

**43. SPOT FINES.**

(1) The Controller may impose spot fines not exceeding K10,000.00 on persons for non-compliance of directions, or for general non-compliance of the provisions of this Act.

(2) The Controller shall specify in a direction -

- (a) the amount imposed; and
- (b) the manner in which the spot fine shall be paid and documented.

***Division 2. - Search and Seizure.***

**44. APPLICATION OF THE SEARCH ACT (CHAPTER 341).**

The power to search under this Division applies notwithstanding the provisions of the *Search Act* (Chapter 341) and may be exercised without a search warrant or the consent of the owner or occupier of a premises.

**45. SEARCH AND SEIZURE.**

(1) An Authorised Person may -

- (a) conduct a search on a person at an area designated under Section 34, or a random search based on reasonable suspicion; or
- (b) enter and search premises based on reasonable suspicion; or
- (c) inspect items.

(2) Where a prohibited item has been found during a search, an Authorised Person may seize the prohibited item and may impound the aircraft, vessel or vehicle transporting the prohibited item.

**46. DISPOSAL OF SEIZED ITEMS.**

(1) A prohibited item seized, or an aircraft, vessel or vehicle impounded under Section 45 shall be secured on official property.

(2) Prohibited items seized under Section 45 shall be disposed of in a manner determined by the Controller.

(3) If an aircraft, vessel or vehicle is impounded under Section 45, it shall be returned to the owner within a reasonable period.

(4) Where an aircraft, vessel or vehicle impounded cannot be returned or is unclaimed after a reasonable period, it shall become the property of the State and may be disposed of by means of auction, destruction or by other lawful means.



**PART VI. - OFFENCES AND PENALTIES.**

**47. ADMINISTRATIVE OFFENCES AND PENALTIES.**

- (1) A person commits an offence if the person -
- (a) refuses or fails to comply with a direction, notice or instruction; or
  - (b) obstructs, hinders or intimidates an Authorised Person; or
  - (c) refuses to provide information requested or required; or
  - (d) knowingly gives false or misleading information; or
  - (e) recklessly disseminates false or misleading information to the public in relation to a Public Health Emergency; or
  - (f) impersonates the Controller, Deputy Controller, or an Authorised Person.

Penalty: (a) in the case of a body corporate, a fine not exceeding K500,000.00; or  
(b) in the case of a natural person, a fine not exceeding K50,000.00 or imprisonment for a term not exceeding five years.

(2) A person who returns a positive test and the person who knowingly and intentionally disobeys a direction of the Controller, is guilty of an offence and is liable on conviction to a fine not exceeding K50,000.00 or a term of imprisonment not exceeding five years.

**48. CRIMINAL OFFENCES AND PENALTIES.**

A person who commits an offence -

- (a) under Section 47(1) with an intention to cause death or serious bodily harm or substantial damage or infection to persons or the environment; or
  - (b) under Section 47(2) which results in the death or infection of another person,
- is guilty of a criminal offence under the *Criminal Code Act* (Chapter 262).

**49. MISCONDUCT.**

The Controller, the Deputy Controller or an Authorised Person, who -

- (a) imposes a penalty or punishment inconsistent with directions issued under this Act; or
  - (b) accepts a bribe or reward; or
  - (c) colludes with a person to commit an offence,
- in the discharge of functions and powers under this Act, is guilty of an offence.

Penalty: Fine not exceeding K50,000.00 or imprisonment for a term not exceeding Five years.

**PART VII. - FINANCES AND PROCUREMENT.**

**50. APPLICATION OF PART VII.**

Part VII of this Act shall only come into effect upon a Declaration.

**51. APPLICATION OF THE NATIONAL PROCUREMENT ACT 2018 AND THE PUBLIC FINANCES (MANAGEMENT) ACT 1995.**

The *National Procurement Act 2018* and the *Public Finances (Management) Act 1995* do not apply to all procurement undertaken for a National Response during a Declared Period.

**52. TRUST ACCOUNT.**

(1) A Trust Account shall be established for purposes of holding and disbursing funds for the National Response and for related purposes.

(2) The funds referred to in Subsection (1) shall be governed by the terms and conditions of the Trust Instrument.

**53. PROCUREMENT.**

The procurement of goods, works, or services for the purpose of the National Response, shall only be carried out by the Controller in accordance with this Act, and procurement instructions or guidelines issued under this Act.

**54. THE FINANCE AND PROCUREMENT COMMITTEE.**

(1) A Finance and Procurement Committee shall be established.

(2) The Finance and Procurement Committee shall comprise of the following members, or their delegates at deputy level:

- (a) the Controller; and
- (b) the Head of the Department responsible for Finance; and
- (c) the Head of the Department responsible for Treasury.

(3) The Chairperson of the Finance and Procurement Committee shall be the Controller.

(4) The Chairperson of the Finance and Procurement Committee may co-opt members from outside of the Finance and Procurement Committee as and when required.

(5) The functions of the Finance and Procurement Committee are to -

- (a) ensure that all funds received and held for the purpose of the National Response are properly disbursed for the purpose of the National Response; and
- (b) provide oversight over all procurement of goods, works or services procured by the Controller for purposes of the National Response.

(6) The Finance and Procurement Committee shall hold meetings as and when the need arises.

(7) The procedures of the meetings shall be as determined by the Finance and Procurement Committee.

**55. REPORT AND AUDIT.**

(1) The Controller shall furnish to the Minister reports relating to the disbursement of funds and procurement of goods, works, or services during the Declared Period, as and when required.

(2) Upon the end of the Declared Period, the National Control Centre shall ensure that all funds received, held, and disbursed, and all procurement of goods, works, or services undertaken during the Declared Period, are audited and compiled to be furnished to the Minister and National Executive Council in accordance with Section 63.

## *National Pandemic*

### **56. FINANCIAL INSTRUCTIONS, ETC.**

(1) The Controller may, in consultation with the Head of the Department responsible for Finance, issue financial instructions, and procurement instructions or guidelines, not inconsistent with this Act, which are necessary or desirable for carrying out or giving effect to this Act and in general for the better control and management of the disbursement of funds and the procurement of goods, works, or services under this Act.

(2) All persons shall comply with the financial instructions, and procurement instructions or guidelines issued under this section.

## **PART VIII. - TRANSITIONAL AND SAVINGS.**

### **57. INTERPRETATION.**

In this Part -

“assets” include all goods, works, or services acquired under the repealed *Emergency Act*; and  
“the repealed *Emergency Act*” means the *Emergency (General Provisions)(COVID 19) Act 2020*, and includes all Emergency Orders and Directions under that Act.

### **58. REPEAL.**

The *Emergency (General Provisions)(COVID 19) Act 2020* is repealed.

### **59. TRANSITIONAL.**

(1) All acts, matters or things done or deemed to have been done or taken, or procedural steps taken under or for the purposes of a provision having effect immediately before the coming into operation of this Act, shall, after that coming into operation, be deemed to have been done or taken under, or for the purpose of this Act.

(2) All assets, which immediately before the commencement of this Act was acquired under the repealed *Emergency Act* on the date of the commencement of this Act shall immediately vest in the Controller subject to all interests, liabilities, charges, and obligations affecting such assets.

(3) All incomplete procurement of contracts for goods, works, or services procured under the repealed *Emergency Act* shall continue to be procured by the Controller under Part VII in the same manner as they would have continued to be procured if this Act, had been in force at the time when the procurement commenced.

(4) All trust accounts established under or deemed to have been established for purposes of the repealed *Emergency Act* in existence immediately before the coming into operation of this Act, shall be deemed, on the coming into operation of this Act, to be established as a Trust Account established under Section 52, for the same purposes as before.

(5) All moneys received or donated or held, or deemed to have been received or donated or held, immediately before the coming into operation of this Act, for the purpose of the repealed *Emergency Act*, shall be deemed, on the coming into operation, to be moneys duly received or donated or held for the purpose of the National Response under Section 52.

## *National Pandemic*

(6) Subject to this Act, until financial instructions and procurement instructions or guidelines are given under this Act, the provisions of and procedures laid down in financial instructions under the repealed *Emergency Act* shall apply and shall be complied with as if given under this Act.

### **60. SAVINGS.**

Any decision made, action taken, or measures imposed under the repealed *Emergency Act* are saved under this Act.

## **PART IX. - MISCELLANEOUS.**

### **61. PROTECTION FOR ACTIONS OR OMISSIONS IN GOOD FAITH.**

The Controller, Deputy Controller, Authorised Person, or any other person authorised by the Controller in carrying out duties or exercising powers under this Act, is not civilly liable or criminally responsible for anything done or omitted to be done, in good faith.

### **62. REGULATIONS.**

The Head of State, acting on advice, may make Regulations not inconsistent with this Act, prescribing all matters for the implementation of the purposes and objectives of this Act.

### **63. FINAL REPORT.**

(1) No later than six months after the end of the Declared Period, the Controller shall furnish an audited final report to the Minister and the National Executive Council on all administrative and enforcement actions, measures, decisions, all funds received, held and disbursed and all procurement of goods, works or services undertaken during the Declared Period.

(2) Subsection (1) continues to apply notwithstanding Section 65.

### **64. TRANSFER OF ASSETS AND LIABILITIES.**

Upon submission of the final report, all assets acquired and liabilities incurred under the Act during the Declared Period shall be transferred to and become assets and liabilities of the State, to be further disposed and discharged in accordance with law.

### **65. SUSPENSION OF THIS ACT.**

(1) The provisions of this Act (except Part I and this Part) shall apply only upon a Declaration and for the duration of the Declared Period.


(2) Notwithstanding Subsection (1) -

(a) any action taken under this Act during a Declared Period is valid; and

(b) any criminal responsibility arising from or civil liability incurred as a result of any acts or omissions under this Act is not suspended.

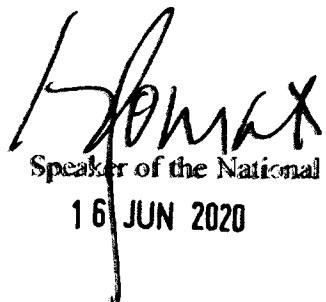
*National Pandemic*

I hereby certify that the above is a fair print of the *National Pandemic Act 2020* which has been made by the National Parliament.



Acting Clerk of the National Parliament.  
16 JUN 2020

I hereby certify that the *National Pandemic Act 2020* was made by the National Parliament on 12 June 2020 by an absolute majority as required by the *Constitution*.



Speaker of the National Parliament.  
16 JUN 2020