

PART 7 - NUISANCE

- 83. Abatement of nuisance or matter dangerous to health
- 84. Penalty for non-compliance with notice to abate
- 85. Penalty for non-compliance with Court order to concerning a nuisance
- 86. Procedure for abatement of nuisance on public lands

PART 8 - POLLUTION**Division 1 - Air Pollution**

- 87. Functions of Minister
- 88. Plans for potential sources
- 89. Permission to build a furnace
- 90. Ships to comply
- 91. Standards of emissions from motor vehicles
- 92. Motor Vehicles may be examined
- 93. Standards of certain substances in fumes

Division 2- Noise Pollution

- 94. Functions of Minister

PART 9 -TRAVELLERS AND CONVEYANCES**Division 1 - Quarantine**

- 95. Conveyances
- 96. Persons and goods
- 97. Continuance of liability to quarantine
- 98. Clearance of conveyances, travellers and goods
- 99. Quarantine stations
- 100. Quarantine facilities
- 101. Duty to provide
- 102. Facilities at entry and departure points
- 103. Inspection

Division 2 - Travellers

- 104. Obligation of arriving and departing persons
- 105. Screening technology
- 106. Refusal to cooperate
- 107. Medical examination

PUBLIC HEALTH ACT 2008**Arrangement of Sections****Section****PART 1 – PRELIMINARY**

- 1. Short title and commencement
- 2. Interpretation
- 3. Crown to be bound

PART 2 – ADMINISTRATION

- 4. Responsibilities of the Minister
- 5. Responsibilities of the Director
- 6. Appointment of authorised officers
- 7. Identification of authorised officers
- 8. Duty to coordinate
- 9. Protection of authorised officers
- 10. Limitations on the powers of authorised officers

PART 3 – PUBLIC HEALTH ORDERS

- 11. Public health order requirement
- 12. Serving public health orders
- 13. Application for an enforcement order
- 14. Enforcement orders
- 15. Takings steps under an enforcement order
- 16. Costs

PART 4 – FOOD**Division 1– General Provisions**

- 17. Premises
- 18. Registration of Food Premises
- 19. Cancellation of Registration
- 20. Prohibition of adulterated food
- 21. Misleading practices
- 22. Composition standards for foods
- 23. Unsanitary food
- 24. Importation of food

25. Refrigerated food
26. Gazette Notice of food dangerous or injurious to health
27. Prohibition
28. Importation
29. Collection of Samples
30. Analysis of Food Samples

Division 2 - Food Premises

31. Uses of premises for food
32. Limitation on use of premises for food
33. Abatement or prohibition order

Division 3 - Food Hygiene

34. Avoidance of pollution
35. Protection of food
36. Restrictions
37. Avoidance of contamination
38. Food handlers to be clean
39. Food handlers to avoid polluting food
40. Persons suffering from food borne disease
41. Contact with infectious person
42. Examination of food handler
43. Revocation of notice
44. Effect of notice
45. Notice of contaminated supply

Division 4 – Slaughterhouses and Slaughterers

46. Persons authorised to slaughter
47. Refusal to authorise
48. Inspection of meat before sale
49. Notice of intention to slaughter
50. Stamping of carcasses
51. Persons suffering from food borne disease
52. Minister may make arrangements for slaughtering
53. Requirements for slaughter house

54. Slaughterhouse to be kept clean
55. Restriction on transport of meat

PART 5 - WATER SUPPLY CONTROL

56. Duty of Minister
57. Premises to have safe drinking water
58. Examination of water sources
59. Minister to issue certificate and charge for service
60. Offence to use uncertificated water supply
61. Village water committees to be advised
62. Advice on prevention of contamination
63. Closure of a water supply if water unsafe
64. Drinking fountains
65. Piped water supplies
66. Rejection of plans for premises if Minister not satisfied with water supply
67. Failure to comply
68. Sampling of water

PART 6 - SANITARY FACILITIES

69. Provision of sanitary facilities
70. Minister to approve plans
71. Minister may specify standards
72. Sanitary facilities in dwellings
73. Public premises
74. Sanitary facilities requirements - general
75. Restriction on conveniences
76. Restriction on pit latrines
77. Sanitary facilities in schools
78. Minister to approve design
79. Standards for septic tanks
80. Urinals-requirements
81. Dangerous materials restricted
82. Extension to ships and aircraft

- 194. Consideration of application
- 195. Obligations of medical emergency officer in relation to a person detained
- 196. Application to end detention

Division 5 - Enforcement matters during a public health emergency

- 197. False or misleading information
- 198. Obstructing emergency officers

PART 12 - HEALTH AND SAFETY AT WORK

- 199. Registration of concern
- 200. Registration of dangerous process
- 201. Notification of death
- 202. Notification of serious accident
- 203. Visits by authorised officer
- 204. Hazards to other persons
- 205. Notification of occupational diseases

PART 13 - MONITORING AND ENFORCEMENT

Division 1 - Powers of authorised officers

- 206. General entry powers
- 207. Power to enter place to ascertain if public health risk exists
- 208. Power to enter place to check compliance with public health order
- 209. Power to enter place to take steps if public health order not complied with

Division 2 - Procedure for entry

- 210. Entry with consent
- 211. Entry of place under section 207, 208 or 209
- 212. Application for search warrant
- 213. Issue of a search warrant
- 214. Defect in relation to a warrant
- 215. Warrants—procedure before entry
- 216. General powers after entering places
- 217. Failure to help or answer questions
- 218. Seizing evidence at place that may be entered without consent or a warrant
- 219. Seizing evidence
- 220. Power to remove or reduce public health risks

- 108. Request of specific medical practitioner
- 109. Traveller to report to the Director
- 110. Arrest without warrant
- 111. Release
- 112. Traveller to be informed
- 113. Interpreters
- 114. Treatment of baggage and places

Division 3 - Conveyances

- 115. Report of arriving operators
- 116. Duty to provide information
- 117. Diversion order
- 118. Communication of information to passengers
- 119. Orders in relation to conveyances
- 120. Refusal to obey order
- 121. Costs of carrying out order
- 122. The Director may require security deposit from owner of conveyance
- 123. Compensation to owners
- 124. Duty to mitigate injury, damage and discomfort

Division 4 – Powers of Authorised Officers

- 125. Powers of inspection
- 126. Assistance to authorised officers
- 127. Compelling production of information
- 128. Report of contravention

PART 10 - NOTIFIABLE CONDITIONS

Division 1 - Notification

- 129. Notifiable Conditions Register
- 130. Application to deceased persons
- 131. Notification by health practitioner
- 132. Notification by person in charge
- 133. Time of hospital notice
- 134. When the Head of a laboratory shall notify
- 135. Anonymity

- 136. Further information may be required
- 137. Accuracy of information
- 138. Confidentiality of information

Division 2 - Contact tracing

- 139. Functions of authorised officers
- 140. Power to require contact tracing
- 141. Failure to give contact information
- 142. Disclosure of contact information

Division 3 - Supreme Court controlled notifiable conditions order

- 143. Applying for a controlled notifiable conditions order
- 144. Deciding application in person's absence
- 145. Initial examination order
- 146. Detention to undergo medical examination
- 147. Details of medical examination shall be explained
- 148. Release before the end of initial examination order
- 149. Behavioural order
- 150. Compliance with behavioural order
- 151. Detention order
- 152. Detention to undergo medical examination or treatment
- 153. Details of medical examination or treatment shall be explained
- 154. Service of orders
- 155. Extension of orders
- 156. Variation and revocation of orders
- 157. Application for warrant for apprehension
- 158. Issue of warrant
- 159. Defect in relation to a warrant
- 160. Procedure before entry under an order or a warrant
- 161. Prohibition of spread of controlled notifiable condition
- 162. Obstruction

PART 11 - PUBLIC HEALTH EMERGENCIES

Division 1 – General

- 163. Relationship to other Acts
- 164. Declaration of public health emergency

- 165. Contents of public health emergency order
- 166. Publication of declaration
- 167. Extending declared public health emergency
- 168. Duration of declared public health emergency
- 169. Ending declared public health emergency
- 170. Public health emergency order may be amended
- 171. Declaration of emergency notifiable condition
- 172. Emergency notifiable conditions declaration
- 173. Publication
- 174. Duration
- 175. Amendment

Division 2 – Duties and responsibilities in a Public Health Emergency

- 176. Coordination
- 177. Designation of emergency officers
- 178. Designation of medical emergency officers
- 179. Appointment conditions
- 180. Powers of emergency officers
- 181. Emergency powers
- 182. Failure to comply with requirement

Division 3 - Entry of places

- 183. Power to enter places
- 184. Procedure before entry
- 185. General powers after entering places
- 186. Failure to help emergency officer

Division 4 - Extra powers of medical emergency officers

- 187. Medical Emergency officer may order detention
- 188. Duration of order
- 189. Enforcement of order
- 190. Person to be given opportunity of voluntarily complying with order
- 191. Medical examination and treatment
- 192. Release of detained person
- 193. Application to extend order

“**authorised officer**” means an officer appointed under section 6 for the purpose of carrying out duties under this Act and includes a police officer;

“**cargo**” means goods carried on an aircraft or ship;

“**carrier**” means a person, animal or bird who, without symptoms or signs of a disease, harbours an infective agent and serves as a potential source of infection;

“**chimney**” includes structures or openings of any kind from or through which, smoke or fumes may be emitted;

“**contact**” means a person or animal that has been in an association with an infected person or animal or contaminated environment which might provide an opportunity to acquire the infective agent;

“**container**” includes any basket, tray, pail, package, or receptacle of any kind, whether open or closed;

“**contamination**” means presences of an infectious agent on body surface or on other materials including food and water;

“**controlled notifiable condition**” means a notifiable condition listed under a regulation as a controlled notifiable condition;

“**conveyance**” means a watercraft, aircraft, or other means of transportation, including a cargo container carried by a watercraft or aircraft, that arrives in the Kingdom or is in the process of departing from the Kingdom;

“**crew**” means the personnel of an aircraft or ship, who are employed on duties on board;

“**director**” means the Director of Health;

“**disease**” includes a non-infectious condition that may be injurious to human health;

“**dustbin**” means a movable receptacle for the deposit of ashes, or refuse or other waste, with a fitting lid;

“**dwelling**” means any building, tent, van, caravan or other structure or erection which is used or intended to be used in a permanent or temporary capacity for human habitation and includes the land and out buildings belonging thereto;

“**emergency notifiable condition**” means a condition that is not prescribed under a regulation as a notifiable condition and includes the following a previously —

- (a) unknown infectious medical condition or syndrome; or
- (b) unknown strain or variant of a known infectious medical condition; or

221. Cost of steps recoverable as a debt

222. Securing seized things

223. Tampering with seized things

224. Powers to support seizure

225. Authorised officer may require the return of the thing

226. Receipts for seized things

227. Forfeiture of seized thing

228. Return of seized things

229. Access to seized things

230. Power to require name and address

231. Power to require documents

232. Failure to produce document

233. False or misleading information

234. Stopping motor vehicle

235. Obstructing authorised officers

236. The Director may approve laboratory

237. Offences and penalties

238. Responsibility for acts or omissions of representatives

239. Executive officers liable

240. Delegations

241. Protecting prescribed persons from liability

PART 14 – CEMETERIES

242. Land used to be suitable

243. Restriction on use of land

244. Death from communicable disease

245. Burials at seas

246. Private mortuaries

247. Cremation

PART 15 – MISCELLANEOUS PROVISIONS

248. Compliance with explaining and giving documents

249. Regulation-making powers

250. Repeal and Savings



I assent,

GEORGE TUPOU V,

1st June, 2009.

AN ACT

TO REPLACE THE PUBLIC HEALTH ACT 1992

[3rd November, 2008]

BE IT ENACTED by the King and the Legislative Assembly of Tonga in the Legislature of the Kingdom as follows:

PART 1 – PRELIMINARY

1. Short title and commencement

- (1) This Act may be cited as the Public Health Act 2008.
- (2) This Act shall come into force on a day to be proclaimed by His Majesty in Council.

2. Interpretation

In this Act, unless the context otherwise requires –

“advertises” means the use of –

- (a) words whether spoken or written;
- (b) symbolic or pictorial representation or design; or
- (c) other representation by any means whatever, used or apparently used to promote or indirectly the sale or disposal of food;

“air pollution” means air that is fouled by any substance which is declared by the Minister from time to time to be noxious or offensive;

“animal” means any of the animal kingdom, and includes –

- (a) any mammal, bird, finfish, shellfish, reptile, amphibian, insect, or invertebrate; or
- (b) any other creature or entity that is declared by the Minister by notice in the Gazette to be an animal for the purposes of this Act;

“**traveller**” means a person, including the operator of a conveyance, who arrives in the Kingdom or is in the process of departing from the Kingdom;

“**unsanitary condition**” means such condition or circumstances as might cause contamination or be injurious or dangerous to health;

“**vector**” means a carrier that transfers or may transfer an infective agent from one host to another;

“**village water committee**” means a body created in accordance with the Water Supply Regulations 1963; and

“**waste**” includes an accumulation or deposit of a substance or a thing.

3. Crown to be bound

This Act shall bind the Crown.

PART 2 – ADMINISTRATION

4. Responsibilities of the Minister

The Minister shall be responsible for the administration and implementation of this Act.

5. Responsibilities of the Director

The Director shall -

- (a) advise the Minister on matters relating to the purposes and application of the Act and on public health matters generally;
- (b) exercise general supervision and control over matters relating to public health in the Kingdom;
- (c) supervise the identification, monitoring and control of public health risks, diseases and notifiable conditions;
- (d) supervise the enforcement of this Act; and
- (e) perform any other functions specified by this Act.

6. Appointment of authorised officers

- (1) The Director may appoint as an authorised officer for the purpose of this Act-
 - (a) a health service employee;
 - (b) any other public service officer or employee; or
 - (c) any other person prescribed for this purpose under a regulation.
- (2) The Director may at any time revoke the appointment of any authorised officer.
- (3) When exercising his powers under this Act, an authorised officer appointed under subsection (1) is subject to any directions given by the Director.

- (c) known infectious medical condition or a previously known strain or variant of an infectious medical condition;

“**factory**” means a building or its precincts in which persons are employed in labour in any process for or incidental to any of the following purposes:

- (a) making of any article or part of an article; or
- (b) altering, repairing, ornamenting, finishing, cleaning or washing, or the breaking-up or demolishing of any article;

“**food**” means any article manufactured, sold or represented for human consumption, and includes:

- (a) drink;
- (b) chewing substances; and
- (c) any ingredient, food additive or other substance that enters into or is capable of entering into or is used in the composition or preparation of food;

“**food borne disease**” means a disease that is likely to be transmitted through consumption of contaminated food

“**food business**” means any trade or business for the purpose of which any person engages in the handling of food;

“**food premises**” means any premises in, or from which, there is carried on any food business and includes stalls, vans, tents, vehicles or land used for displaying and selling food;

“**health officer**” means a person registered as a health officer under the Medical and Dental Practice Act 2001;

“**health practitioner**” means a registered medical practitioner, health officer, nurse or midwife under the Health Practitioners Act;

“**hospital**” means any institution for the reception, investigation and treatment of persons suffering from illness or mental disorder or persons requiring rehabilitation and includes health centres, clinics, dispensaries and outpatient departments maintained in connection with such an institution;

“**isolation**” means, when applied to a person or group of persons, the separation of that person or group of persons from other persons, except the health staff on duty, in such a manner as to prevent the spread of infection or contamination;

“**label**” means tag, brand, mark, pictorial or other descriptive matter written, printed, stencilled, marked, embossed, impressed on or attached to or included in, belonging to, or accompanying any product;

“**laboratory**” means premises provided by the Ministry for investigation of the chemical and microbiological content of specimens and other matters;

“**lairage**” means that part of a slaughterhouse used for the confinement of animals awaiting slaughter;

“**mains**” means the principal pipes in the distribution of a water supply or in a sewerage disposal system;

“**market**” means a public meeting place either open or covered used for the purchase and sale of commodities; including food;

“**meat**” means the flesh of animals including fat and offal;

“**medical examination**” includes ascertaining the relevant medical history and the travel history of the person being examined, conducting a physical examination and any laboratory tests or radiographic or diagnostic tests that are required to make a determination of whether the person might have a disease, or a notifiable condition, or otherwise pose a risk to human health;

“**midwife**” means a nurse registered as a midwife under the Nurses Act 2001;

“**Minister**” means the Minister of Health;

“**Ministry**” means the Ministry of Health;

“**notifiable condition**” means a condition prescribed under a regulation as a notifiable condition;

“**nurse**” means a person registered as a nurse under the Nurses Act 2001;

“**occupier**” means the person in occupation of premises or having charge of management or control of premises either on his own account or as an agent of another person but does not include a lodger;

“**offal**” includes stomach, intestine, liver and kidneys;

“**operator**” means any person in charge of a conveyance, and includes the conveyance crew;

“**owner**” means an occupier or a person in possession of any land or premises who is receiving the rent of the land or premises whether on his own account or as trustee for another person;

“**package**” includes anything in which material is wholly or partly placed or packed;

“**premises**” means any hospital, institution, dwelling-house,

Lodging house, shed or other building, or tent, ship, aircraft or land;

“**preparation**” in relation to food, includes manufacture, processing, transport and any form of treatment;

“**public health risk**” means-

- (a) an animal, structure, conveyance, substance, practice, behaviour or other thing that-

- (i) is, or is likely to become, a breeding ground or source of food for pests; or
 - (ii) harbours, or is likely to become something that harbours, pests; or
- (b) any of the following that is, or is likely to be, hazardous to human health, or that contributes to, or is likely to contribute to, disease in humans or the transmission of an infectious condition to humans:
 - (i) a pest;
 - (ii) water;
 - (iii) waste;
 - (iv) a dead or living animal, a structure, a substance or other thing that has been, or is likely to have been, exposed to an infectious condition;
 - (v) a dispersal or release of a pesticide, herbicide, solvent or other chemical;
 - (vi) a dispersal or release of a by-product of manufacturing, construction, repair, alteration, cleaning or demolition work; or
 - (c) any exposure to the physical environment, such as excessive noise, which causes material discomfort prejudicial to the psychological or physical health and wellbeing of a person; or
 - (d) any other activity, substance or other thing prescribed under a regulation as constituting a public health risk;

“**quarantine facility**” means any place that is used for the detention of a traveller;

“**quarantine station**” means any place that is used for the administration and enforcement of this Act;

“**relevant person**” means the following—

- (a) a person who is, or was, the Director of Health;
- (b) a person who is, or was, involved in the administration or enforcement of this Act;

“**sanitary convenience**” means a flush toilet, urinal and pit latrine;

“**sell**” means offer, advertise, keep, expose, transmit, convey, deliver, prepare or possess for sale or exchange, or dispose of for any consideration whatsoever;

“**sewer**” means a pipe or system of pipes used for the drainage of any number of buildings more than one of which are not within the same curtilage (being the area attached to a dwelling house as part of its enclosure), or from a street;

- (3) The application shall-
 - (a) be sworn and be supported by an affidavit;
 - (b) state the grounds on which the application is made;
 - (c) state the nature of the enforcement order sought;
 - (d) be accompanied by a copy of the public health enforcement order.
- (4) If a person to whom an application for an enforcement order relates is being prosecuted for an offence against section 12(3) the application for an enforcement order may be dealt with in the prosecution proceedings.

14. Enforcement orders

- (1) A magistrate may make an enforcement order in the same terms as the public health order, or in other terms the magistrate considers appropriate.
- (2) Without limiting subsection (1), the magistrate may order either-
 - (a) that-
 - (i) the person against whom the enforcement order is made take steps reasonably necessary to: remove, reduce or contain a public health risk or the adverse effects of a public health risk, or prevent a risk to public health from recurring; and
 - (ii) if the person fails to take the steps, the Director, or the Director's agents or employees may enter the place and take the steps; or
 - (b) employees or agents of the Director may take steps that are reasonably necessary to: remove, reduce or contain a public health risk or the adverse effects of a public health risk, or prevent a risk to public health from recurring.
- (3) If the magistrate makes an enforcement order under subsection (2)(a), the order shall state-
 - (a) the address of the place the steps are to be taken;
 - (b) the steps the person shall take;
 - (c) the period within which the steps shall be taken;
 - (d) that an authorised officer-
 - (i) may enter the place to check whether the steps under the order are being, or have been, taken; and
 - (ii) may use necessary and reasonable help and force to enter;
 - (e) the times and intervals for entry under paragraph (d);
 - (f) that if the steps required to be taken under the enforcement order have not been taken within the required period, the Director may take the steps;

7. Identification of authorised officers

- (1) The Director shall issue an identity card to each authorised officer.
- (2) When exercising a power under this Act in relation to a person, an authorised officer shall-
 - (a) produce the officer's identity card for the person's inspection before exercising the power; or
 - (b) have the identity card displayed so it is clearly visible to the person when exercising the power.
- (3) If it is not practicable to comply with subsection (2), the officer shall produce the identity card for the person's inspection at the first reasonable opportunity.

8. Duty to coordinate

- (1) The Director shall so far as possible, coordinate their functions with those of officers of other government departments and statutory authorities with respect to-
 - (a) border control;
 - (b) the movement of conveyances;
 - (c) biosecurity activities; and
 - (d) compliance with the laws.
- (2) Without limiting subsection (1) –
 - (a) authorised officers shall notify officers of the customs and immigration services of any breach of the Customs Act 2007, the Customs and Excise Management Act 2007, the Immigration Act (Cap 62), or the Animal Diseases Act (Cap 146) that comes to their notice;
 - (b) officers of the customs and immigration services, inspectors appointed under the Animal Diseases Act (Cap 146) and officers of the post office shall –
 - (i) notify an authorised officer of the importation or proposed exportation of any article that comes to their notice which they have reasonable cause to believe may constitute a public health risk or which may be hazardous to human health; and
 - (ii) hand over to the authorised officer any such article which comes into their possession for inspection and treatment in accordance with this Act;
 - (c) police officers, customs officers, immigration officers, agriculture officers, fisheries officers and other public servants shall cooperate with authorised officers in the performance of their functions under this Act and render such assistance as they can lawfully do when called upon by the Director or an authorised officer.

9. Protection of authorised officers

- (1) An authorised officer shall not be personally liable in respect of any act done by him in the execution or purported execution of his duties under this Act and within the scope of his employment if it was done in the honest belief that his duties under this Act required or entitled him to do it.
- (2) Nothing in this section shall be construed as relieving the Ministry from any liability in respect of acts of its officers in the course of their employment.

10. Limitations on the powers of authorised officers

Authorised officers shall not act in any matter in which they directly or indirectly have an association, familial or otherwise, with the individual, premises, trade or concern involved.

PART 3 – PUBLIC HEALTH ORDERS**11. Public health order requirement**

- (1) A public health order may require a person to do something that is –
 - (a) reasonably necessary to –
 - (i) remove, reduce or contain a public health risk or the adverse effects of a public health risk;
 - (ii) or prevent a risk to public health from recurring;
 - (b) appropriate in the circumstances having regard to the nature and seriousness of the risk at the time the order is made.
- (2) Without limiting subsection (1), a public health order may require a person to do any of the following—
 - (a) clean or disinfect a place, or part of a place, or a structure or other thing at the place, in the way stated in the order;
 - (b) carry out insect or pest control at the place in the way stated in the order;
 - (c) establish programmes to control vectors that may transport an infectious agent that constitutes a public health risk;
 - (d) demolish stated structures or other property in the way stated in the order;
 - (e) remove stated material or items from a place to another place stated in the order in the way stated in the order;
 - (f) dispose of stated material or items at a place in the way stated in the order;
 - (g) destroy animals at a place or remove animals from the place for destruction at another place in the way stated in the order;

- (h) stop using a place, or part of a place, for a stated purpose, within a stated period or until specified steps are taken; and
 - (i) cease practices that cause or contribute to a public health risk.
- (3) A public health order shall—
 - (a) be in writing; and
 - (b) state a period within which the person to whom it is given shall comply with the order.
 - (4) The period stated under subsection (3)(b) shall be reasonable having regard to the public health risk.

12. Serving public health orders

- (1) If an authorised officer reasonably believes that a person is responsible for a public health risk at a place, the authorised officer may give a public health order to the person.
- (2) The public health order shall state the—
 - (a) name and address of the recipient;
 - (b) nature of the public health risk;
 - (c) address of the place of the public health risk; and
 - (d) steps the recipient shall take, or action the recipient shall stop, at the place to –
 - (i) remove, reduce or contain, the adverse effects of a public health risk, or remove or reduce the public health risk; or
 - (ii) prevent the risk to public health from recurring;
 - (e) period within which the steps shall be taken or the action shall be stopped;
 - (f) name of the authorised officer;
 - (g) name, address and contact details of the Director;
 - (h) that it is an offence for the recipient not to comply with the order; and
 - (i) that if the order is not complied with an application may be made to a magistrates' court for an enforcement order.
- (3) Every person who fails to comply with a public health order commits an offence against this Act.

13. Application for an enforcement order

- (1) This section applies if the Director considers a person has contravened a public health order.
- (2) The Director may apply to a magistrate for a Public Health Enforcement Order.

- (k) it is in any package, and the contents of the package as originally packed have been removed in whole or in part and other injurious or harmful contents have been placed in the package.

21. Misleading practices

Any person who labels, packages, prepares, sells or advertises any food in a manner that is false, misleading or deceptive as regards its character, nature, value, substance, quality, composition, merit or safety, shall be guilty of an offence.

22. Composition standards for foods

Where a standard of composition has been prescribed for any food, any person who labels, packages, prepares, sells or advertises any food which does not comply with that standard, in such a manner that it is likely to be mistaken for food of the prescribed standard, shall be guilty of an offence.

23. Unsanitary food

Any person who sells, prepares, packages or stores for sale any food under unsanitary conditions shall be guilty of an offence.

24. Importation of food

- (1) Where an article sought to be imported into the Kingdom would, if sold in the Kingdom constitute a contravention of this Act, the article may be imported into the Kingdom for the purpose of satisfactorily relabelling or reconditioning the same so that the provisions of this Act are complied with. If not so treated within one month; the article shall be immediately exported or shall be forfeited and disposed of as the Minister may direct.
- (2) Subject to the provisions of subsection (1), the importation of any article which does not comply with the provisions of this Act is prohibited.

25. Refrigerated food

- (1) Any food which shall be retained at a low temperature to preserve its quality and protection from infection shall be kept in a suitable refrigerated container while imported, transported, displayed for sale, delivered after sale, or kept by any hotel, restaurant or other public eating place.
- (2) Any person who contravenes the provisions of this section is guilty of an offence.

26. Gazette Notice of food dangerous or injurious to health

If in the opinion of the Minister, a food would or may be dangerous or injurious to health, the Minister may declare by notice in the Gazette that food to be dangerous or injurious.

- (g) that for paragraph (f), an employee or agent of the Director-
- (i) may enter the place to take the steps under the order;
- (ii) may use necessary and reasonable help and force to enter, if the employee or agent is an authorised officer or is accompanied by an authorised officer;
- (h) the times and intervals for entry under paragraph (g);
- (i) who shall pay the costs of taking the steps; and
- (j) that it is an offence not to comply with the enforcement order and the amount of the maximum penalty the person would incur if convicted of the offence.
- (4) If the magistrate makes an order under subsection (2)(b), the order shall state-
- (a) the address of the place where the steps are to be taken;
- (b) the steps that may be taken at the place by the Director;
- (c) that for paragraph (b) an employee or agent of the Director-
- (i) may enter the place to take the steps under the order; and
- (ii) may use necessary and reasonable help and force to enter, if the employee or agent is an authorised officer or is accompanied by an authorised officer;
- (d) the times and intervals for entry under paragraph (c);
- (e) the day when the order ends;
- (f) that an authorised officer—
- (i) may enter the place to check whether the steps under the order are being, or have been, taken; and
- (ii) may use necessary and reasonable help and force to enter;
- (g) the times and intervals for entry under paragraph (f); and
- (h) who shall pay the cost of taking the steps.
- (5) A person who fails to comply with an enforcement order commits an offence against this Act.

15. Takings steps under an enforcement order

- (1) This section applies if—
- (a) an enforcement order allows—
- (i) the employees or agents of the Director may enter a place to take steps under the order; or
- (ii) an authorised officer to enter a place to check whether the steps under the order are being, or have been, taken;

- (b) the employees, agents or authorised officer intends to enter the place under the order.
- (2) Before entering the place, the employee, agent or authorised officer shall—
 - (a) identify himself to a person present at the place who is an occupier of the place;
 - (b) give the person a copy of the order;
 - (c) tell the person that the employee, agent or authorised officer is permitted by the order to enter the place; and
 - (d) give the person an opportunity to allow the employee, agent or authorised officer immediate entry to the place without using force.
- (3) The employee, agent or authorised officer need not comply with subsection (2) if the employee, agent or authorised officer believes on reasonable grounds that immediate entry to the place is required to ensure the effective execution of the order is not frustrated.

16. Costs

The Director may recover the amount payable by a person ordered to pay the costs under an enforcement order as a debt due to the Crown.

PART 4 – FOOD

Division 1– General Provisions

17. Premises

For the purposes of this Division, reference to premises shall be deemed to include reference to any street, open space or place of public resort, bicycle, or other vehicle used for the preparation, preservation, packaging, storage or conveyance of any food.

18. Registration of Food Premises

- (1) All food premises shall be registered with the Ministry.
- (2) If any premises required to be registered under sub-section (1) is not so registered the manager and the owner of such premises shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$5000 or to imprisonment not exceeding 1 year or to both. In addition the court may order the closure of the premises until they are registered.

19. Cancellation of Registration

The Minister may at any time cancel the registration of premises registered under section 18 if he considers this to be necessary in the interests of public health.

20. Prohibition of adulterated food

- (1) Any person who prepares, packs or sells any food that —

- (a) has any substance which is poisonous, dangerous otherwise injurious to health;
 - (b) consists in whole or in part any filthy, putrid, rotten, decomposed or diseased substance or foreign matter, or is otherwise unfit for human consumption;
 - (c) is adulterated;
 - (d) has deteriorated or has perished;
 - (e) is contained in a damaged packaging; or
 - (f) has been declared by the Minister to be dangerous or injurious under section 26,
- shall be guilty of an offence.
- (2) Any food shall be adulterated if -
 - (a) it contains any substance which diminishes in any manner its nutritive or other beneficial properties as compared with such food in a pure, normal or in an undeteriorated condition;
 - (b) any substance or ingredient has been extracted wholly or in part or removed from it so that its properties as compared with those of the food in a pure state and in an undeteriorated condition, are diminished;
 - (c) it contains any substance which is prohibited or is not permitted;
 - (d) it contains a greater proportion of any substance than is permitted;
 - (e) it is prepared in a manner whereby damage, deterioration, or inferiority is or may be concealed;
 - (f) it is wholly or partly the product of a diseased animal or of an animal which has died —
 - (i) naturally; or
 - (ii) in the case of a warm blooded animal, other than by slaughter;
 - (g) it is injurious to health, dangerous or offensive;
 - (h) a package or a thing included in a package or anything or matter with which the food comes into contact consists wholly or partly of a substance which may render the food concerned injurious to health, dangerous or offensive;
 - (i) it contains a foreign or matter;
 - (j) it is in a sealed package and the package is damaged and can no longer ensure protection to its contents from contamination or deterioration; or

- (4) When in the opinion of an authorised officer the reason for which any such notice was served has ceased to exist, he shall revoke the notice and shall give written notice of the revocation to the owner or occupier of the premises concerned, and every other person on whom a copy of the notice has been served.
- (5) While any such notice remains in force, no person shall knowingly use or permit the use of the premises specified in the notice for or in connection with the sale, preparation, storage, or packing of any food for sale.
- (6) Any person who contravenes the provisions of this section is guilty of an offence.

Division 3 - Food Hygiene

34. Avoidance of pollution

- (1) Every person in possession or control of food for sale, or an article, utensil, receptacle or appliance used for or in connection with the preparation, storage, packing or sale of food shall at all times keep the food or the article, utensil, receptacle or appliance clean and free from contamination by damp, foul odours or dust and protect them as far as practicable from access by creatures likely to contaminate the food.
- (2) Any person who contravenes the provisions of this section is guilty of an offence.

35. Protection of food

- (1) Every person in possession or control of food for sale which is ordinarily consumed in the state or condition in which it is sold shall protect the food from dust, from creatures likely to contaminate the food, and from any unwholesome matter, by storage in covered receptacles, or by covering with gauze, or by other effective means.
- (2) Any person who contravenes the provisions of this section is guilty of an offence.

36. Restrictions

- (1) No person shall use, or permit to be used -
 - (a) any article, receptacle, utensil, appliance or vehicle for or in connection with the preparation, storage, packing, conveying or delivery of food for sale unless it is constructed of such material and in such a manner as to be easily cleaned and kept clean;
 - (b) in the conveying or delivery of food for sale, any article, receptacle, utensil, appliance or vehicle that is also used for the conveying of any matter which endangers or likely to endanger the wholesomeness, cleanliness or freedom from contamination of the food;
 - (c) in the preparation of food for sale, any article that has been used for any purpose which is likely to contaminate or taint the food; or

27. Prohibition

- (1) The Minister may prohibit by order published in the Gazette the cultivation, taking, harvesting, or otherwise obtaining any food from any area if, in the opinion of the Minister, that food may be dangerous or injurious to persons who consume that food.
- (2) Any person who fails to comply with orders made under this section commits an offence against this Act.

28. Importation

- (1) The Minister may direct any person who obtains particulars of importation or use of any substances to which this Act applies to furnish to him, within such time as may be specified in such direction, such particulars, as may be specified, of the composition and use of any substance sold or for sale in the course of business or used in the preparation of food.
- (2) Without prejudice to the generality of subsection (1), a direction made thereunder may require the following particulars to be furnished in respect of any substance, that is to say particulars—
 - (a) composition and chemical formula of the substance;
 - (b) manner in which the substance is used or proposed to be used in the preparation of food;
 - (c) investigations carried out by or to the knowledge of the person carrying on the business, for the purpose of determining whether and to what extent the substance, or any product formed when the substance used is injurious to, or in any other way affects, health; and
 - (d) investigations carried out by or to the knowledge of the person carrying on the business, for the purpose of determining the cumulative effect on the health of a person consuming the substance in ordinary quantities.
- (3)
 - (a) No particulars furnished in accordance with a direction under this section and no information relating to any individual business obtained by means of such particulars shall, without the previous consent in writing of the person carrying on the business, be disclosed except in due discharge of the duties under this Act.
 - (b) Any person who discloses any such particulars of information in contravention of this subsection shall be guilty of an offence.

29. Collection of Samples

- (1) An authorised officer may demand, select, take or obtain samples of any food, food additive or package for sale required by him for the purposes of this Act, on payment of tender of the appropriate price of, or at the rate of payment prescribed for, the food, food additive or package-

- (a) to the person selling, manufacturing, distributing or preparing the food, food additives or package; or
 - (b) to the agent or servant of any such person.
- (2) An authorised officer shall not demand less than the whole package, where food or a food additive is kept for retail sale in a closed package.

30. Analysis of Food Samples

- (1) An authorised officer may submit a sample or specimen to the laboratories for analysis or examination.
- (2) Where a sample seized under section 29 is to be analysed or examined, the authorised officer shall -
- (a) notify the person from whom the sample was obtained of his intention to submit the sample for analysis or examination;
 - (b) divide the sample into three equal portions and “label” or “mark” and seal each portion;
 - (c) deliver one portion to the Ministry’s laboratory and one to the person from whom the sample was obtained; and
 - (d) retain one portion until the conclusion of legal proceedings if such proceedings are instituted.
- (3) The laboratory shall issue a certificate prescribed form, stating the result of any analysis or examination undertaken. Such certificate shall, in any legal proceedings, be prima facie evidence of the facts stated therein.
- (4) Any person against whom proceedings might be instituted shall be given a copy of the certificate from the laboratory before the proceedings are commenced.

Division 2 - Food Premises

31. Uses of premises for food

- (1) No person shall use any premises or permit any premises to be used for or in connection with the sale, preparation, storage, or packing of food for sale, unless the premises —
- (a) are kept adequately lighted by daylight or artificial light, as the circumstances require, at all times when any work is being carried out on the premises;
 - (b) are kept adequately ventilated at all times while any food, food package or material for the packing of food is present therein;
 - (c) are provided with a means of drainage sufficient for the removal of any waste liquid produced therein and the drains are in good, clean, working order and condition;

- (d) are at all times kept clean and free from foul odours and as far as practicable, free from solid waste, dust and creatures likely to contaminate food;
 - (e) have walls, floors, ceilings and roofs that are properly constructed, in good repair and easy to clean;
 - (f) are provided with sinks and other sanitary fittings reasonably necessary for cleaning articles, utensils, or appliances used in the premises and such sinks and other sanitary fittings are maintained in good, clean, working order and condition;
 - (g) are provided with an adequate supply of water, and soap or other detergent; and
 - (h) are provided adequately with wash-basins and toilets for the use of persons engaged or employed in or about the premises, all such wash-basins and toilets are maintained in good, clean, working order and condition and have an adequate supply of water, soap or other detergent, and towels or other drying equipment.
- (2) Any person who contravenes any part of sub-section (1) shall be guilty of an offence.

32. Limitation on use of premises for food

- (1) No person shall use any premises or permit any premises to be used for or in connection with the sale, preparation, storage, or packing of food for sale, if such premises are used for any other purpose that is likely to affect the quality of the food.
- (2) Any person who contravenes the provisions of this section is guilty of an offence.

33. Abatement or prohibition order

- (1) This section shall apply to any premises that are, in the opinion of an authorised officer, by reason of their construction or disrepair or by reason of the use or character of any neighbouring premises, in such a condition that any food in the first premises may be exposed to contamination or taint, or may deteriorate or become dirty.
- (2) An authorised officer may serve a notice in writing on any owner or occupier of any premises to which this section applies, requiring a process to be abated or prohibiting immediately the use of the premises for or in connection with the sale, preparation, storage, or packing of any food for sale.
- (3) Every such notice shall —
- (a) specify the premises to which it relates;
 - (b) state the reason for the abatement or prohibition; and
 - (c) specify a date and time on which the abatement or prohibition is to come into force.

- (b) suitable hanging space for carcasses to allow air to circulate freely between the carcasses;
 - (c) separate lairage accommodation for the isolation of animals or poultry suspected of being diseased pending inspection by an authorised officer;
 - (d) a separate well-lit room for the detention of carcasses or viscera suspected of being diseased pending the examination by an authorised officer;
 - (e) suitable sanitary accommodation and washing facilities for persons employed in slaughtering;
 - (f) impervious and durable floors, ceilings and walls, screened windows and closing doors, adequate lighting and ventilation, a safe drinking water supply and drainage and proper arrangements for the disposal of solid and liquid waste; and
 - (g) a hygienic code of practice prepared by the Minister to be followed by persons employed in slaughtering.
- (2) Animals shall be slaughtered as skilfully, humanely and expeditiously as possible.
 - (3) The provisions of subsection (1) paragraphs (a), (b), (e) and (g) and subsection (2) shall also apply to slaughtering taking place in the open.
 - (4) Any person who contravenes the provisions of this section is guilty of an offence.

54. Slaughterhouse to be kept clean

- (1) All slaughterhouses and places of slaughter shall be kept clean and free from flies, insects and rodent pests and no animals other than those intended for slaughter shall be allowed on the premises.
- (2) Any person who contravenes the provisions of this section is guilty of an offence.

55. Restriction on transport of meat

- (1) All meat removed after slaughter shall be transported in clean vehicles or containers and all persons handling such meat during loading, unloading or transport shall wear clean clothes.
- (2) No skins, hooves or manure or live animals or any other material likely to be a source of contamination shall be carried in the same vehicle or container as meat intended for human consumption.
- (3) Any person who contravenes the provisions of this section is guilty of an offence.

PART 5 - WATER SUPPLY CONTROL

56. Duty of Minister

It shall be the duty of the Minister to-

- (d) any room used in the manufacture, storage, preparation, packaging, display or sale of food, for sleeping purposes.
- (2) Any person who contravenes the provisions of this section is guilty of an offence.

37. Avoidance of contamination

- (1) No person shall keep, carry, spread or use, or permit to be kept, carried, spread or used, any poisonous or harmful substance so as to expose food intended for sale to the risk of contamination by that substance at any time in the course of preparation, storage, packing, conveying, delivery or exposure of food for sale.
- (2) Any person who contravenes the provisions of this section is guilty of an offence.

38. Food handlers to be clean

- (1) Every person who is engaged or employed in the preparation, storing, packing, conveying or delivering food for sale, and in the course of his employment comes in direct contact with such food or with the interior of any package used for such food, shall at all times maintain his clothing and his person in a state of cleanliness and avoid smoking or spitting.
- (2) Any person who contravenes the provisions of this section is guilty of an offence.

39. Food handlers to avoid polluting food

- (1) No person who is engaged or employed in the sale of food, or in the preparation, storage, packing, conveying or delivery of food for sale, shall do or omit to do anything whereby that food becomes, or is likely to become contaminated, infected, polluted, tainted, spoiled or in any way a risk to public health.
- (2) Any person who contravenes the provisions of this section is guilty of an offence.

40. Persons suffering from food borne disease

- (1) Any person who is suffering from, or has reason to believe he is a carrier of, a food borne disease, or who is suffering from an exposed skin lesion or wound shall not engage or be employed in the preparation, storage, packing, conveying or delivery of food for sale or of any ingredient or package for such food.
- (2) Any person who contravenes the provisions of this section is guilty of an offence.

41. Contact with infectious person

- (1) An authorised officer or a medical officer may by notice in writing prohibit any person who has been in recent contact with any person to whom section 40 applies from engaging in or being employed in the preparation, storage, packing, conveying or delivery of food for sale.

- (2) Any person to whom a notice is issued under subsection (1) may, within 14 days of receipt appeal in writing to the Minister. The Minister on receipt of such an appeal shall within 14 days inform the appellant of his decision.

42. Examination of food handler

Any food handler may be required to undergo a medical examination when an authorised officer considers it necessary and may be excluded from food handling until the result of the examination is known.

43. Revocation of notice

Where in the opinion of an authorised officer or a health officer there is no longer any risk of any food becoming infected by a person on whom a notice has been served under section 41, the health officer shall revoke the notice and shall give written notice of the revocation to that person and every other person on whom a copy of the notice has been served.

44. Effect of notice

- (1) No person shall engage or be employed in a business in contravention of a notice served on him under section 41.
- (2) No person shall knowingly employ any other person upon whom a notice has been served under section 41.
- (3) Any person who contravenes the provisions of this section is guilty of an offence.

45. Notice of contaminated supply

- (1) Where an authorised officer suspects on reasonable grounds that any food is infected with an organism capable of causing disease, or contains a toxic substance, he may, by notice in writing describing the source from which he believes the food has been supplied, prohibit the person so supplied from selling any food which he knows or has reason to believe has been obtained at or from the source specified.
- (2) A notice served under this section —
 - (a) shall remain in force for such period, not exceeding one month, as shall be specified in the notice,
 - (b) may be revoked at any time by an authorised officer or a health officer, who shall notify the person on whom the notice was served of the revocation; or
 - (c) may be extended for one further month by the Director.

Division 4 – Slaughterhouses and Slaughterers

46. Persons authorised to slaughter

No person shall slaughter any animal for sale in a public market or shop for human consumption unless he is authorised to do so in writing by the Minister.

47. Refusal to authorise

The Minister may refuse to issue an authorisation to slaughter or cancel an existing authorisation if satisfied that the person concerned has not or will not observe all the requirements under this Act.

48. Inspection of meat before sale

- (1) No person shall sell meat or offal until the meat or offal has been inspected and passed as fit for human consumption by an authorized officer.
- (2) Any person who contravenes this section is guilty of an offence.

49. Notice of intention to slaughter

The occupier of a slaughterhouse or any person who slaughters for sale for human consumption shall give the Ministry 24 hours notice in writing of his intention to slaughter provided that where slaughtering is carried out at the same place and at the same time on certain days of each week, one notice to that effect may be given and will satisfy this requirement until there is a change of days or times.

50. Stamping of carcasses

When an authorised officer has inspected an animal carcass and organs, he may apply an official stamp to the various parts of the carcasses so that one of the stamps is visible on each of the main joints or portions into which the carcass is divided.

51. Persons suffering from food borne disease

- (1) No person who is suffering from, or has a reasonable belief that he is a carrier of, a food borne disease or with an unprotected skin lesion or wound shall be employed in slaughtering or on any work involving the handling the meat of animals.
- (2) Any person who contravenes the provisions of this section is guilty of an offence.

52. Minister may make arrangements for slaughtering

The Minister may make arrangements for slaughtering or processing any animals intended for human consumption either by persons engaged in the trade of slaughtering or butchering, and may make charges for services provided.

53. Requirements for slaughter house

- (1) Every slaughterhouse or premises where animals are slaughtered shall have -
 - (a) adequate space and hygienic facilities including clean utensils, appliances, receptacles and clothes for the efficient performance of slaughter and proper inspection of carcasses:

74. Sanitary facilities requirements - general

- (1) Sanitary facilities shall be sufficient in number, provision for both sexes and of types approved by the Minister, and shall be easily accessible.
- (2) Wash-hand basins shall be provided adjoining all flush toilets or urinals.
- (3) Public premises used by females shall have provision for the disposal of sanitary towels.

75. Restriction on conveniences

No sanitary convenience shall open directly into a living room or a food preparation area.

76. Restriction on pit latrines

- (1) No pit latrine shall be constructed within 30 metres of any public or domestic water supply.
- (2) Pit latrines shall be fly-proofed.
- (3) Any person who contravenes the provisions of this section is guilty of an offence.

77. Sanitary facilities in schools

The Minister may specify the number and types of sanitary facilities to be provided in schools and other educational establishments.

78. Minister to approve design

The design, material of construction, drainage, method of operation, placement and surrounds of sanitary facilities shall be subject to the approval of the Minister.

79. Standards for septic tanks

The Minister may specify standards for septic tanks relating to site, size, frequency of emptying, ventilation, control of discharge, proximity to public or domestic water supplies and avoidance of nuisance or injury to health.

80. Urinals-requirements

Urinals shall be of stall or continuous wall-type and constructed of impervious materials, satisfactorily drained and fitted with an approved flushing system.

81. Dangerous materials restricted

- (1) No person shall permit any toxic, explosive or inflammable material to pass into any sewer, public or private, or into any septic tank.
- (2) Any person who contravenes the provisions of this section is guilty of an offence.

- (a) determine which sources of water in Tonga are suitable for public water supply; and
- (b) take regularly such steps as may be necessary for ascertaining the sufficiency and wholesomeness of the water supplies.

57. Premises to have safe drinking water

The Minister shall pursuant to powers vested in the Ministry by section 68, ensure as far as is reasonably practicable that all premises used for human habitation or where persons attend or are employed have available a sufficient supply of safe drinking water. It shall remain the responsibility of the owner or occupier of such premises to secure the availability of such a supply.

58. Examination of water sources

All sources of water supply, including wells, boreholes, rain water, cisterns, streams or any other source, shall be periodically examined by authorised officers to determine their suitability or otherwise as a water supply source.

59. Minister to issue certificate and charge for service

- (1) If the Minister is satisfied after examination of a water supply that it is safe to drink he shall give a certificate in writing to that effect to the responsible person. Such examinations and certifications shall be carried out at least every three months.
- (2) The Minister may charge for any service he provides to maintain the quality and sufficiency of water supplies.

60. Offence to use uncertificated water supply

- (1) No person shall use any source of water as a public water supply until he has received a certificate from the Minister stating that the water is safe to drink.
- (2) Any person who contravenes the provisions of this section is guilty of an offence and shall be liable to a fine not exceeding \$1000.

61. Village water committees to be advised

The Minister shall advise the village water committee on all measures required to ensure that the water used in its area is safe for drinking and remains so.

62. Advice on prevention of contamination

The Minister shall advise in writing any water supplier of all measures he requires to be taken to safeguard a water supply from contamination.

63. Closure of a water supply if water unsafe

The Minister shall, in writing, advise any water supplier if supply of water becomes unsafe and the measures including the closure of the supply which shall be taken to safeguard public health.

64. Drinking fountains

Drinking fountains shall be constructed of approved materials and designed to prevent mouth-to-nozzle contamination. Only safe drinking water shall be used.

65. Piped water supplies

(1) In the case of piped supplies-

- (a) where the source of water used and the treatment provided are not able continuously to provide drinking water meeting the requirements of safety in regulations made under this Act, adequate chlorination or alternative sterilisation shall be applied routinely after the final stage of treatment;
- (b) no water supplier shall add chlorine or chloramine or any other substance to a water supply until it has consulted with and has received in writing the consent of the Minister for any action it proposes to take;
- (c) no water shall be distributed from any pipes or mains which have been installed or repaired until such pipes or mains have been thoroughly disinfected to the satisfaction of the Minister;
- (d) the Minister shall require a regular programme of flushing of inactive portions of the distribution network in order to prevent accumulations of objectionable materials in the pipes or mains;
- (e) the pipes and mains shall be so connected to each other as to result in a continuous flow in the mains to the satisfaction of the Minister; and
- (f) the Minister shall require that there is a continuous water service to all parts of any premises, as evidenced by positive pressure in all parts of the distribution network at all times to prevent pollution being sucked in through leaks or plumbing faults. Such pressure shall be maintained (by booster pump where necessary) so as to reach the top floor of the highest premises served by the mains.

(2) Any water supplier who contravenes any of the provisions of this section is guilty of an offence and shall be liable to a fine not exceeding \$1000.

66. Rejection of plans for premises if Minister not satisfied with water supply

The Minister shall reject plans for any premises unless-

- (a) they provide in or within a reasonable distance of the premises a supply of safe drinking water for the users of the premises; and
- (b) he is satisfied that the proposals can and will be carried into effect.

67. Failure to comply

If after any such plans as aforesaid have been passed, no supply of wholesome water sufficient for the purposes of the users of the premises is provided in or within a reasonable distance of the premises, the Minister shall give notice in writing to the owner of the premises prohibiting him from occupying it or permitting it to be occupied until the Minister is satisfied that such a supply has been provided.

68. Sampling of water

The Ministry shall carry out at least every three months routine sampling of water supplied by any water supplier and of any source of water supply. This sampling of water shall include-

- (a) physical and chemical analysis;
- (b) examination for presence of harmful micro-organisms and other offensive biological matter; and
- (c) examination for radio-active content.

PART 6 - SANITARY FACILITIES**69. Provision of sanitary facilities**

- (1) Every owner of premises shall provide sanitary facilities of a type approved by the Minister and suitable to the needs of the premises.
- (2) Any owner who contravenes the provisions of this section is guilty of an offence.

70. Minister to approve plans

All plans for new or replacement sanitary facilities in all premises shall be subject to the approval of the Minister.

71. Minister may specify standards

The Minister shall specify standards with respect to numbers, suitability for male and female users, lighting and ventilation and availability of sanitary facilities in all premises including temporary accommodation and recreational sites.

72. Sanitary facilities in dwellings

Every new dwelling or an existing dwelling undergoing a major alteration shall have at least one flush toilet, a bath or shower, wash-hand basin, kitchen sink and provision for washing clothes.

73. Public premises

Public premises shall have sufficient and suitable sanitary facilities for the number of persons residing, working in, or using the premises.

imprisonment for a term not exceeding 12 months or to both and in the case of a continuing offence to a further fine not exceeding \$500 for each day during which the offence continues after conviction.

90. Ships to comply

- (1) This part of this Act applies to all ships in port or in any harbour in the Kingdom.
- (2) The master, owner, charterer or agent of a vessel which contravenes any of the provisions of this Part is guilty of an offence and shall be liable upon conviction to a fine not exceeding \$2000 or to imprisonment for a term not exceeding 12 months or to both, unless in the case of the owner, charterer or agent, he proves that he—
 - (a) did not know that the contravention was taking place; or
 - (b) took all reasonable steps to prevent the contravention taking place.

91. Standards of emissions from motor vehicles

The Minister may specify standards of emission from any motor vehicle.

92. Motor Vehicles may be examined

- (1) The Minister may require motor vehicles which emit excessive or harmful exhaust smoke or fumes to be examined and if necessary require the owner of the vehicle to carry out such repairs and maintenance as are necessary to reduce the amount of exhaust smoke or fumes.
- (2) Any person who uses a motor vehicle which emits excessive or harmful exhaust smoke or fumes or which otherwise fails to conform to any standard specified by the Minister under section 93 is guilty of an offence.
- (3) Any person who uses or permits another to use a motor vehicle that emits excessive or harmful exhaust smoke or fumes after he has been required to carry out repairs and maintenance and before such repairs and maintenance have been carried out is guilty of an offence and is liable to a fine not exceeding \$500 or to imprisonment for a term not exceeding 6 months or to both.

93. Standards of certain substances in fumes

- (1) The Minister shall by notice in the Gazette specify standards for certain substances contained in smoke or fumes from factories or workshops or any other source.
- (2) If any factory or workshop or other source is used that does not conform to any standard specified under subsection (1) the owner or manager is guilty of an offence and shall be liable upon conviction to a fine not exceeding \$5000 or to imprisonment for a term not exceeding 12 months or to both unless, in the case of the owner, he proves that he—
 - (a) did not know that the contravention was taking place; or
 - (b) took all reasonable steps to prevent the contravention taking place.

82. Extension to ships and aircraft

Authorised officers may inspect sanitary facilities in ships and aircraft and require them to be adequate, well-maintained and clean.

PART 7 - NUISANCE

83. Abatement of nuisance or matter dangerous to health

If it appears to any authorised officer that –

- (a) any premises are in such a state as to be a nuisance or dangerous to health;
- (b) any pool, tank, cistern, drain, gutter, privy, urinal, cesspool, dung-pit or receptacle for refuse matter is so foul as to be a nuisance or dangerous to health;
- (c) any animal is so kept as to be a nuisance or dangerous to health;
- (d) there is on any premises any accumulation or deposit which is a nuisance or dangerous to health;
- (e) any dwelling or part thereof is so overcrowded as to be dangerous or injurious to the health of the inmates whether or not members of the same family,

he shall serve a notice on the owner or occupier of the premises on which such nuisance or matter dangerous to health exists requiring him to abate the same within a time to be specified in the notice and to execute such works and do such things necessary for that purpose as are specified in the notice.

Provided that in any case where it is clear that the nuisance or matter dangerous to health does not arise or continue by the act default or sufferance of the owner or occupier of the premises, such notice as aforesaid shall instead of being served on the owner or occupier of the premises, such notice as aforesaid shall instead of being served on the owner or occupier be served on the person by whose act default or sufferance the nuisance or matter dangerous to health arises and if such person cannot be found the authorised officer may cause the nuisance or matter dangerous to health to be abated at the expense of the Government.

84. Penalty for non-compliance with notice to abate

- (1) Any person on whom a notice to abate a nuisance or matter dangerous to health has been served who makes default in complying with any of the requirements thereof within the time therein specified shall unless it is proved to the Court that the requirement was oppressive or vexatious be liable to a fine not exceeding \$500 and in default or payment to imprisonment for any period not exceeding 3 months.
- (2) In addition to the power of imposing a fine conferred by subsection (1), the Court if satisfied that the nuisance or matter dangerous to health exists or that although abated it is likely to recur on the same premises shall make an order –

- (a) requiring the defendant to abate the nuisance or matter dangerous to health within a time specified in the order or do any works necessary for that purpose; or
- (b) prohibiting the recurrence of the nuisance or matter dangerous to health and directing the execution of any works necessary for that purpose; or
- (c) both requiring abatement and prohibiting the recurrence of the nuisance or matter dangerous to health.

85. Penalty for non-compliance with Court order to concerning a nuisance

- (1) Any person who fails to obey any order of a Court under this Part shall unless he satisfied the Court that he has used due diligence to carry out such order be liable to a fine not exceeding \$25 per day during his default and in default of payment the amount of such fine shall be leviable by distress.
- (2) In such cases authorised officers may enter the premises and abate the nuisance or matter dangerous to health and do whatever appears to be necessary to prevent its recurrence and may by proceedings in the Magistrate's Court recover from the person in default the expenses so incurred.

86. Procedure for abatement of nuisance on public lands

- (1) If it appears to any authorised officer that any town, common or other public land situated wither within or close to any town is by reason of any accumulation, deposit, rank-growing bush, standing water of any description or other cause whatsoever in such a condition as to be dangerous to health, he may serve a notice on the District Officer of such town requiring him to cause such matter dangerous to health to be abated within a time specified in such notice and to cause to be done such things necessary for that purpose as are mentioned in the notice.
- (2) Any District Officer of a town on whom such a notice as aforesaid has been served shall forthwith summon a fono of the taxpayers of such town and at such fono shall apportion amongst the taxpayers the work to be done and appoint the time or times when it is to be carried out. Any District Officer failing or refusing to comply with the requirements of this section shall be liable to a fine not exceeding \$1000 and in default of payment to imprisonment for any period not exceeding 6 months.
- (3) Any taxpayer who without lawful excuse refuses or neglects to carry out the work allotted to him by District Officer at any such fono as aforesaid shall be liable to a fine not exceeding \$500 and in default of payment to imprisonment for any period not exceeding 3 months.

PART 8 POLLUTION

Division 1 - Air Pollution

87. Functions of Minister

The Minister shall, in relation to air pollution, have the following powers and duties —

- (a) declare by regulations the substances which are noxious or offensive and may cause air pollution;
- (b) keep himself informed of the general levels of air pollution, or the absence of air pollution, throughout Tonga;
- (c) formulate policies for, promote and encourage the reduction, minimisation and control of air pollution;
- (d) establish standards for levels of emission of harmful material into the air;
- (e) regulate and monitor compliance with these standards, including sources and possible sources of air pollution;
- (f) any other powers and duties given to him in this Act.

88. Plans for potential sources

- (1) The Minister shall require the owner or occupier of any premises proposing to install a source of air pollution to inform the Ministry of —
 - (a) plans of the new source to be created;
 - (b) the fuels to be used in the source;
 - (c) details of the method to be used to arrest smoke, dust, grit and fumes and how these are to be measured; and
 - (d) the height of any chimney connected to the source.
- (2) Any owner or occupier who fails to supply the information required under subsection (1) is guilty of an offence.

89. Permission to build a furnace

- (1) No permission to build a new source of air pollution shall be given until plans have been submitted to the Minister and he is satisfied that the plans submitted meet with his requirements.
- (2) The Minister shall issue an authorisation in writing to the owner or occupier of the premises when plans have been approved.
- (3) Potential sources of air pollution shall not be sited in residential areas.
- (4) Any person who builds a new source of air pollution without authorization from the Minister or who having received authorisation fails to build in conformity with that authorisation is guilty of an offence and shall be liable upon conviction to a fine not exceeding \$5000 or to

103. Inspection

- (1) An authorised officer may at anytime inspect facilities provided at entry and departure points.
- (2) An authorised officer may require a worker, working at each entry and departure point to undergo a medical examination if the officer has reasonable grounds to suspect that the worker-
 - (a) has or might have a notifiable condition;
 - (b) has been exposed to vectors or vector borne diseases; or
 - (c) has recently been in close proximity to a person who has or might have a notifiable condition or has been exposed to vectors or vector borne diseases.
- (3) If an authorised officer, after the medical examination of a worker, has reasonable grounds to believe that the worker has or might have a notifiable condition or has been exposed to vectors or vector borne diseases, or has recently been in close proximity to a person who has or might have a notifiable condition or has been exposed to vectors or vector borne diseases, the officer may-
 - (a) require the person who has responsibility for the operation of the entry and departure point to exclude the worker from that entry and departure point; and
 - (b) order the worker to comply with treatment or any other measure for preventing the introduction and spread of the notifiable condition or vectors.

Division 2 - Travellers**104. Obligation of arriving and departing persons**

- (1) Every person who enters or leaves the Kingdom shall, immediately after entering or before leaving, present themselves to an authorised officer at the nearest entry or departure point.
- (2) Every traveller shall answer any relevant questions asked by an authorised officer and provide to the officer any information or record in their possession that the officer may reasonably require in the performance of a duty under this Act.
- (3) Any traveller who has reasonable grounds to suspect that they have or might have a notifiable condition or have been exposed to vectors or vector borne diseases, or that they have recently been in close proximity to a person who has, or is reasonably likely to have, a notifiable condition or has been exposed to vectors or vector borne diseases, shall disclose that fact to an authorised officer.
- (4) Every traveller shall comply with any reasonable measure ordered by an authorised officer for the purpose of preventing the introduction and spread of a notifiable condition or a vector or vector borne disease.

Division 2- Noise Pollution**94. Functions of Minister**

The Minister shall, in relation to noise pollution, have the following powers and duties -

- (a) keep himself informed of the general levels of noise pollution, or the absence of noise pollution throughout the Kingdom;
- (b) formulate policies to, promote and encourage the reduction, minimisation and control of noise pollution;
- (c) establish standards for levels of noise;
- (d) regulate and monitor compliance with those standards, including sources and possible sources of noise pollution;
- (e) any other powers and duties given to him in this Act.

PART 9 -TRAVELLERS AND CONVEYANCES**Division 1 - Quarantine****95. Conveyances**

The following shall be subject to quarantine, conveyances –

- (a) entering the Kingdom, until clearance has been granted in accordance with regulations made under this Act;
- (b) on board which any controlled notifiable condition or public health risk exists, or an authorised officer has reasonable cause to believe or suspect exists (notwithstanding that clearance has been granted or that the conveyance has been released from quarantine);
- (c) that enters the Kingdom illegally or through a place other than an approved entry point; and
- (d) which is ordered into quarantine by an authorised officer.

96. Persons and goods

- (1) Every person who-
 - (a) is on board a conveyance subject to quarantine, or who has been on board the conveyance since the arrival of the conveyance in the Kingdom;
 - (b) has a controlled notifiable condition;
 - (c) an authorised officer reasonably suspects has or has been exposed to a controlled notifiable condition;
 - (d) has been, within a period of 21 days, in an area where there has been an outbreak of, or where people have otherwise been exposed to, a controlled notifiable condition;

- (e) enters the Kingdom illegally; or
 - (f) is ordered into isolation under this Act,
- shall be subject to quarantine.

(2) All goods -

- (a) which are on board a conveyance subject to quarantine or which have been on board the conveyance since it arrived in the Kingdom;
 - (b) which have, or an authorised officer has reasonable cause to suspect may have, been exposed to a controlled notifiable condition or other public health risk;
 - (c) that have been brought into Tonga illegally; or
 - (d) which may otherwise constitute a public health risk,
- shall be subject to quarantine.

97. Continuance of liability to quarantine

- (1) Persons, conveyances or goods that become subject to quarantine continue to be so until they are released from quarantine in accordance with this Act.
- (2) Notwithstanding subsection (1), quarantine may be re-imposed where this is necessary to prevent the spread of a controlled notifiable condition or to prevent or reduce a public health risk.

98. Clearance of conveyances, travellers and goods

Prescribed conveyances, persons and goods lawfully entering the Kingdom may be granted automatic health clearance where this is permitted by regulations made under this Act unless-

- (a) the conveyance contains or has been contaminated with a controlled notifiable condition;
- (b) the conveyance contains or constitutes a public health risk;
- (c) the conveyance, a person or the goods have entered the Kingdom illegally or through a place other than an approved entry point;
- (d) the conveyance has been ordered into quarantine by an authorised officer;
- (e) the person who is on board a conveyance which is subject to quarantine, or has been on board the conveyance since the arrival of the conveyance in the Kingdom;
- (f) the person has a controlled notifiable condition;
- (g) the person, his condition or behaviour constitutes a public health risk;
- (h) an authorised officer reasonably suspects that the person has or has been exposed to a controlled notifiable condition;

- (i) the person has been, within a period of 21 days, in an area where there has been an outbreak of, or where people have otherwise been exposed to, a controlled notifiable condition;
- (j) the person has been ordered into isolation under this Act;
- (k) the goods are on board a conveyance subject to quarantine or which have been on board the conveyance since it arrived in the Kingdom;
- (l) the goods have, or an authorised officer has reasonable cause to suspect may have, been exposed to a controlled notifiable condition;
- (m) the goods constitute a public health risk;
- (n) the operator of the conveyance, the person or the owner or person in charge of any goods fails to comply with the requirements of this Part, Part 11 or any regulations relating to this Part or Part 11;
- (o) a public health emergency is declared under Part 11; or
- (p) quarantine has been re-imposed under subsection 97(2).

99. Quarantine stations

- (1) The Director may establish a quarantine station at any suitable place in the Kingdom.
- (2) The operator of a facility in which a customs office is located shall, when required in writing by the Director, provide and maintain an area or facility, along with its fixtures, that the Director considers necessary for establishing a quarantine station.
- (3) The Director may compensate the operator for the Director's use of the place.

100. Quarantine facilities

The Director may by order designate any suitable place in the Kingdom as a quarantine facility and amend, cancel or reinstate the designation.

101. Duty to provide

- (1) Any person in charge of a place shall, at the request of the Director –
 - (a) provide that place to the Director if, in the opinion of the Director, the temporary use of the place as a quarantine facility is necessary to protect public health; and
 - (b) such place shall be deemed to be a designated quarantine facility.
- (2) The Director may compensate the person for the use of the place.

102. Facilities at entry and departure points

The person or organisation responsible for the operation and management of an entry and departure point for travellers entering and leaving the Kingdom shall ensure that facilities used by travellers at that place comply with requirements prescribed by regulations made under this Act and are maintained in a sanitary condition.

117. Diversion order

- (1) The Director may order the diversion of a conveyance if he has reasonable grounds to believe it is necessary to prevent the introduction or spread of a controlled notifiable condition or other significant threat to public health.
- (2) A diversion order under subsection (1) –
 - (a) may be made in writing, or where it is made orally it shall be confirmed in writing as soon as practicable;
 - (b) shall specify the place to which the conveyance shall divert; and
 - (c) may not specify a place outside the Kingdom in circumstances where -
 - (i) relevant control measures recommended by the World Health Organization have been applied to the conveyance and the Director is satisfied that those measures have been effective; or
 - (ii) diverting the conveyance to a place outside the Kingdom may threaten the safe arrival of the conveyance or the health and welfare of any travellers.

118. Communication of information to passengers

The operator of a conveyance shall-

- (a) at the request of an authorised officer communicate or distribute to travellers information or questionnaires approved by the Director; and
- (b) provide travellers with information about any processes, requirements or obligations imposed on them by this Act.

119. Orders in relation to conveyances

- (1) If an authorised officer has reasonable grounds to believe that a conveyance, its cargo or any other person or thing on board the conveyance could be the source of a notifiable condition or a public health risk, the officer may order the owner or operator of the conveyance or any person using it for the business of carrying persons or cargo to:
 - (a) take any reasonable measures to prevent entry to or exit from the conveyance or access to it or its contents;
 - (b) take the conveyance to a specified place;
 - (c) quarantine or otherwise isolate the conveyance;
 - (d) disinfect, disinfest, decontaminate or fumigate the conveyance, its contents or any place where the conveyance or its contents have been, in a manner directed by the officer;

- (5) Without limiting subsection (4) the authorised officer may request that the traveller report to a place nominated by the Director for the purpose of assessment and treatment.

105. Screening technology

- (1) Any person authorised by the Director, to determine whether any traveller has a notifiable condition or symptoms of one, may use any screening technology authorised by the Director that does not involve the entry into the traveller's body of any instrument or other foreign body.
- (2) If a traveller refuses to be screened with the screening technology and the person using it is not an authorised officer, the person shall immediately inform an authorised officer of the refusal.

106. Refusal to cooperate

An authorised officer may isolate a traveller, individually or within a group, if –

- (a) he has reasonable grounds to suspect that a traveller has or might have a notifiable condition or has been exposed to vectors or vector borne diseases, or has recently been in close proximity to a person who has or might have a notifiable condition or has been exposed to vectors or vector borne diseases;
- (b) a traveller has refused to be screened under section 105;
- (c) the traveller has refused to answer questions or provide information requested under section 104(2); or
- (d) the traveller has refused to comply with a measure or a request made under section 104(4) or (5).

107. Medical examination

- (1) An authorised officer may require a traveller isolated under section 106 to undergo a medical examination for the purpose of determining whether he has a notifiable condition, is infected with vectors or whether he has been exposed to a notifiable condition.
- (2) The medical examination shall be undertaken within 48 hours after the authorised officer requires the traveller or other person to undergo it.

108. Request of specific medical practitioner

- (1) (a) At any time, a traveller may request an examination by a medical practitioner of his choice in addition to a medical examination conducted under section 107.
 - (b) The authorised officer shall inform the traveller of this right.
- (2) The authorised officer shall accept the request if, in the opinion of the officer, the examination would not unduly delay any measures taken in the administration of this Act.

- (3) The examination shall be at the traveller's expense and shall be conducted in the place where the traveller is detained.

109. Traveller to report to the Director

- (1) If an authorised officer has reasonable grounds to suspect that the traveller has or might have a controlled notifiable condition, or has recently been in close proximity to a person who has or might have a controlled notifiable condition or has been exposed to vectors or vector borne diseases, the officer shall order the traveller to-
- (a) report to the Director; or
 - (b) be isolated at a place nominated by the Director to allow the Director to decide whether to make an application for a controlled notifiable conditions order under Part 10 of this Act.
- (2) The authorised officer shall, without delay, send a copy of an order made under subsection (1)(b) to the Director.

110. Arrest without warrant

A police officer may, at the request of an authorised officer, arrest without a warrant and bring to an authorised officer or bring to a place nominated by the officer, any traveller who-

- (a) refuses to be isolated under section 106; or
- (b) refuses to comply with a requirement made under subsection 109.

111. Release

An authorised officer shall not detain a traveller if:

- (a) the authorised officer has reasonable grounds to believe that the traveller does not pose a risk of significant harm to public health;
- (b) the traveller is transferred to the Director under section 109;
- (c) the authorised officer has reasonable grounds to believe that other reasonable means are available to prevent or control a risk of significant harm to public health.

112. Traveller to be informed

An authorised officer who takes any action in respect of a traveller under this Part shall inform the traveller of the measure before it is taken.

113. Interpreters

The Director shall, if reasonably possible, provide a traveller with an interpreter if the traveller does not have an adequate understanding of Tongan or English or has a speech or hearing disability.

114. Treatment of baggage and places

- (1) An authorised officer or a person acting on their behalf may detain and disinfect any baggage if the authorised officer has reasonable grounds to believe that the baggage has been exposed to vectors or vector borne diseases or other possible sources of public health risk.
- (2) An authorised officer or a person acting on their behalf may enter and disinfect any place if a traveller or baggage that was or may be disinfected has been in or at that place and the authorised officer has reasonable grounds to believe that the place has been exposed to vectors or vector borne diseases.

Division 3 - Conveyances

115. Report of arriving operators

- (1) The operator of a conveyance used in a business of carrying persons or cargo, or of any conveyance prescribed by regulations, shall report to an authorised officer, before arriving in the Kingdom, any reasonable grounds to suspect-
 - (a) that any person, cargo or other thing on board the conveyance has been diagnosed with, been in contact with or could cause the spreading of a notifiable condition;
 - (b) that a person on board the conveyance has died from any cause; or
 - (c) the existence of any other prescribed circumstances.
- (2) The operator shall report to an authorised officer, before departing from the Kingdom, the existence of any circumstance referred to in paragraphs (1) (a) to (c).
- (3) The report shall be made at the entry or departure point, in accordance with subsection (5) where it is not possible for the operator to report before their arrival in the Kingdom.
- (4) The authorised officer shall notify the Director without delay of any report received under this section.
- (5) On arriving in the Kingdom the person in charge of a conveyance shall complete and deliver to an authorised officer a declaration in a form prescribed by regulations before allowing travellers, goods or baggage to leave the conveyance.

116. Duty to provide information

The operator of any conveyance shall answer any relevant questions asked by an authorised officer and provide the officer with any information or record in the operator's possession that the officer may reasonably require in the performance of a duty under this Act.

(b) take all reasonable steps to ensure that the information in the register is up to date and accurate.

(2) The register shall be known as the Notifiable Conditions Register.

130. Application to deceased persons

The requirement to notify or give information under this Part relating to a person applies also in relation to a deceased person.

131. Notification by health practitioner

(1) A health practitioner shall, under subsection (2), notify the Director if an examination of a person indicates that the person—

- (a) has or had a notifiable condition; or
- (b) has or had a provisional diagnosis of a notifiable condition.

(2) The notice shall be in a form approved by the Director and shall comply with requirements prescribed by Regulations.

(3) Subsection (1) does not apply if the examination was carried out in a hospital or if the person agrees to the health practitioner arranging a laboratory test to determine whether the person has a notifiable condition or has been exposed to a notifiable condition.

132. Notification by person in charge

(1) The person in charge of the hospital in accordance with section 133, in the case of an examination is carried out in a hospital, shall notify the Director of a notifiable condition or suspected notifiable condition.

(2) The person in charge of the laboratory in accordance with section 134, in the case of a laboratory test, shall notify the Director that a person has a notifiable condition or has been exposed to a person with a notifiable condition.

(3) Where a provisional diagnosis notified under section 131(1)(b) subsequently proves to be negative, the health practitioner shall advise the Director accordingly.

133. Time of hospital notice

(1) A person in charge of a hospital shall, under subsection (2), notify the Director if an examination of a person in the hospital indicates the person—

- (a) has or had a notifiable condition; or
- (b) has or had a provisional diagnosis of a notifiable condition.

(2) A notice under subsection (1) shall—

- (a) contain information specified, and comply with the requirements prescribed, under a regulation; and
- (b) be in a form approved by the Director.

(e) destroy or dispose of the conveyance, its contents or any cargo or other thing that has been on board the conveyance;

(f) carry out any measures reasonably necessary to prevent the introduction and spread of a notifiable condition or public health risk;

(g) remove the conveyance and its contents from the Kingdom and present a declaration of health provided by an authorised officer to the appropriate health authorities in the country of destination; and

(h) do any other thing prescribed in regulations made under this Act.

(2) An authorised officer who makes an order under paragraph (1)(f) shall immediately report the evidence found on the conveyance and any control measures applied to the conveyance in Tonga to the appropriate authority in the country of destination.

120. Refusal to obey order

(1) An authorised officer may carry out the order himself, or arrange for another person to carry it out where a person refuses to obey the order made under subsection 119 (1).

(2) After the order is carried out, the authorised officer shall, as soon as practicable, advise the person who refused to obey the order of the action taken and the place where the conveyance and its contents are being kept.

121. Costs of carrying out order

(1) A person who is subject to an order referred to in section 120 shall pay any cost of carrying out the order.

(2) An authorised officer may detain the conveyance and its contents until the cost of carrying out the order have been paid.

122. The Director may require security deposit from owner of conveyance

(1) A person engaged in the business of carrying persons or cargo shall, when required by the Director to do so, deposit with the Director any sum of money or other security that the Director considers necessary as a guarantee that the person shall comply with this Act.

(2) The Director may pay from the deposited money, or the proceeds of sale of the security, a fine or costs incurred by the person if-

- (a) the person fails to pay any amount under section 121; or
- (b) the person is convicted of an offence under this Act and fails to pay a fine.

(3) The Director shall return the money or other security if, in the opinion of the Director, that security is no longer required.

123. Compensation to owners

The Minister may compensate the owner of any conveyance, cargo or other thing that is damaged or destroyed under section 119 or 120 in an amount equal to the market value, as determined by the Minister, that the property had at the time of its damage or destruction, less any amount that the owner received or is entitled to receive in respect of it from salvage, insurance or any other source.

124. Duty to mitigate injury, damage and discomfort

An authorised officer exercising powers under sections 119 or 120 shall ensure that any disinfection, deratting, disinfestation, decontamination and other sanitary procedures are carried out so as to avoid to, the greatest extent practicable-

- (a) unnecessary injury or discomfort to any person;
- (b) damage to the environment; and
- (c) damage to property or the conveyance.

Division 4 – Powers of Authorised Officers**125. Powers of inspection**

- (1) An authorised officer may–
 - (a) stop a conveyance, at or prior to arrival at an entry or departure point or anywhere else in the Kingdom, and direct that it be moved to a place where an inspection can be carried out;
 - (b) enter and inspect the conveyance or any place where the conveyance has been;
 - (c) open and examine any cargo, container, baggage, package, postal item or other thing;
 - (d) seize and secure any cargo, container, baggage, package, postal item or other thing;
 - (e) require any person to produce any record under any terms and conditions that, in the opinion of the officer, are necessary to carry out the inspection; and
 - (f) except with respect to a traveller, take any measurement, conduct or cause to be conducted any test or analysis or take or cause to be taken any sample.
- (2) When conducting an inspection under this Division, the authorised officer may –
 - (a) use or cause to be used any computer or data processing system to examine any data contained in or available to it;
 - (b) data in the form of a printout or other intelligible output and take the printout or other output for examination or copying; and

- (c) use or cause to be used any copying equipment to make copies of any record or other document.

126. Assistance to authorised officers

The owner or the person in charge of a place or the operator of a conveyance inspected by an authorised officer under section 125 and any person found in the place or the conveyance shall-

- (a) give the officer all reasonable assistance to enable the officer to perform their duties and functions under this Act; and
- (b) provide the officer with any information relevant to the administration of this Act that the officer may reasonably request.

127. Compelling production of information

An authorised officer may order any person to provide any information or record in their possession about a traveller that the officer may reasonably require in the performance of the officer's duties.

128. Report of contravention

- (1) A person who, in good faith, reports to an authorised officer a contravention of this Act by another person, or the reasonable likelihood of such a contravention, may request that their identity, and any information that could reasonably reveal their identity, not be disclosed to their employer or the other person.
- (2) Subject to any other Act, no person shall disclose or permit the disclosure of that identity or information unless authorised in writing by the person who made the request.
- (3) Notwithstanding any other Act, no person shall dismiss, suspend, demote, discipline, deny a benefit of employment to, harass or otherwise disadvantage a person for having-
 - (a) made a report under subsection (1);
 - (b) refused or stated an intention of refusing to do anything that they believed on reasonable grounds was or would be a contravention under this Act; or
 - (c) done or stated an intention to do anything that they believed on reasonable grounds was required under this Act.

PART 10 - NOTIFIABLE CONDITIONS**Division 1 - Notification****129. Notifiable Conditions Register**

- (1) The Director shall –
 - (a) establish and keep a register of the persons for whom notifications have been given under this Part; and

- (b) the name, address, and telephone number of any other person— who may have transmitted the notifiable condition to the person; or to whom the person may have transmitted the notifiable condition;
 - (c) information about the circumstances in which the person may have been exposed to the notifiable condition or may have exposed another person to the notifiable condition.
- (2) The authorised officer may require the person to give the authorised officer evidence of the correctness of the contact information, within a stated reasonable time, if the authorised officer reasonably suspects the stated contact information to be false.
 - (3) If the person specified in subsection (3) is unable to provide this information because of illness or other reasonable cause, the authorised officer may require another person to provide this evidence where the officer reasonably believes that such a person has such evidence.
 - (4) If the person fails to comply with a request under subsection (2),(3) or (4), the authorised officer may give the person a notice that—
 - (a) states the contact information the person is required to provide;
 - (b) states the information is needed to attempt to prevent or minimise the spread of the notifiable condition;
 - (c) requires the person to give the authorised officer the contact information within a stated reasonable time; and
 - (d) warns the person it is an offence to fail to give the contact information; and
 - (e) tells the person the effect of section 141.
 - (5) A person required by an authorised officer to give contact information or evidence of the correctness of contact information shall not state anything to the authorised officer that the person knows is false or misleading in a material particular.

141. Failure to give contact information

A person who fails to provide required contact information commits an offence under this Act.

142. Disclosure of contact information

A relevant person shall not, whether directly or indirectly, disclose confidential information gathered for the purpose of contact tracing, except in the following circumstances:

- (a) if the disclosure of the confidential information by a relevant person is authorised under an Act or another law.
- (b) the confidential information is disclosed by a relevant person—

- (3) Where a provisional diagnosis notified under subsection (1)(b) subsequently proves to be negative, the person in charge of the hospital shall advise the Director accordingly.

134. When the Head of a laboratory shall notify

- (1) The head of a laboratory shall, under subsection (3), notify the Director if an examination of a specimen of human origin in the laboratory indicates that the person from whom the specimen was taken has or had a notifiable condition.
- (2) The head of the laboratory shall notify the Director of cases of notifiable conditions even where a person has voluntarily agreed to testing under section 131(3).
- (3) The notice shall—
 - (a) contain information, and comply with the requirements, prescribed under a regulation;
 - (b) include the name of the health practitioner who referred the person's specimen for examination; and
 - (c) be in a form approved by the Director.

135. Anonymity

The information required under sections 131, 133 and 134 may be provided in a form which maintains the anonymity of the infected person.

136. Further information may be required

- (1) The Director may, if he considers necessary, require the following persons to give specified information within a stated time period-
 - (a) the person who gave the notice;
 - (b) the health practitioner in a notice under section 133(3)(b) as the health practitioner who referred the specimen for pathological examination;
 - (c) any other health practitioner or person who is involved in the treatment of the person for whom a notice was given.
- (2) If a person refuses or fails to comply with a requirement under subsection (1), the Director may give the person a notice requiring the person to give the information stated in the notice to the Director within the reasonable time stated in the notice.
- (3) A notice under subsection (2) may require a person to give the full name of, and other identifying information about, a person for whom non-identifying information has been provided.
- (4) A person who fails to comply with a notice under subsection (2) commits an offence against this Act.

- (5) Any person giving information under this section, shall not be held to have breached any code of professional ethics or accepted standards of professional conduct.

137. Accuracy of information

The Director shall ensure that every reasonable step is taken to ensure that confidential information gathered for the purpose of the Act is accurate and up to date.

138. Confidentiality of information

- (1) A relevant person shall not, whether directly or indirectly, disclose confidential information obtained under this Part.
- (2) Notwithstanding subsection (1), the disclosure of the confidential information may be made by a relevant person where it is:
- authorised under an Act or another law;
 - in the performance of functions under this Act;
 - with the written consent of the person to whom the information relates;
 - to the person to whom the information relates; or
 - in a form that could not identify any person.
- (3) Notwithstanding subsection (1), the disclosure of the confidential information by a relevant person may be authorised by the Director for the purposes of—
- monitoring the prevalence and incidence of notifiable conditions;
 - identifying the source of outbreaks of notifiable conditions;
 - identifying persons who may transmit a notifiable condition to others, to prevent or minimise the transmission of the condition; or
 - identifying persons who may have contracted, or may be at risk of contracting, a notifiable condition, to prevent or minimise the transmission of the condition.
- (4) Notwithstanding subsection (1), the disclosure of confidential information may be made by a relevant person if—
- the Director believes, on reasonable grounds, the disclosure is in the public interest; or
 - the disclosure is to an employee of the Ministry or a person approved by the Director who is contracted by the Ministry to analyse, monitor or evaluate public health; and
 - the disclosure and receipt of the confidential information is for analysing, monitoring or evaluating public health; and

- the employee of the Ministry or other person is authorised in writing by the Director to receive the confidential information;
 - the disclosure is to an employee of the Ministry or a person approved by the Director who is contracted by the Ministry to evaluate, manage, monitor or plan health services; or
 - the disclosure is to a person prescribed under a regulation for this paragraph for evaluating, managing, monitoring or planning health services as stated in the regulation.
- (5) This section 138 does not apply to the disclosure of confidential information by the Director if—
- the disclosure is to the World Health Organization or other State or entity; and
 - the disclosure is required or permitted under an international agreement to which Tonga is a party for the purpose of minimizing or preventing risks to human health.

Division 2 - Contact tracing

139. Functions of authorised officers

An authorised officer has the following functions in relation to contact tracing—

- identifying persons who may have contracted a notifiable condition;
- identifying persons who may transmit a notifiable condition to others;
- informing persons who may have contracted a notifiable condition so that they may seek medical examination and treatment;
- providing information to persons who may have contracted a notifiable condition to prevent or minimize transmission of the notifiable condition; and
- obtaining information about the following to prevent or minimise transmission of a notifiable condition—
 - how a person has, or may have, been exposed to the notifiable condition;
 - how a person has, or may have, exposed other persons to the notifiable condition.

140. Power to require contact tracing

- (1) The authorised officer may, where he reasonably suspects that a person has a notifiable condition, require the person to give the authorised officer all or any of the following information within a stated time—
- the person's name and residential address or another address where the person may be contacted;

149. Behavioural order

- (1) The Supreme Court may make a behavioural order for a person if the Court is satisfied—
 - (a) the person has a controlled notifiable condition; and
 - (b) either of the following may constitute an immediate risk to public health—
 - (i) the person’s condition;
 - (ii) the person’s condition and likely behaviour; and
 - (c) the person needs to do, or not do, stated things to avoid the person’s condition, or the person’s condition and likely behaviour, constituting a risk to public health; and
 - (d) the person has been counselled, or reasonable attempts have been made to counsel the person, about the condition and its possible effect on the person’s health and on public health.
- (2) A behavioural order for a person may provide that the person do any or all of the following for the period stated in the order—
 - (a) undergo counselling by a stated person or persons;
 - (b) refrain from stated conduct;
 - (c) refrain from visiting stated places; or
 - (d) submit to supervision and monitoring by another person.
- (3) For subsection (1)(d), the order may specify that the supervision and monitoring —
 - (a) be by a person nominated by the Director; and
 - (b) be done in a specified manner.
- (4) Also, the order may be made subject to the conditions the Court considers appropriate.
- (5) An authorised officer may enforce the order with the help, and using the force, that is reasonable in the circumstances.

150. Compliance with behavioural order

- (1) This section applies if a behavioural order has been made for a person and the person has been given a copy of the order.
- (2) A person who fails to comply with a behavioural order commits an offence under this Act.

151. Detention order

- (1) The Supreme Court may make a detention order for a person if the Court is satisfied—

- (i) in the performance of functions under this Act;
- (ii) with the written consent of the person to whom the information relates;
- (iii) to the person to whom the information relates; or
- (iv) in a form that could not identify any person.
- (c) if the disclosure of the confidential information by a relevant person to another person is authorised by the Director to protect the health of that person or another person.
- (d) where the Director believes, on reasonable grounds, the disclosure is in the public interest and the Director has authorised the disclosure in writing.
- (e) the disclosure of the confidential information by a relevant person is to the Director to allow the Director to act under this Part; or
- (f) the disclosure is to the World Health Organization or other State or entity and the disclosure is required or permitted under an international agreement to which Tonga is a party for the purpose of minimizing or preventing risks to human health.

Division 3 - Supreme Court controlled notifiable conditions order**143. Applying for a controlled notifiable conditions order**

- (1) The Director may apply to the Supreme Court for any of the following orders for a person—
 - (a) an initial examination order;
 - (b) a behavioural order; or
 - (c) a detention order.
- (2) The application shall be sworn, supported by an affidavit, and state the following—
 - (a) the controlled notifiable condition the person has or is suspected of having;
 - (b) the grounds on which the order is to be made;
 - (c) the nature of the order sought; and
 - (d) if an order taking the person into, or keeping the person in, detention is sought, the proposed arrangements for the person’s detention and care.

144. Deciding application in person’s absence

The Supreme Court may decide an application for a controlled notifiable conditions order in the absence of the person for whom the order is sought if the Court—

- (a) considers the person's presence may be an immediate risk to public health; or
- (b) is satisfied the person cannot be located; or
- (c) is satisfied there is another reason that makes this necessary.

145. Initial examination order

- (1) The Supreme Court may make an initial examination order for a person if the Court—
 - (a) reasonably suspects the person may have a controlled notifiable condition; and
 - (b) is satisfied that, if the person has the condition, either of the following may constitute an immediate risk to public health—
 - (i) the person's condition;
 - (ii) the person's condition and likely behaviour; and
 - (c) is satisfied it is necessary for the person to undergo a medical examination to ascertain whether the person has the condition; and
 - (d) is satisfied the person has been counselled, or reasonable attempts have been made to counsel the person, about the condition and its possible effect on the person's health and on public health.
- (2) An initial examination order may provide for any or all of the following—
 - (a) that the person be detained at a stated place;
 - (b) subject to subsection (3), a period that is not more than 72 hours, for which a person may be detained;
 - (c) that the person be detained in isolation for part or all of the period of detention;
 - (d) if the person is not at the place where the person is to be detained, that the person be taken to and detained at the place;
 - (e) that the person undergo the medical examination stated in the order by a Health Practitioner nominated by the Director to ascertain whether the person has the controlled notifiable condition.
- (3) The order may –
 - (a) state a period that is more than 72 hours only if the Court is satisfied that, because of the nature of the controlled notifiable condition, a longer period is required to ascertain whether the person has the condition;
 - (b) be made subject to the conditions the Court considers appropriate; and
 - (c) authorise any authorised officer, within a stated period—

- (i). to enter or re-enter any place the authorised officer reasonably believes the person is; a
 - (ii). to search the place to find the person;
 - (iii). to remain in the place for as long as the authorised officer considers is reasonably necessary to find the person; and
 - (iv). to take the person to the place where the person is to be detained under the order.
- (4) An authorised officer may exercise powers under the order with the help, and using the force, that is reasonable in the circumstances.
 - (5) Without limiting section 146, for enforcing the order the Director may detain the person and carry out the medical examination with the help, and using the force, that is reasonable in the circumstances.

146. Detention to undergo medical examination

- (1) A person detained under an initial examination order shall remain at the place of detention for the period stated in the order and undergo the stated medical examination specified in the order unless the person is released under section 148.
- (2) The period of detention of a person under an initial examination order starts—
 - (a) if the person is at the place where the person is to be examined, from the time the person is detained at the place and given a copy of the order; or
 - (b) if the person is not at the place where the person is to be examined, from the time the person is detained at the place after being given a copy of the order.

147. Details of medical examination shall be explained

- (1) Any health practitioner undertaking a medical examination of a person under an initial examination order shall-
 - (a) give an explanation to the person of the examination to be undertaken in a way likely to be readily understood by the person; and
 - (b) allow the person an opportunity to submit to the examination voluntarily.
- (2) If the person does not submit to the examination voluntarily, the Health Practitioner may undertake the examination with the help, and using the force, that is reasonable in the circumstances.

148. Release before the end of initial examination order

The Director shall release a person before the initial examination order ends if the Director is satisfied the reason for the order no longer exists.

- (2) Notwithstanding subsection (1), the authorised officer may enter the place immediately if it is required to ensure the effective execution of the order or warrant.

161. Prohibition of spread of controlled notifiable condition

- (1) A person shall not recklessly –
- (a) put any other person at risk of contracting a controlled notifiable condition; or
 - (b) transmit a controlled notifiable condition to any other person.
- (2) A person does not commit an offence under this section by refusing, or failing, to be vaccinated against a condition for which there is a recognised and reasonably available vaccine.

162. Obstruction

- (1) A person shall not obstruct any person exercising any duties under this Act.
- (2) A person who contravenes subsection (1) shall be warned by the authorised officer that –
- (a) it is an offence to obstruct the authorised officer; and
 - (b) such conduct constitutes obstruction.

PART 11 - PUBLIC HEALTH EMERGENCIES

Division 1 – General

163. Relationship to other Acts

The existence of a declaration of a disaster or emergency under any other Act shall not prevent the declaration of a public health emergency under this Part.

164. Declaration of public health emergency

- (1) This section applies if the Minister of Health is satisfied—
- (a) there is a public health emergency; and
 - (b) it is necessary to exercise powers under this Part to prevent or minimise serious adverse effects on human health.
- (2) The Minister may, after due consideration of all the relevant factors, declare a public health emergency by a signed written order to be a public health emergency order.
- (3) A public health emergency order takes effect from its declaration by the Minister by signed written order.

165. Contents of public health emergency order

A public health emergency order shall state—

- (a) the person has a controlled notifiable condition; and
 - (b) either of the following may constitute an immediate risk to public health—
 - (i) the person’s condition;
 - (ii) the person’s condition and likely behaviour; and
 - (c) the person needs to be detained at a stated place for a stated period to avoid the person’s condition, or the person’s condition and likely behaviour, constituting a risk to public health; and
 - (d) the person has been counselled, or reasonable attempts have been made to counsel the person, about the condition and its possible effect on the person’s health and on public health.
- (2) A detention order for a person may provide for any or all of the following—
- (a) that the person be detained at a stated place for a stated period of not more than 28 days;
 - (b) that the person be detained in isolation for part or all of the period of detention;
 - (c) if the person is not at the place where the person is to be detained, that the person be taken to and detained at the place;
 - (d) that the person undergo a medical examination; or
 - (e) that the person undergo the treatment stated in the order provided or supervised by a Health Practitioner nominated by the Director.
- (3) The order may be made subject to the conditions the Court considers appropriate.
- (4) The order may permit any authorised officer, within a stated period—
- (a) to enter or re-enter any place the authorised officer reasonably believes the person is;
 - (b) to search the place to find the person;
 - (c) to remain in the place for as long as the authorised officer considers is reasonably necessary to find the person; and
 - (d) to take the person to the place where the person is to be detained under the order.
- (5) An authorised officer may exercise powers under the order with the help, and using the force, that is reasonable in the circumstances.
- (6) Without limiting section 152, for enforcing the order the Director may detain the person and carry out a medical examination with the help, and using the force, that is reasonable in the circumstances.

152. Detention to undergo medical examination or treatment

- (1) A person detained under a detention order shall remain at the place of detention for the period stated in the order and undergo the medical examination or treatment stated in the order.
- (2) A person who fails to comply with a detention order commits an offence under this Act.

153. Details of medical examination or treatment shall be explained

- (1) The Health Practitioner undertaking the examination or treatment of a person under a detention order shall, if practicable—
 - (a) give an explanation to the person of the examination or treatment to be undertaken in a way likely to be readily understood by the person; and
 - (b) allow the person an opportunity to submit to the examination or treatment voluntarily.
- (2) The Health Practitioner may undertake the examination or treatment with the help, and using the force, that is reasonable in the circumstances where the person does not submit to the examination or treatment voluntarily.

154. Service of orders

An authorised officer shall, as soon as practicable after an initial examination order, a behavioural order or a detention order is made for a person,—

- (a) give the person who is the subject of the order a copy of the order;
- (b) explain the terms and effect of the order to the person including the effect of section 154; and
- (c) give the person notice about the right of appeal against the order and how to appeal.

155. Extension of orders

- (1) The Director may, before the order ends, apply to the Supreme Court for an order to extend the period of a behavioural order or a detention order.
- (2) The Court may extend a behavioural order for such period as it deems necessary.
- (3) A detention order may be extended for not more than 28 days.

156. Variation and revocation of orders

- (1) The Supreme Court may vary or revoke an initial examination order, a behavioural order or a detention order upon application by the Director.
- (2) The Court may have regard to a contravention of section 146, 150 or 152 without limiting the things to which it may consider in deciding the application.

157. Application for warrant for apprehension

An authorised officer may apply to a magistrate for a warrant for apprehension of the person if a person who is subject to an initial examination order or a detention order—

- (a) absconds while being taken to the place where the person is to be detained under the order;
- (b) absconds from the place where the person is being detained under the order; or
- (c) absconds from another place before being taken to the place where the person is to be detained under the order.

158. Issue of warrant

- (1) The magistrate may issue a warrant for the apprehension of the person who has absconded.
- (2) The warrant shall authorise any authorised officer to—
 - (a) enter or re-enter any place the authorised officer reasonably believes the person is;
 - (b) search the place to find the person;
 - (c) remain in the place for as long as the authorised officer considers is reasonably necessary to find the person; and
 - (d) take the person to the place where the person is to be detained under an initial examination order or a detention order.
- (3) An authorised officer may exercise powers under the warrant with the help, and using the force, that is reasonable in the circumstances.

159. Defect in relation to a warrant

A warrant is not invalidated by a defect unless the defect affects the substance of the warrant.

160. Procedure before entry under an order or a warrant

- (1) The authorised officer shall, where he is intending to enter a place under an initial examination order, detention order or a warrant—
 - (a) identify himself to a person present at the place who is an occupier of the place by producing a copy of the authorised officer's identity card or other document evidencing the appointment;
 - (b) give the person a copy of the order or warrant;
 - (c) tell the person the authorised officer is permitted by the order or warrant to enter the place;
 - (d) give the person an opportunity to allow the authorised officer immediate entry to the place without using force.

- (2) The Director shall, as soon as practicable after appointing a person as an medical emergency officer, give to the person appointed a copy of the person's designation.

180. Powers of emergency officers

In a declared public health emergency an emergency officer shall have the powers in sections 181 to 185 and a medical emergency officer shall also have the powers in sections 187 to 196.

181. Emergency powers

- (1) An emergency officer responding to a declared public health emergency may do any of the following which he reasonably believes is necessary to respond to the declared public health emergency—
- (a) prohibit a person from entering the Kingdom;
 - (b) require a person not to enter or not to remain within a place;
 - (c) require a person leaving a place to undergo health examinations;
 - (d) require a person to stop using a place for a stated purpose;
 - (e) require a person or conveyance to go to a stated place for a stated purpose, including but not limited to medical testing, vaccination or other steps necessary to minimize public health risks;
 - (f) require a person to stay at or in a stated place;
 - (g) require a person to take measures to remove from the person a substance that is a hazard to human health, for example, by showering;
 - (h) direct the movement of a person, animal, conveyance or a vehicle into, out of, or around the public health emergency area;
 - (i) prohibit, restrict or impose conditions upon the movement of an article or thing, animal or human remains into or out of a public health emergency area;
 - (j) require a person to state the person's name and residential address;
 - (k) require a person to answer questions by the emergency officer;
 - (l) clean or disinfect a place, structure or thing;
 - (m) carry out insect or pest control;
 - (n) demolish stated structures or other property;
 - (o) contain an animal, substance or thing within the public health emergency area;
 - (p) remove an animal, substance or thing from a place;
 - (q) destroy animals at a place or remove animals from a place for destruction at another place;

- (a) the nature of the public health emergency;
- (b) the area to which the order relates to a public health emergency area;
- (c) the duration of the order; and
- (d) any conditions relating to the conduct of the response to the declared public health emergency.

166. Publication of declaration

The Minister shall publish a public health emergency order as soon as practicable after it is declared by—

- (a) gazette notice; and
- (b) newspaper, radio or television in the public health emergency area.

167. Extending declared public health emergency

- (1) A period of a declared public health emergency may be extended by regulation.
- (2) A regulation made under this section shall—
 - (a) commence on the day it is made;
 - (b) state the period by which the declared public health emergency is extended; and
 - (c) expire at the end of the stated period unless it is sooner repealed.

168. Duration of declared public health emergency

A declared public health emergency shall—

- (a) start when it is declared under section 166; and
- (b) end three months after the day it is declared unless—
 - (i) the Minister ends the declared public health emergency under section 169;
 - (ii) a regulation extends, under section 167, the period of the declared public health emergency beyond the end of the period of three months.

169. Ending declared public health emergency

The Minister shall –

- (a) end the declared public health emergency as soon as he is satisfied it is no longer necessary;
- (b) make a written record of the time and date the declared public health emergency ended;
- (c) publish the ending of a public health emergency as soon as practicable after it is made-

- (i) by gazette notice; and
- (ii) by newspaper, radio or television in the public health emergency area.

170. Public health emergency order may be amended

The Minister may amend a public health emergency order by written orders.

171. Declaration of emergency notifiable condition

The Minister may, after due consideration of the relevant factors, declare –

- (a) that an emergency notifiable condition exists, if -
 - (i) an emergency notifiable condition exists; and
 - (ii) it is appropriate, having regard to the nature of the declared public health emergency, to declare the emergency notifiable condition to be a controlled notifiable condition for the purpose of this Act; and
- (b) that an emergency notifiable condition is a controlled notifiable condition by a signed written declaration.

172. Emergency notifiable conditions declaration

- (1) An emergency notifiable condition declaration shall state—
 - (a) the general nature of the emergency notifiable condition including for example, signs and symptoms that may be associated with the condition;
 - (b) where practicable, any clinical, laboratory or other diagnostic criteria; and
 - (c) the period for which the emergency notifiable condition is declared to be a controlled notifiable condition.
- (2) The declaration may continue after the declared public health emergency ends.

173. Publication

The Minister shall publish an emergency notifiable condition declaration by gazette notice as soon as practicable after it is declared.

174. Duration

The emergency notifiable conditions declaration starts when it is declared under section 171 and ends 6 months after the day it is declared.

175. Amendment

The Minister may amend an emergency notifiable conditions declaration by written declaration.

Division 2 – Duties and responsibilities in a Public Health Emergency

176. Coordination

- (1) The Director shall be responsible for the overall management and control of the response to the emergency on the declaration of a public health emergency.
- (2) The Director may give directions about the circumstances in which powers available to emergency officers under this Part may be exercised in the coordination of response by emergency officers to the declared public health emergency.
- (3) A direction given under subsection (2) may be general or limited to a particular class of emergency officers; and

177. Designation of emergency officers

- (1) The following are emergency officers for the purposes of this Part-
 - (a) authorised officers; and
 - (b) the following persons or class of persons designated by the Minister—
 - (i) public service officers or employees;
 - (ii) members of the Police;
 - (iii) members of the armed forces.
- (2) A designation under subsection (1)(b) may be made before or after the declaration of a public health emergency.
- (3) The Minister may revoke the designation of an emergency officer.

178. Designation of medical emergency officers

- (1) The Director may designate health practitioners as medical emergency officers for declared public health emergencies if they are-
 - (a) public service officers or employees; or
 - (b) other persons prescribed under a regulation.
- (2) A designation under subsection (1) may be made before, during or after the declaration of a public health emergency.
- (3) The Director may designate a doctor or a health practitioner as a medical emergency officer only if the Director considers the doctor has the necessary expertise and experience to be a medical emergency officer.
- (4) The Director may at his discretion revoke the designation of any medical emergency officer.

179. Appointment conditions

- (1) An emergency officer holds office on the conditions stated in the instrument of designation.

unless an application to extend is made to the Court under sections 193 and 195.

189. Enforcement of order

- (1) A detention order may be enforced by the medical emergency officer or a person nominated by the officer.
- (2) The officer or person nominated shall—
 - (a) give the person to be detained a copy of the detention order and explain to the person, in general terms, the purpose and effect of the order; or
 - (b) if it is not reasonably practicable to give a written detention order to the person before detaining the person—explain the purpose and effect of the order to the person in detail.
- (3) A detention order explained under subsection (2)(b) shall have the same effect as a written order but the officer or person nominated by the officer shall give the written order to the person detained as soon as reasonably practicable after the person is detained.
- (4) A person who fails to comply with a detention order commits an offence against this Act.
- (5) The officer or person may enforce the detention order with the help, and using the force, that is reasonable in the circumstances.

190. Person to be given opportunity of voluntarily complying with order

The medical emergency officer or a person nominated by the officer shall, before enforcing a detention order against a person, give the person the opportunity of voluntarily complying with the order.

191. Medical examination and treatment

- (1) A medical emergency officer shall, as soon as practicable after a person is detained, request that the person be medically examined to—
 - (a) help decide whether the person has or may have a serious disease or illness so that the person may be treated for the disease or illness; and
 - (b) decide whether the person is an immediate risk to public health.
- (2) A medical emergency officer shall, when requesting that the person be examined,—
 - (a) give an explanation to the person about the examination to be undertaken in a way likely to be readily understood by the person; and
 - (b) tell the person that the person may refuse the examination.
- (3) Any examination of the person may be conducted by an medical emergency officer or a medical emergency officer chosen by the person.

- (r) dispose of an animal, substance or thing at a place by burying the animal, substance or thing;
 - (s) take action in relation to property including, for example, to allow the officer to take control of a building for the purposes responding to the emergency;
 - (t) require a person to give the emergency officer reasonable help to exercise the emergency officer's powers under this section;
 - (u) prohibit or impose conditions on the entry or exit of conveyances from the Kingdom;
 - (v) require conveyance operators to provide information about their manifest and routing;
 - (w) require conveyance operators to provide proof of any control measures taken before arrival in the Kingdom to eliminate public health risks;
 - (x) require conveyance operators to reapply control measures in the event that the officer is satisfied on reasonable grounds that control measures applied before entry into the Kingdom did not successfully remove a public health risk; and
 - (y) designate the points of entry that shall be used by travellers and conveyances entering and leaving the Kingdom.
- (2) An emergency officer may, with necessary and reasonable help and force, take action to enforce the requirement or direction where a person fails to comply with a requirement or direction under subsection (1).
 - (3) For subsection (1)(j), the emergency officer may require the person to give the officer evidence of the correctness of the stated name or residential address if the officer reasonably suspects the stated name or address to be false.
 - (4) For subsection (1)(u) an order may not-
 - (a) prohibit the entry of a conveyance if relevant control measures recommended by the World Health Organization have been successfully applied; or
 - (b) prevent a conveyance from stopping for the purpose of taking on fuel, water, food and supplies under the supervision and subject to conditions imposed by an emergency officer including the condition that the conveyance may not embark or disembark travellers or load or discharge cargo or any other thing; or
 - (c) prevent ships passing through Tongan waters without calling at a port or on the coast.
 - (5) An emergency officer shall not incur any personal liability by reason of anything lawfully done by him under this section.

182. Failure to comply with requirement

A person of whom a requirement or direction is made under subsection 181(1) shall comply with the requirement or direction.

Division 3 - Entry of places**183. Power to enter places**

- (1) An emergency officer may enter any place in the public health emergency area at any time if the emergency officer is responding to a declared public health emergency and reasonably believes it is urgent that the emergency officer enter the place to—
 - (a) save human life;
 - (b) prevent or minimise serious adverse effects on human health; or
 - (c) do anything else to relieve suffering or distress.
- (2) The emergency officer may enter the place with the help, and using the force, that is reasonable in the circumstances.

184. Procedure before entry

- (1) The emergency officer shall, before entering the place to respond to a declared public health emergency, do or make a reasonable attempt to do the following things—
 - (a) seek an occupier's consent to the entry;
 - (b) tell the occupier the emergency officer is permitted to enter the place to respond to a declared public health emergency;
 - (c) give the occupier an opportunity to allow the emergency officer immediate entry to the place without using force.
- (2) Notwithstanding subsection (1), the emergency officer may enter a place if he believes on reasonable grounds it is necessary to effectively respond to the declared public health emergency.

185. General powers after entering places

The emergency officer who enters a place to respond to a declared public health emergency may—

- (a) search any part of the place;
- (b) inspect, measure, test, photograph or film any part of the place or anything at the place;
- (c) take a thing, or a sample of or from a thing, at the place;
- (d) copy a document at the place or take the document to another place to copy it;
- (e) take into or onto the place any persons, equipment and materials the emergency officer reasonably requires for exercising a power under this Part; and

- (f) require a person at the place to give the emergency officer reasonable help to exercise the emergency officer's powers under paragraphs (a) to (e).

186. Failure to help emergency officer

A person who fails to comply with section 185(f) commits an offence against this Act.

Division 4 - Extra powers of medical emergency officers**187. Medical Emergency officer may order detention**

- (1) This section applies if a medical emergency officer reasonably suspects that—
 - (a) a person in a public health emergency area has or may have a serious disease or illness; and
 - (b) the serious disease or illness, or the serious disease or illness and the person's likely behaviour, constitutes an immediate risk to public health; and
 - (c) it is necessary to detain the person to effectively respond to the declared public health emergency.
- (2) The medical emergency officer may order the detention of the person at a place nominated by the officer within or outside the public health emergency area.
- (3) The order shall be in writing and state the following—
 - (a) a description of the serious disease or illness the person has or may have;
 - (b) the place where the person is to be detained;
 - (c) that the person shall—
 - (i) if the person is at the place where the person is to be detained—remain at the place; or
 - (ii) if the person is not at the place where the person is to be detained—go to the place with the medical emergency officer or with a person nominated by the officer;
 - (d) the time when the detention order ends.

188. Duration of order

A detention order made by a medical emergency officer ends—

- (a) 96 hours from the time it is given to the person who is the subject of the order; or
- (b) if a lesser period is stated in the order, at the end of the lesser period,

PART 13 - MONITORING AND ENFORCEMENT**Division 1 - Powers of authorised officers****206. General entry powers**

- (1) Authorised officer may enter a place if—
 - (a) an occupier of the place consents to the entry; or
 - (b) it is a public place and the entry is made when it is open to the public; or
 - (c) the entry is authorised by a warrant; or
 - (d) entry is made under section 207, 208 or 209.
- (2) For the purpose of asking the occupier of a place for consent to enter, an authorised officer may, without the occupier's consent, an enforcement order or a warrant—
 - (a) enter land around premises at the place to an extent that is reasonable to contact the occupier; or
 - (b) enter part of the place the authorised officer reasonably considers members of the public ordinarily are allowed to enter when they wish to contact the occupier.

207. Power to enter place to ascertain if public health risk exists

An authorised officer may, if he reasonably believes there may be a public health risk at a place, at reasonable times, enter the place to find out whether there is a public health risk at the place.

208. Power to enter place to check compliance with public health order

An authorised officer may, if a person has been given a public health order for a public health risk at a place, at reasonable times, enter the place to check whether the order has been complied with.

209. Power to enter place to take steps if public health order not complied with

The Director may, at reasonable times, enter the place to take the steps stated in the order, if—

- (a) a person has been given a public health order for a public health risk at a place; and
- (b) the public health order requires the person to take steps at the place to remove or reduce the risk to public health from the public health risk, or prevent the risk to public health from recurring; and
- (c) the person has failed to take the steps as required by the order.

- (4) The person shall be given the opportunity of receiving medical treatment including by another medical emergency officer chosen by the person.

192. Release of detained person

A person detained under this Part shall be released before the detention order ends if—

- (a) a medical emergency officer is satisfied the person is no longer an immediate risk to public health; or
- (b) the person has been examined by a doctor chosen by the person and both the medical emergency officer who conducted the examination and the medical emergency officer are satisfied the person is no longer an immediate risk to public health.

193. Application to extend order

- (1) The medical emergency officer or the Director may apply to the Supreme Court to extend the detention order, if he is satisfied that having regard to the matters stated in section 187(1) it is necessary to continue to detain a person after a detention order ends.
- (2) The application shall be made before the detention order ends.
- (3) The medical emergency officer or the Director shall immediately give the person detained a copy of the application.
- (4) The person detained shall not attend the hearing of the application but may nominate a person to represent the person detained at the hearing.

194. Consideration of application

- (1) The Supreme Court may make such orders as it considers appropriate for deciding the application.
- (2) If the Court does not decide the application before the end of the detention order, the detention order continues until the application is finally decided.

195. Obligations of medical emergency officer in relation to a person detained

The medical emergency officer shall as soon as possible —

- (a) having regard to all the circumstances, inform the person detained—
 - (i) that the person may apply to the Supreme Court for an order ending the person's detention and how the person may apply;
 - (ii) of the person's right to consult a Law Practitioner or other person of the person's choice; and
 - (iii) that, for the person to be detained beyond 96 hours, the medical emergency officer shall apply to the Supreme Court to extend the detention order;
- (b) inform the next of kin of the detained person or someone else nominated by the person—

- (i) that the person is detained under this Part and where the person is detained; and
 - (ii) of the things mentioned in paragraph (a); and
 - (iii) of how to obtain information about the person detained, including who to contact to obtain the information; and
- (c) give the detained person a reasonable opportunity to contact persons with whom the detained person wants to communicate.

196. Application to end detention

- (1) A person detained under a detention order may apply to the Supreme Court for an order ending the detention.
- (2) The Court shall make an order ending the person's detention if it is satisfied the person's continued detention is not necessary to effectively respond to the declared public health emergency.

Division 5 - Enforcement matters during a public health emergency

197. False or misleading information

A person shall not give an emergency officer—

- (a) information that he knows to be false or misleading in a material particular;
- (b) a document containing information the person knows is false or misleading in a material particular.

198. Obstructing emergency officers

A person shall not obstruct an emergency officer in the performance of a power.

PART 12 - HEALTH AND SAFETY AT WORK

199. Registration of concern

- (1) The owner of any concern employing 5 or more persons shall register it annually with the Ministry.
- (2) Any owner who contravenes this section shall be guilty of an offence.

200. Registration of dangerous process

- (1) The owner of any concern with less than 5 employees shall register it with the Ministry if it undertakes any process which is dangerous or potentially dangerous to the health of the employees or other persons.
- (2) Any owner who contravenes this section shall be guilty of an offence.

201. Notification of death

- (1) Any death which occurs at a concern shall be reported forthwith to the Minister by the manager or owner of that concern.
- (2) Any person who contravenes this section shall be guilty of an offence.

202. Notification of serious accident

- (1) Any serious accident to a person at his place of work and resulting in an absence of more than 5 days from work shall be reported forthwith to the Minister by the manager or the owner of that concern.
- (2) Any person who contravenes this section shall be guilty of an offence.

203. Visits by authorised officer

In his regular visits to concerns the authorised officer shall pay special attention to the following matters:

- (a) overcrowding;
- (b) the adequacy of ventilation, including the exhaust ventilation of dangerous process;
- (c) lighting, natural or artificial;
- (d) type and adequacy of sanitary conveniences for the numbers of persons employed;
- (e) type and adequacy of washing facilities for the number of persons employed;
- (f) seating facilities;
- (g) first aid provisions and numbers of staff with first aid training;
- (h) the maintenance of adequate health records for all employees;
- (i) the safety of any hazardous process or dangerous machinery used;
- (j) the safe disposal of any offensive or toxic waste material;
- (k) ensure that where protective measures are required for employees they are available, utilised and efficient; and
- (l) safety education.

204. Hazards to other persons

An authorised officer shall ensure that no hazards emanate from concerns which are a nuisance or injurious to the health of other persons living or working in the vicinity of the concern.

205. Notification of occupational diseases

- (1) The Minister may by regulation require specified occupational diseases to be notified to the Director of Health by the manager or owner of any concern.
- (2) Any person who contravenes this section shall be guilty of an offence.

217. Failure to help or answer questions

A person who fails to comply with a requirement made under subsection 216(f) or (g) commits an offence under this Act.

218. Seizing evidence at place that may be entered without consent or a warrant

An authorised officer who lawfully enters a place under this Part may seize a thing at the place only if the authorised officer reasonably believes the thing is evidence of an offence against this Act.

219. Seizing evidence

- (1) An authorised officer is authorised to enter a place—
 - (a) under this Part only with the consent of the occupier or a warrant; and
 - (b) after obtaining the necessary consent or warrant.
- (2) If the authorised officer enters the place with a warrant, this section applies only if the warrant was issued under section 213(1)(a).
- (3) If the authorised officer enters the place with the occupier's consent, the authorised officer may seize a thing at the place only if—
 - (a) he reasonably believes it is evidence of an offence committed against this Act; and
 - (b) seizure of the thing is consistent with the purpose of entry as told to the occupier when asking for the occupier's consent.
- (4) If the authorised officer enters the place with a warrant, the authorised officer may seize the evidence for which the warrant was issued.
- (5) The authorised officer also may seize anything else at the place if the authorised officer reasonably believes—
 - (a) the thing is evidence of an offence against this Act; and
 - (b) the seizure is necessary to prevent the thing being—
 - (c) hidden, lost or destroyed; or
 - (d) used to continue, or repeat, the offence.
- (6) The authorised officer may seize a thing at the place if the authorised officer reasonably believes it has just been used in committing an offence against this Act.

220. Power to remove or reduce public health risks

- (1) An authorised officer who enters a place after obtaining a warrant which authorises him to exercise powers under this Part may take the steps necessary in the circumstances to remove or reduce the risk from the public health risk stated in the warrant, or to prevent the risk from recurring, including seizing a thing.

Division 2 - Procedure for entry**210. Entry with consent**

- (1) An authorised officer may enter a place with the consent of the occupier in writing provided he informs the occupier of —
 - (a) the purpose of the entry; and
 - (b) that the occupier is not required to consent.
- (2) The written consent shall state the—
 - (a) occupier has been told—
 - (i) the purpose of the entry;
 - (ii) that the occupier is not required to consent; and
 - (b) occupier gives the authorised officer consent to enter the place; and
 - (c) time and date.
- (3) The authorised officer shall give a copy of the written consent to the occupier if he consents.

211. Entry of place under section 207, 208 or 209

- (1) The authorised officer shall-
 - (a) before entering a place under section 207, 208 or 209, make a reasonable attempt to locate an occupier and obtain the occupier's consent to the entry;
 - (b) not enter if the occupier or owner refuses consent.
- (2) The Director shall -
 - (a) give the occupier or owner of the place reasonable notice that the Director, by its employees or agents, intends to enter the place under section 209 to take the steps required under the public health order; and
 - (b) state the steps that are to be taken.
- (3) If the authorised officer -
 - (a) is unable to locate an occupier or owner after making a reasonable attempt to do so, the authorised officer may enter the place;
 - (b) enters a place after being unable to locate an occupier or owner, the authorised officer shall leave a notice in a conspicuous and secure position stating the date, time and purpose of the entry.
- (4) In exercising a power under section 207, 208 or 209, the authorised officer shall take all reasonable steps to avoid inconvenience.

212. Application for search warrant

An authorised officer may apply to a magistrate for a search warrant.

213. Issue of a search warrant

- (1) The magistrate may issue a search warrant only if he is satisfied there is a-
 - (a) particular thing or activity that may provide evidence of an offence against this Act; and
 - (b) public health risk at the place.
- (2) Any search warrant issued under subsection (1) shall state—
 - (a) the place to which the warrant applies;
 - (b) that a stated authorised officer may, with necessary and reasonable help and force-
 - (c) enter the place and any other place necessary for entry to the place; and
 - (d) exercise the authorised officer’s powers under this Part; and
 - (e) particulars of the offence or public health risk that the magistrate considers appropriate in the circumstances;
 - (f) the name of the person suspected of having committed the offence or who caused the public health risk or allowed the public health risk to continue, unless the name is unknown or the magistrate considers it inappropriate to state the name;
 - (g) if subsection (1)(a) applies, the evidence that may be seized under the search warrant;
 - (h) whether the authorised officer may exercise powers under Part 12; and
 - (i) if the authorised officer may exercise powers under this Part, the person, if any, who is to pay the costs incurred by the authorised officer in exercising the powers;
 - (j) the hours of the day or night when the place may be entered; and
 - (k) except for a search warrant allowing for re-entry of a place as mentioned in subsection (3), the date, within 14 days after the search warrant’s issue, the search warrant ends.
- (3) If a search warrant relates to a public health risk, it may also state that an authorised officer may enter the place again to check compliance with a public health order issued as a result of the authorised officer’s entry of the place under the search warrant.
- (4) Where the search warrant allows for the re-entry of a place as mentioned in subsection (3), it expires on—
 - (a) the day that is 7 days after the expiration of the period stated in the public health order for completing the steps stated in the order; or
 - (b) if an earlier day is stipulated in the search warrant, that day.

214. Defect in relation to a warrant

A warrant is not invalidated by a defect in the warrant, or non compliance with this Part, unless the defect affects the substance of the warrant in a material particular.

215. Warrants—procedure before entry

- (1) An authorised officer named in a warrant issued under this Part for a place shall, before entering the place, do or make a reasonable attempt to do the following things—
 - (a) identify himself to a person present at the place who is an occupier of the place by producing a copy of the authorised officer’s identity card or other document evidencing the appointment;
 - (b) give the person a copy of the warrant;
 - (c) tell the person the authorised officer is permitted by the warrant to enter the place;
 - (d) give the person an opportunity to allow the authorised officer immediate entry to the place without using force.
- (2) Notwithstanding subsection (1), an authorised officer may enter a place, if he believes on reasonable grounds that immediate entry to the place is required to ensure the effective execution of the warrant.

216. General powers after entering places

For monitoring and enforcing compliance with this Act or establishing whether there is a public health risk at the place, the authorised officer may—

- (a) search any part of the place;
- (b) inspect, measure, test, photograph or film any part of the place or anything at the place;
- (c) take a thing, or a sample of from a thing, at the place for analysis or testing;
- (d) copy a document at the place or take the document to another place to copy it;
- (e) take into or onto the place any persons, equipment and materials the authorised officer reasonably requires for exercising a power under this Part;
- (f) require a person at the place to give the authorised officer reasonable help to exercise the authorised officer’s powers under paragraphs (a) to (e); and
- (g) require a person at the place to answer questions to help the authorised officer ascertain whether this Act is being or has been complied with or there is a public health risk at the place.

- (2) The authorised officer may keep the document for copying and return it to the person as soon as practicable after it is copied.
- (3) The authorised officer may require the person responsible for keeping the document to certify the copy as a true copy of the document or entry, if the authorised officer copies the document, or make an entry in the document,
- (4) If a document certification requirement is made of a person under subsection (3), the authorised officer may keep the document until the person complies with the requirement.
- (5) A requirement under subsection (1) is a document production requirement.

232. Failure to produce document

A person who fails to comply with a document production requirement made commits an offence against this Act.

233. False or misleading information

- (1) Any person who states anything to an authorised officer which he knows to be false or misleading in a material particular commits an offence against this Act.
- (2) Any person who gives to an authorised officer any document containing information which he knows to be false or misleading in a material particular commits an offence against this Act.

234. Stopping motor vehicle

- (1) An authorised officer may stop a motor vehicle if he reasonably suspects that —
 - (a) a thing in or on a motor vehicle may provide evidence of the commission of an offence against this Act; or
 - (b) there is a public health risk in or on the motor vehicle.
- (2) When asking or signalling the person in control of a moving motor vehicle to stop the motor vehicle or bring it to a convenient place, the authorised officer shall clearly identify himself as an authorised officer exercising the authorised officer's powers under this Act.
- (3) The authorised officer, for the purposes of this section, shall-
 - (a) have with him his identity card; and
 - (b) produce the identity card for the person's inspection immediately after the motor vehicle is stopped.
- (4) The authorised officer may, if the motor vehicle is stopped, direct the person—
 - (a) not to move the motor vehicle until the authorised officer has exercised his powers under this Act; or

- (2) In exercising a power under this section, the authorised officer shall take all reasonable steps to avoid inconvenience.

221. Cost of steps recoverable as a debt

- (1) The Director may recover the amount of the reasonable costs and expenses incurred by the Director in exercising powers under section 209 or 220 as a debt payable to the Crown by the person named in the public health order or the warrant.
- (2) For subsection (1), the amount becomes payable 30 days after the Director gives the person details of the amount of the costs.

222. Securing seized things

Where the authorised officer seizes a thing under this Part, he may—

- (a) move the thing from the place where it was seized; or
- (b) leave the thing at the place of seizure, but take reasonable action to restrict access to it.

223. Tampering with seized things

If an authorised officer restricts access to a seized thing under section 222, a person shall not tamper with the thing, or anything that is restricting access to the thing, without an authorised officer's approval.

224. Powers to support seizure

- (1) An authorised officer may require the person in control of a thing that is to be seized to—
 - (a) take it to a stated place by a stated reasonable time; and
 - (b) if necessary, remain in control of it at the stated place for a reasonable time.
- (2) The requirement—
 - (a) shall be made by notice in writing; or
 - (b) if for any reason it is not practicable to give the notice in writing, may be made orally and confirmed by written notice as soon as practicable.
- (3) An authorised officer may make any further requirement he considers necessary and reasonable.
- (4) A person who fails to comply with a requirement made under subsection (1) or (3) commits an offence against this Act.
- (5) The cost of complying with a requirement shall be borne by the person who has possession of the thing to be seized.

225. Authorised officer may require the return of the thing

- (1) If an authorised officer has required a person to take a thing to a place by a stated reasonable time under section 224 the authorised officer may require the person to return the thing to the place from which it was taken and the cost of complying with such requirement shall be borne by the person.
- (2) A person fails to comply with a requirement made under subsection (1) commits an offence against this Act.

226. Receipts for seized things

- (1) As soon as practicable after an authorised officer seizes a thing, the authorised officer shall give a receipt describing generally each thing seized and its condition to the person from whom it was seized.
- (2) If for any reason it is not practicable to comply with subsection (1), the authorised officer shall leave the receipt at the place of seizure in a conspicuous and secure position.

227. Forfeiture of seized things

- (1) A seized thing is forfeited to the Crown if—
 - (a) an authorised officer cannot find its owner, after making reasonable inquiries; or
 - (b) an authorised officer cannot return it to its owner, after making reasonable efforts; or
 - (c) for a thing seized under section 219—
 - (i) an authorised officer reasonably considers that, because of the thing's inherent nature or condition, the return of the thing is likely to result in a recurrence of the public health risk in relation to which the thing was seized; or
 - (ii) at the end of 6 months, the return of the thing is, in an authorised officer's opinion, likely to result in a recurrence of the public health risk in relation to which the thing was seized.
- (2) In applying subsection (1)—
 - (a) subsection (1)(a) shall not require the authorised officer to make inquiries if it would be unreasonable to make inquiries to find the owner; and
 - (b) subsection (1)(b) shall not require the authorised officer to make efforts if it would be unreasonable to make efforts to return the thing to its owner.

228. Return of seized things

The authorised officer shall return anything seized but not forfeited, to its owner—

- (a) if seized under section 218 or 2219—
 - (i) at the end of 6 months;
 - (ii) at the end of the proceeding and any appeal from the proceeding, if a proceeding for an offence involving the thing is started within 6 months;
- (b) if he is satisfied its retention as evidence is unnecessary;
- (c) anything seized under section 220, if the thing—
 - (i) ceases to be a public health risk; or
 - (ii) is unlikely to result in the recurrence of the public health risk in relation to which it was seized.

229. Access to seized things

- (1) An authorised officer shall, until the thing seized is forfeited or returned, allow its owner to inspect it and, if it is a document, to copy it.
- (2) Subsection (1) shall not apply if it is impracticable to allow the inspection or copying.

230. Power to require name and address

- (1) The authorised officer may require the person to state his name and residential address where he finds a person-
 - (a) committing an offence against this Act; or
 - (b) in circumstances that lead, or has information that leads, the authorised officer reasonably to suspect the person—
 - (i) has just committed an offence against this Act; or
 - (ii) is responsible for a public health risk.
- (2) The authorised officer may require the person to give evidence of the correctness of the stated name or residential address if the authorised officer reasonably suspects the stated name or address to be false.
- (3) A person does not commit an offence against this Act if he was required to state the person's name and residential address by an authorised officer who suspected the person had committed an offence against this Act.

231. Power to require documents

- (1) An authorised officer may require a person to make available for inspection at a reasonable time and place nominated by the authorised officer a document-
 - (a) issued to the person under this Act; or
 - (b) required to be kept by the person under this Act.

241. Protecting prescribed persons from liability

- (1) A prescribed person shall not be liable for an act done, or omission made, honestly and without negligence under this Act.
- (2) In this section “prescribed person” means—
 - (a) the Minister;
 - (b) the Director;
 - (c) a person acting under delegation from the Director;
 - (d) an authorised officer;
 - (e) an emergency officer;
 - (f) a person in charge of a public sector health service;
 - (g) a designated health officer;
 - (h) a health service employee;
 - (i) a public service officer or employee; or
 - (j) a person acting under the direction of a prescribed person.

PART 14 – CEMETERIES**242. Land used to be suitable**

- (1) The Minister shall certify in writing any land suitable to be used for a cemetery.
- (2) No land shall be used for a cemetery without a certificate granted under this section. Provided that this provision shall not apply to any land already reserved, declared or resumed as a cemetery under the Land Act at the time this Act comes into force.

243. Restriction on use of land

The Minister shall determine-

- (a) the minimum distance of the cemetery from places of human habitation;
- (b) that the cemetery is so sited as to cause no risk of contamination of a water supply;
- (c) the minimum depth at which bodies shall be buried after taking into consideration the ground where the cemetery is situated, before issuing such a certificate

244. Death from communicable disease

The Ministry shall advise relatives on the measures to be taken to prevent the spread of infection where the deceased has died from a notifiable condition and in special circumstances the Ministry may undertake the burial of the body.

- (b) to move the motor vehicle to, and keep it at, a stated reasonable place to allow the authorised officer to exercise his powers under this Act.
- (5) A person who fails to comply with an authorised officer’s request, signal or direction under this section commits an offence against this Act.

235. Obstructing authorised officers

Any person who obstructs an authorised officer in the exercise of his powers commits an offence against this Act.

236. The Director may approve laboratory

- (1) The Director may –
 - (a) approve a laboratory to analyse things taken under this Act if the Director is satisfied the laboratory has the resources and expertise to conduct the analysis;
 - (b) authorise the carriage of samples to an approved laboratory outside of the Kingdom for the purpose of analysis.
- (2) An authorisation given under subsection (1) shall require the sample to be transported in accordance with any laws or international obligations relevant to the safe transportation of hazardous substances.

237. Offences and penalties

- (1) Any person who —
 - (a) fails to comply with an enforcement order made under section 14;
 - (b) fails to comply with a measure or a requirement in contravention of section 104;
 - (c) fails to comply with a requirement of section 109;
 - (d) fails to comply with section 115;
 - (e) fails to comply with section 116;
 - (f) fails to comply with section 118;
 - (g) fails to give authorised officers reasonable assistance in accordance with section 126;
 - (h) fails to make a notification to the Director in contravention of section 131;
 - (i) fails to make a notification to the Director in contravention of section 133;
 - (j) fails to make a notification to the Director in contravention of section 134;
 - (k) fails to comply with a contact information requirement in contravention of section 141;

- (l) tampers with a seized thing in contravention of section 223; and
 - (m) furnishes any particulars which to his knowledge are false or misleading in any respect,
- commits an offence and is liable upon conviction to a fine not exceeding \$20,000, or imprisonment for a period not exceeding 4 years, or both, and, on any subsequent conviction for the same offence to a fine not exceeding \$50,000, or to imprisonment for a period not exceeding 5 years or both.
- (2) Any person who —
- (a) fails to comply with a public health order given under section 11;
 - (b) fails to comply with a notice given under section 12;
 - (c) fails to comply with a diversion order given under section 117;
 - (d) fails to comply with an order given under section 119;
 - (e) fails to comply with a behavioural order in contravention of section 150;
 - (f) fails to comply with the duty in section 152;
 - (g) recklessly spreads a notifiable condition in contravention of section 161;
 - (h) obstructs an enforcing person in the performance of their duties in contravention of section 162;
 - (i) fails to comply with a requirement or direction made under section 181;
 - (j) fails to provide an authorised officer with reasonable assistance in accordance with section 185;
 - (k) fails to comply with a detention order in contravention of section 189;
 - (l) obstructs an emergency officer in contravention of section 198;
 - (m) fails to help an authorised officer in contravention of section 218;
 - (n) fails to answer questions as required by section 219;
 - (o) fails to comply with a requirement given under section 225;
 - (p) fails to comply with the requirements of section 231;
 - (q) fails to produce a document in contravention of section 233;
 - (r) fails to comply with directions given under section 235;
 - (s) obstructs an authorised officer under section 236; and
 - (t) fails to comply with the obligations imposed by section 240,

commits an offence and is liable upon conviction to a fine not exceeding \$50,000, or imprisonment for a period not exceeding 5 years, or both, and, on any subsequent conviction for the same offence to a fine not exceeding \$70,000, or to imprisonment for a period not exceeding 7 years or both.

- (3) A person who fails to comply with any requirement or duty specified in this Act is guilty of an offence.
- (4) A person convicted of an offence under this Act for which no special penalty is provided shall be liable —
 - (a) in the case of a first offence, to a fine not exceeding \$1000 or to imprisonment for a term not exceeding three months, or to both;
 - (b) in the case of a subsequent offence, to a fine not exceeding \$2000 or to imprisonment for a term not exceeding six months, or to both.

238. Responsibility for acts or omissions of representatives

- (1) A person's state of mind may be proved by evidence of a particular act or omission done or omitted to be done by a representative of the person within the scope of the representative's actual or apparent authority unless the person proves he could not, by the exercise of reasonable diligence, have prevented the act or omission.
- (2) In this section—

“representative” means—

 - (a) for a corporation, an executive officer, employee or agent of the corporation; or
 - (b) for an individual, an employee or agent of the individual.

239. Executive officers liable

- (1) A company's executive officer commits an offence under this Act if he did not ensure the company complied with that provision of this Act.
- (2) Evidence that the company has been convicted of an offence against a provision of this Act is evidence that each of the executive officers committed the same offence.
- (3) It is a defence for an executive officer to prove—
 - (a) if the officer was in a position to influence the conduct of the company in relation to the offence, the officer exercised reasonable diligence to ensure the company complied with the provision; or
 - (b) the officer was not in a position to influence the conduct of the company in relation to the offence.

240. Delegations

The Director may delegate his powers under this Act to an appropriately qualified person who is a public service officer or employee.

- (viii) respecting the method of preparation, preserving, packing, storing, conveying, and testing of any food, in the interests of, or for the prevention of injury to the health of the consumer, user or purchaser, and for the observance of adequate standards of hygiene in the carrying out of these activities;
- (ix) respecting the carriage of goods subject to the provisions of this Act including the licensing of vehicles used in such carriage;
- (x) requiring persons who sell food, to maintain such books and records as the Minister considers necessary for the proper enforcement and administration of the Act;
- (xi) providing for the analysis or examination of food, for the purposes of the Act or for any other purposes and prescribing a tariff of fees to be paid for such analysis and for prescribing methods of analysis;
- (xii) providing for the taking of samples of any articles for the purposes of this Act or for any other purpose;
- (xiii) exempting any food, from all or any of the provisions of this Act and prescribing the condition of such exemption;
- (xiv) respecting the licensing of premises where foods are prepared, and of persons preparing such foods;
- (xv) providing standards for the microbiological quality of foods;
- (xvi) requiring procedures for the recall of foods;
- (xvii) providing specifications for any materials in contact with food, including packaging to avoid contamination both from the environment and the materials themselves; and
- (xviii) prescribing anything which is to be or which may be prescribed under this Act.

Provided that where any regulations made under this Act or under any other Act prohibit or restrict the addition of any ingredient or material to any food, the addition of such ingredient or material, if made in contravention of the regulations shall for the purpose of this Act; be deemed to render the food injurious to health.

Provided that where any regulations made under this Act or any other Act prescribe the composition of any article of food intended for sale, or prohibit or restrict the addition of any ingredient or material to any such article, the purchaser of such article shall, unless the contrary is proved, be deemed for the purpose of this section to have demanded an article complying with the provisions

245. Burials at seas

No person shall be buried at sea unless special permission has been given by the Minister who shall require that measures are taken to ensure the body will not be washed back on land.

246. Private mortuaries

Any private mortuary shall be registered with the Minister who may specify standards required for such registration.

247. Cremation

The arrangements for any proposed cremation of a deceased person shall have been approved by the Minister.

PART 15 – MISCELLANEOUS PROVISIONS

248. Compliance with explaining and giving documents

- (1) This section applies if, under a provision of this Act, a person is authorised or required to explain the terms and effects of an order or something else under this Act, or give information or a notice to—
 - (a) a child; or
 - (b) a child's parents, each of a child's parents or at least one of a child's parents.
- (2) This section applies if a person is required to obtain the consent of a parent.
- (3) The person shall comply with the provision to the extent that is reasonably practicable in the circumstances.

249. Regulation-making powers

The Minister may, with the consent of Cabinet, make regulations to carry out the purposes of this Act and, in particular, to provide for the following improvement, promotion, and protection of public health and prescribing:

- (a) standards for safe drinking water;
- (b) notifiable conditions and controlled notifiable conditions for the purpose of the Act;
- (c) things which are public health risks for the purpose of the Act;
- (d) persons or classes of person who may be appointed as authorised officers;
- (e) information and notification requirements;
- (f) requirements in relation to vaccination and prophylaxis;
- (g) persons to whom information may be released for the purpose of subsection 138(3)(d);

- (h) requirements in relation to the grant of pratique and the release of conveyances, travellers and goods from quarantine;
- (i) the circumstances in which conveyances, travellers and goods may be granted automatic health clearance from quarantine;
- (j) requirements of facilities at entry and departure points of the purpose of section 102;
- (k) conveyances for the purpose of section 115;
- (l) requirements in relation to containers and container loading areas;
- (m) circumstances for the purpose of subsection 115(1)(c);
- (n) forms and returns for the purpose of the Act;
- (o) persons and classes of person who may be designated as emergency officers under subsection 177(1);
- (p) the destruction of unsanitary things;
- (q) the adoption of measures for the prevention and mitigation of disease including measures recommended by the World Health Organization under the International Health Regulations;
- (r) the provision of treatment, transport and accommodation for the sick;
- (s) transportation and disposal of the dead, including prohibiting or imposing conditions on the movement of human remains into or out of the Kingdom;
- (t) the isolation, disinfection, and treatment of persons who have from any notifiable condition;
- (u) the isolation or medical observation and surveillance of persons suspected to be suffering from any notifiable condition, of persons in charge of or in attendance on persons suffering from any notifiable condition, and of other persons who may have been exposed to the infection of any notifiable condition;
- (v) the prevention of the spread of any notifiable condition by persons who are contacts or carriers, and the keeping of such persons under medical surveillance, and the restriction of the movements and the preventive treatment of such persons;
- (w) the clinical, chemical, bacteriological, and other examinations and investigations necessary to determine whether any person is suffering from or is contaminated with a notifiable condition or is a carrier of any notifiable condition, and whether any person who has been suffering from any notifiable condition has ceased to be likely to convey infection or contamination;
- (x) the closing of places, or the regulation or restriction of attendance at places, to prevent or restrict the spread of any notifiable condition;

- (y) prescribing the duties of parents or guardians of children who are suffering from, or have recently suffered from or been exposed to the infection of, any notifiable condition, and the duties of persons in charge of schools in respect of any such children;
- (z) the regulation, restriction, or prohibition of the convening, holding, or attending of any public gatherings;
- (aa) the regulation or restriction of traffic and the movements of persons within or from any area in which a notifiable condition is prevalent;
- (bb) the notifications with respect to notifiable conditions by medical practitioners and other persons, and prescribing the fees payable to such persons in respect of such notifications;
- (cc) the organisation of committees to assist in giving effect to the provisions of this Act;
- (dd) prescribing offences in respect of the contravention of or non-compliance with any regulation made under this Act or any requirement or direction made or given pursuant to any such regulation; and
- (ee) provide for standards in relation to food and in particular but without prejudice in relation to any of the matters in the following matters-
 - (i) declaring that any food or class of food is adulterated if any prescribed substance or class of substance is present therein or has been added thereto or extracted or omitted therefrom;
 - (ii) the labeling and packaging and the offering, exposing and advertising for sale of food;
 - (iii) the size, dimensions and other specifications of packages of food;
 - (iv) the sale or the conditions of sale of any food; and
 - (v) the use of any substance as an ingredient in any food, to prevent the consumer or purchaser thereof from being deceived or misled as to its quality, quantity, character, value, composition, effect, merit or safety or to prevent injury to the health of the consumer or purchaser;
 - (vi) prescribing standards of composition, strength, potency, purity, quality or other property of any food;
 - (vii) respecting the importation or exportation of food, in order to ensure compliance with this Act;

of the regulations as regards the presence or amount of any constituent, ingredient or material specified in the regulation.

250. Repeal and Savings

- (1) The Public Health Act 1992 is hereby repealed.
- (2) The regulations made or saved under the Public Health Act 1992 which are in force at the commencement of this Act shall continue in force as if they were made under this Act.
- (3) Any existing orders, appointments, certificates, licenses or notices made or granted under the Public Health Act 1992, shall, except only so far as they conflict with the provisions of this Act, remain in force until revoked as if they were made or granted under this Act.

Passed by the Legislative Assembly this 3rd day of November, 2008.

BY AUTHORITY:

Metuisela Falesiva, General Manager
2009.