

REPUBLIC OF VANUATU

**BILL FOR THE
PUBLIC HEALTH (AMENDMENT)
ACT NO. OF 2021**

Explanatory Note

This Bill amends the Public Health Act [CAP 234] (“the Act”).

The current Public Health Act was enacted in 1995. While it has been subject to amendment from time to time, the language used in the Act is inconsistent with the current terminology in the management of disease threats and the Ministry of Health structure. It also does not provide a flexible risk-based framework for managing the increasing threat of Emerging Infectious Diseases (EIDs).

The purposes of these amendments are to improve the capacity of the Ministry of Health to respond more effectively to COVID-19 and other potential EIDs.

EIDs are serious public health threats. An EID is one that either has not appeared and is affecting populations for the first time, or has existed previously but is rapidly spreading, either in terms of the number of people getting infected, or to new geographical areas such as with COVID 19. Many EIDs are zoonotic in origin, which means that the disease has emerged from an animal and crossed the species barrier to infect humans.

Infectious diseases are not only spreading faster than any time in history, they also appear to be emerging more quickly than ever before. Since the 1970s, newly emerging diseases have been identified at the unprecedented rate of one or more per year. There are now nearly 40 diseases that were unknown in the past years. In addition, during the last five years, the World Health Organisation (WHO) has verified more than 1100 epidemic events worldwide.

Minimizing the transmission of infectious diseases is a core function of public health law. Clearly defined legal powers are needed to respond to outbreaks of contagious and serious diseases at national level. The proposed amendments to the Act aim to better equip the Ministry of Health to not only respond more effectively to COVID-19, but to ensure that we are prepared to respond to any other emerging infectious disease threat to Vanuatu.

These amendments:

- will clarify the definition of the Director of Health; and
- define terms of such as outbreak, isolation and quarantine to ensure that they are consistent with the WHO definitions; and
- provide clear powers for the isolation of persons who are suspected or confirmed to have a notifiable disease including penalties for breaches of isolation; and

- provide clear powers for the quarantine of persons who are known or suspected of being exposed to a notifiable disease including penalties for breaches of quarantine; and
- provide for greater flexibility in assigning the costs of quarantine; and
- introduce powers for the regulation of public health control measures that may be needed to respond to a notifiable disease.

Minister of Health



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An Act to amend the Public Health Act [CAP 234].

Be it enacted by the President and Parliament as follows-

1 Amendment

The Public Health Act [CAP 234] is amended as set out in the Schedule.

2 Commencement

This Act commences on the day on which it is published in the Gazette.

SCHEDULE

AMENDMENTS OF PUBLIC HEALTH ACT [CAP 234]

1 Section 1

Insert in their correct alphabetical positions:

““approved medical officer” means a medical officer approved by the Director for the purpose of quarantine or isolation;

“Committee” means the Health Emergency Advisory Committee established under section 5A;

“Director General” means the Director General of the Ministry of Health;

“Ministry” means the Ministry of Health;

“outbreak” means the rise of a notifiable disease, beyond the normal baseline, or the emergence of a disease of public health international concern as determined by the World Health Organisation;

“public health control measures” means the measures used to prevent the introduction, transmission and spread of a notifiable disease and includes quarantine, isolation, restriction, decontamination, disinfection, disinfestations, immunization, chemoprophylaxis, preventive therapy, prevention and education;

“public health emergency” means a public health emergency declared under section 21A;

“quarantine” means the process of physical separation and restriction of movement of a person exposed to, or potentially exposed, to a notifiable disease or a disease of public health international concern as determined by the World Health Organisation;”

2 Section 1 (Definition of “Director”)

After “of”, insert “Public”

3 Section 1 (Definition of “isolation”)

Repeal the definition, substitute

““isolation” means the process of physical separation and restriction of movement of a person who has a notifiable disease or a disease of public health international concern as determined by the World Health Organisation;”

4 Section 5(Heading)

Delete “of Health”

5 Section 5

Delete “of Health”

6 After section 5

Insert

“5A. Health Emergency Advisory Committee

- (1) The Health Emergency Advisory Committee is established.
- (2) The Committee consists of the following persons:
 - (a) the Director General; and
 - (b) the Director; and
 - (c) all other Directors under the Ministry of Health; and
 - (d) the Director of the National Disaster Management Office; and
 - (e) the Director of Finance and Economic Management; and
 - (f) the Director of Local Authorities; and
 - (g) the Director of Immigration; and
 - (h) the Director of Customs and Inland Revenue; and
 - (i) the Director of Civil Aviation; and
 - (j) the Director of Biosecurity; and
 - (k) the Regulator appointed under the Maritime Sector Regulatory Act No. 26 of 2016; and
 - (l) a staff of the Ministry appointed by the Minister.

5B. Functions of the Committee

- (1) The Committee has the following functions:

- (a) to review major policies relating to the functions of the Ministry;
and
 - (b) subject to subsection (2), to advise and make recommendations to the Minister on matters relating to a public health emergency; and
 - (c) to consider and make recommendations on health policies and administrative matters; and
 - (d) to carry out any other functions as required under this Act or any other Act.
- (2) The Committee must consider the International Health Regulations, prior to making any advise and recommendations to the Minister on matters relating to a public health emergency.
- (3) For the purpose of subsection (2), “International Health Regulations” means the instrument of the World Health Organisation (WHO) that outlines the criteria to determine whether or not a particular event constitutes a public health emergency.

5C. Powers of the Committee

The Committee has the power to do all things that are necessary or convenient to be done for or in connection with the performance of its functions under this Act or any other Act.

5D. Chairperson and Deputy Chairperson

- (1) The Director General is to be the Chairperson of the Committee.
- (2) The Deputy Chairperson is to be elected from amongst the members of the Committee.

5E. Meetings

- (1) The Committee is to meet at least 2 times a year and may hold such other meetings as are necessary for the proper performance of its functions.
- (2) At a meeting of the Committee, the quorum consists of the Chairperson or in his or her absence, the Deputy Chairperson and two thirds of the other members of the Committee present at the meeting.
- (3) The Committee may meet despite any vacancies in its membership so long as a quorum is present.

- (4) A member present at a meeting has 1 vote and questions arising at a meeting are to be decided by a simple majority of votes.
- (5) Subject to this Act, the Committee is to determine and regulate its own procedures.”

7 After subparagraph 9(1)(a)(ii)

Insert

“(iii) the quarantine of persons exposed to or potentially exposed to a notifiable disease;”

8 Paragraph 9(1)(d)

Repeal the paragraph, substitute

- “(d) to determine the procedure for the removal of a deceased person from isolation; and
- (e) to require the cleansing and disinfection of a public area or a vehicle exposed to or potentially exposed to a notifiable disease.”

9 After subparagraph 9(2)(a)(v)

Insert

“(vi) to take possession of or allow to be used, such premises, vehicles and vessels which in the opinion of the Director, may be necessary for the accommodation of persons subject to quarantine;”

10 Paragraph 9(2)(b)

After “subject to”, insert “quarantine or”

11 Section 12

Repeal the section, substitute

“12. Quarantine of persons exposed to infection

- (1) A person who, in the opinion of an approved medical officer, has been exposed or potentially exposed to a notifiable disease, may be placed in quarantine.
- (2) The person placed in quarantine must comply with quarantine procedures set out in this Act and prescribed by the Regulations.
- (3) A person must meet all financial costs incurred by him or her while in quarantine.

- (4) Despite subsection (3), the Minister may, on the advice of the Committee, exempt a person or category of persons from meeting all financial costs incurred by such persons while in quarantine.
- (5) The Director may discharge a person from quarantine, on the recommendation of an approved medical officer.
- (6) A person who leaves a quarantine area or fails to comply with any quarantine procedures, commits an offence and is liable on conviction to a fine not exceeding VT1,000,000 or to a term of imprisonment not exceeding 1 year, or both.

12A. Isolation

- (1) A person who, in the opinion of an approved medical officer, has a notifiable disease, may be placed in isolation, at the cost of the Government.
- (2) The person placed in isolation must comply with isolation procedures set out in this Act and prescribed by the Regulations.
- (3) The Director may discharge a person from isolation, on the recommendation of an approved medical officer.
- (4) A person who leaves an isolation area or fails to comply with any isolation procedures, commits an offence and is liable on conviction to a fine not exceeding VT1,000,000 or to a term of imprisonment not exceeding 1 year, or both.”

12 After Part 3

Insert

“PART 3A DECLARATION OF PUBLIC HEALTH EMERGENCY

21A. Declaration of public health emergency

- (1) For the purposes of this section:

“pandemic” means a notifiable disease occurring worldwide, or over a very wide area, crossing international boundaries, and usually affecting a large number of people.
- (2) The Minister may, by Order, on the recommendation of the Director after the Director has received an advice from the Committee, declare that a

public health emergency exists in whole, or a specified part or parts of Vanuatu, due to the following occurrences:

- (a) an outbreak or prevalence of any infectious or notifiable disease; or
 - (b) the potential exposure of a person to an outbreak or a pandemic.
- (3) The declaration must state:
- (a) the nature of the public health emergency; and
 - (b) the area to which the public health emergency relates; and
 - (c) the duration of the public health emergency; and
 - (d) any conditions or restrictions relating to the conduct of the response to the declared public health emergency.

21B. Broadcasting of declaration

The Director must inform the public, through the media or any other means of communication, of any public health emergency declared under section 21A.

21C. Duration of public health emergency

- (1) A declaration of a public health emergency has effect immediately on the day it is made.
- (2) The declaration of a public health emergency is for a period prescribed by the Minister, on the recommendation of the Director after the Director has received an advice from the Committee.
- (3) The Minister may, by Order, on the recommendation of the Director after the Director has received an advice from the Committee:
 - (a) extend the period of a public health emergency order; or
 - (b) revoke the public health emergency order if it is no longer necessary.
- (4) The Director must inform the public, through the media or any other means of communication, of any extension or revocation of a public health emergency under this section.”

13 Paragraphs 113 (aa) and (bb)

Repeal the paragraphs, substitute

- “(aa) the construction, maintenance, cleaning, inspection and control of places where any animals or birds are kept;
- (ab) the operation and inspection of public places and other places accessible to the public in so far as it concerns public health;
- (ac) the quarantine procedures for the purposes of quarantine;
- (ad) any fees relating to quarantine;
- (ae) the isolation procedures for the purposes of isolation;
- (af) provide for public health control measures;”