

# PUBLIC HEALTH ACT, 2013

No. 11



of 2013

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**An Act to repeal, re-enact, consolidate and amend the law relating to public health.**

*Date of Assent:* 4th September, 2013

*Date of Commencement:* ON NOTICE

ENACTED by the Parliament of Botswana.

*PART I — Preliminary*

1. This Act may be cited as the Public Health Act, 2013, and shall come into operation on such date as the Minister may, by Order published in the *Gazette*, appoint.

Short title and  
commencement

2. In this Act, unless the context otherwise requires —

Interpretation

“AIDS” means acquired immunodeficiency syndrome;

“adult” means a person who is 16 years of age or over;

“advertisement” includes any representation by any means for the purpose of promoting, directly or indirectly, the sale of any article;

“appointing authority” means any person or body having power, whether delegated or otherwise, to make appointments to posts in the public service;

“approved” means approved by the Minister;

“approved health care worker” means a person approved as a health care worker;

“approved specialist medical practitioner” means a person approved as a specialist medical practitioner;

“article” includes any food article, and labelling or advertising materials used in connection with public health services;

“authorised officer” means a person designated as such in terms of section 37 (1);

“back to back system” means adjacent premises that are constructed in a manner that gives zero setback to both premises;

“building” includes any structure, dwelling or premises constructed for the purpose of occupation;

“burial” means the burial in earth, interment or any other form of sepulchre, or the cremation or any other approved mode of disposal, of a dead body;

“Kgosi” has the meaning assigned to it in the Bogosi Act;

Cap. 41:01

“certificate of designation” means a certificate issued under section 37 (3);

“child” means a person who is under the age of 16 years;

“cleansing” means —

- (a) the removal from surfaces, by scrubbing and washing, with water, soap or suitable detergent, of infectious agents and organic matter on which and in which infectious agents may find favourable conditions for prolonging the life and virulence of such infectious agents;
- (b) the killing of infectious agents outside the body by chemical or physical means directly applied; or
- (c) the removal from the environment, of pollutants and contaminants using appropriate chemical, biological and physical agents or other suitable methods;

“communicable disease” means any disease which can be transmitted directly or indirectly from one person to another;

“consent” means permission given without any force, fraud or threat, and with the knowledge and understanding of the matter to which the consent relates;

“Council” means the National Health Council established under section 5;

“Director” means the Director of Health Services referred to in section 15;

Cap. 65:06

“disposal” has the meaning assigned to it in the Waste Management Act;

“District Health Management Team” means an organisation providing health services in a district on behalf of the Ministry;

“District Primary Health Care Coordinating Committee” means primary health care coordinating committee at the district level established under section 14 (1);

“District Public Health Specialist” means a medical practitioner who possesses a recognized specialist qualification in public health and who heads the department responsible for health in a district council;

“dust” means any solid matter in a fine or disintegrated form, which is capable of being dispersed or suspended in the atmosphere;

“dwelling” means any structure or place, any portion of which is used by a human being for sleeping, or in which any human lives;

“environmental health” means the aspect of public health that is concerned with the forms of life, substance, forces and conditions in the surroundings of human beings that may exert an influence on human health and well-being;

“environmental health officer” means an officer who possesses requisite training in environmental health and is recognised as such;

Cap. 65:05

“food” has the meaning assigned to it in the Food Control Act;

“health district” means a geographical health services region which is administratively under a district, town or city council;

“health establishment” means an institution, entity or body corporate registered with the Ministry, to provide health services;



“health facility” means any government institution, non-governmental organisation or private institution engaged, directly or indirectly in providing health care or health services to members of the public;

“health hazard” means —

- (a) a condition of premises;
- (b) a solid, liquid or gaseous substance, a combination of substances or a combination of different states of a substance;
- (c) a thing;
- (d) a plant;
- (e) an animal;
- (f) a human being; or
- (g) a condition, state, agent or process,

that is, or may become, harmful or dangerous to health, that hinders in any manner the suppression of disease or the prevention of injury, or that is prescribed as a health hazard;

“health officer” means —

- (a) a person designated to be a health officer in terms of section 20;
- (b) a medical practitioner registered under the Botswana Health Professions Act;
- (c) an environmental health officer; or
- (d) a community health nurse;

Cap. 61:02

“HIV” means Human Immunodeficiency Virus;

“HIV test” means a medical test, approved by the Director, which determines whether or not a person is infected with HIV;

“immunisable disease” means a disease that is subject to immunisation under the International Health Regulations;

“infected” means suffering from, or carrying, a potential disease-causing agent in the body;

“International Health Regulations” means the International Health Regulations determined by the World Health Organisation;

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

“local authority” has the meaning assigned to it in the Interpretation Act;

Cap. 01:04

“material thing” means any object, item or matter apart from documentary evidence which can authenticate one’s claim to a property;

“medical practitioner” has the meaning assigned to it in the Botswana Health Professionals Act;

“medical surveillance” means the keeping of a person under medical observation;

“member” means a member of the National Health Council;

“National Health Council” means the body established as a National Health Council under section 5;

“notifiable disease” means smallpox (including variola minor or Alastair), cholera, plague, yellow fever, diphtheria, typhoid (enteric) fever (including para-typhoid AB), whooping cough, tuberculosis, poliomyelitis, neonatal tetanus, measles, leprosy, urethral discharge syndrome, vaginal discharge syndrome, genital ulcer syndrome, pelvic inflammatory disease (PID), other sexually transmitted infections, HIV, AIDS, pneumonia in under five year olds, malaria, bacillary dysentery, meningococcal meningitis and viral hemorrhagic fever (VHF), and includes any other disease declared a notifiable disease in terms of section 52;

“noxious or offensive gases” means any of the following groups of compounds which in the form of gas, namely, hydrocarbons, alcohols, aldehydes, ketones, ethers, esters, phenols, organic acids and their derivatives, halogens, organic nitrogen, organic sulphur, sulphur and halogen compounds, cyanides, cyanogens, ammonia and its compounds, inorganic acids, fumes containing antimony, arsenic, beryllium, chromium, cobalt, copper, lead, manganese, mercury, vanadium or zinc, or their derivatives, fumes from tar-works, cement-works, fumes and odours from purification plants, glue factories, cement-works and meat or fish processing factories; and any other gas, fume or particular matter prescribed as a noxious or offensive gas for the purpose of this Act; and includes dust from asbestos treatment or mining;

Cap. 61:03

“nurse” has the meaning assigned to it in the Nurses and Midwives Act;

“nurse administrator” has the meaning assigned to it in the Nurses and Midwives Act;

“objectionable matter” means smoke, gases including noxious or offensive gases, vapours, fumes, grit, dust or other matter capable of being dispersed or suspended in the atmosphere, which is produced or is likely to be produced by any industrial process;

“occupier” includes —

- (a) a person in actual occupation of land or premises without regard to the title under which he or she occupies;
- (b) in the case of premises subdivided and let to lodgers or various tenants, the person receiving the rent payable by lodgers or tenants, whether on the person’s own account or as an agent for a person entitled to receive the rent or interested on receiving the rent;
- (c) in the case of a school, the school head or other person in charge of the school; and
- (d) in case of a government premises, the accounting officer;

- “owner” means any person who is the legal owner, lessee or occupier of any property on which any other person dwells or animal or thing is kept or present, or a process is being carried on, or any other person responsible for carrying on any process on any property;
- “package” means anything, including food, which is wholly or partly placed or packed and includes any basket, pail, tray, or receptacle of any kind, whether open or enclosed;
- “parent” means a parent, the legal guardian of a child and includes a person with the care or custody of a child;
- “partner” means a spouse or a person with whom another person is living in a domestic relationship; domestic relationship as used under this definition has the meaning assigned to it in the Domestic Violence Act; Cap. 28:05
- “point of entry” means an airport or a border post established under section 131;
- “police officer” has the meaning assigned to it in the Police Act; Cap. 21:01
- “port health” means the aspect of public health service that deals with the prevention of the introduction of quarantinable diseases and conditions of public health significance from external sources at the port of entry;
- “port health officer” means an environmental health officer or any other authorised officer designated as a port health officer under section 132;
- “premises” means any building, dwelling or other structure, together with the land on which it is situated and any adjoining land occupied or used in connection with any activities carried on in the building, dwelling or structure, and includes any land without any buildings or other structures;
- “Primary Health Care Coordinating Committee” means a primary health care coordinating committee at the national level established under section 14 (1);
- “process” means any activity or combination of activities involving the movement of people, materials, forms or other entities, including the use, storage, manufacturing, and handling, of a thing with the intent to bring about some desired product or result, that may impact on human health and the environment;
- “public health” means a science and art of preventing disease, prolonging life, promoting physical and mental health and efficiency through organised community efforts for the sanitation of the environment, control of community infections, the education of the individual in principles of personal hygiene, the organisation of medical and nursing services for the prevention and early diagnosis of disease, and development of social machinery which will ensure, to every individual in the community, a standard of living adequate for the maintenance of health;

“public health services” means programmes and services that prevent or limit diseases or disability; that protect, promote and restore health or that contribute to achieving goals for the health of the population, and includes programmes and services —

- (a) with respect to environmental health and safety;
- (b) with respect to community health and family health;
- (c) to promote healthy living;
- (d) to promote the self-reliance and well-being of individuals;
- (e) to improve the nutritional status of the population through access to healthy food;
- (f) to prevent, detect, investigate, treat or control communicable and non-communicable diseases;
- (g) to prevent injuries;
- (h) to prevent, detect, investigate, remedy or limit disabilities that impair or limit health; or
- (i) that are prescribed as public health programmes and services;

“public health specialist” means a medical practitioner who possesses a recognised postgraduate specialist qualification in public health and who is appointed by the appointing authority, in writing, to oversee the implementation of or run a public health service;

“public vaccinator” means authorised officer designated by the Minister, in writing, to administer vaccination against communicable and immunisable disease;

“routine HIV testing” means HIV testing that is carried out on a person who consents to the testing after being provided with information in respect of the medical and social consequences of being tested, in accordance with section 110;

“school” means any public or private establishment for nursery, primary, secondary or higher education, and includes a hostel or boarding house kept for housing the pupils at any such establishment;

“sell” includes to —

- (a) keep or have in possession for sale;
- (b) barter or exchange; and
- (c) agree to sell;

“settling” means —

- (a) a place where people live or work; or
- (b) an arena where the community participates to solve environmental health and development problems;

“ship” includes a boat or craft;

“smoke” includes soot, ash, grit and gritty particles emitted in smoke;

“substance” includes any solid, liquid or gas;

“surveillance” means a watchful, vigilant approach to information gathering for action on health hazards and notifiable communicable diseases that serves to improve or maintain the health of the population;

“trade premises” means premises used, or intended to be used, for carrying on any trade or business;

“veterinary officer” has the meaning assigned to it in the Veterinary Surgeons Act;

Cap. 61:04

“waste” has the meaning assigned to it in the Waste Management Act; and

“wholesome” in relation to food, means to be natural, clean, safe, good for health and without any harmful or harmless adulterants, and not misrepresented in any respect.

**3.** Any other existing legislation on public health shall be in addition to, and not in derogation from this Act in so far as it is consistent with this Act and, in the event of any conflict between that legislation and this Act, this Act shall prevail.

Status of Act  
in relation  
to other  
legislation

**4.** The functions of the Ministry in public health are to —

Ministry’s  
functions in  
public health

- (a) promote public health;
- (b) promote personal health and environmental health;
- (c) prevent and guard against the introduction of disease from outside Botswana;
- (d) prevent or control communicable diseases;
- (e) advise and assist local authorities with regard to matters affecting public health;
- (f) prepare and publish reports and statistics or other information relating to public health;
- (g) provide for the appointment of advisers, advisory bodies or councils to assist the Minister in all matters concerning public health;
- (h) determine the policies, goals and measures necessary to promote, improve and maintain the health and well-being of the population;
- (i) administer the Act, and make regulations on broad public health issues;
- (j) set health standards and ensure that the standards are adhered to;
- (k) ensure that authorised officers at all times have access to any health service or health facility, for the purpose of supervision of compliance with provisions laid down in, or decisions made pursuant to, national policy, legislation, regulations and recognised standards;
- (l) pursue its supervisory role by means of advice, counselling and the provision of information, and by arranging for systematic and independent audits of the internal control systems established in terms of this Act; and
- (m) monitor and evaluate the efficiency of health programmes and services and their effectiveness in achieving the established goals for the population.

## PART II — *Establishment of National Health Council*

Establishment  
of Council

**5.** (1) There is hereby established a council to be known as the National Health Council.

(2) The Council shall consist of —

- (a) an eminent health professional of Botswana, who shall be the chairperson; and
- (b) the following members appointed by the Minister, in writing —
  - (i) a representative of the Ministry responsible for agriculture,
  - (ii) a representative of the Ministry responsible for education and skills development,
  - (iii) a representative of the Ministry responsible for finance and development planning,
  - (iv) a representative of the Ministry responsible for sport, youth and culture,
  - (v) a representative of the Ministry responsible for infrastructure, science and technology,
  - (vi) a representative of the Ministry responsible for transport and communications,
  - (vii) a representative of the Ministry responsible for local government,
  - (viii) a representative of the Ministry responsible for wildlife and the environment,
  - (ix) a representative of the Ministry responsible for labour,
  - (x) a representative of the Ministry responsible for trade and industry,
  - (xi) a representative of the Ministry responsible for minerals, energy and water resources,
  - (xii) a representative of the Botswana Health Professions Council,
  - (xiii) a representative of the Attorney General's Chambers,
  - (xiv) a representative of the faculty responsible for health sciences at the University of Botswana,
  - (xv) a representative of the Botswana Bureau of Standards,
  - (xvi) one medical practitioner representing private health providers,
  - (xvii) a representative of the department responsible for environmental health at the University of Botswana,
  - (xviii) a representative from non-governmental organisations,
  - (xix) a representative of the Dikgosi,
  - (xx) two representatives from development partners, and
  - (xxi) two other persons appointed by the Minister, who have suitable expert knowledge or experience to assist the Council in the discharge of its duties.

(3) The head of the department responsible for public health or policy in the Ministry of Health shall be the Secretary of the Council.

(4) In this section “an eminent health professional of Botswana” means a distinguished member from among Botswana health professionals.

<p><b>6.</b> (1) The Council shall be an advisory body to the Minister.</p> <p>(2) The Council shall —</p> <p>(a) at the request of the Minister, or may, of its own accord, advise the Minister on —</p> <ul style="list-style-type: none"> <li>(i) policy concerning any matter that is likely to protect, promote, improve and maintain the health of the population,</li> <li>(ii) legislation pertaining to health matters,</li> <li>(iii) norms and standards for the establishment of health facilities,</li> <li>(iv) the implementation of health policy, and</li> <li>(v) the integration of national strategy for health research; and</li> </ul> <p>(b) consider appeals on matters relating to the implementation of public health policies.</p> <p>(3) For the purposes of performing its functions, the Council may, in its discretion, consult or receive representations from any person, body or authority.</p>	<p>Powers and duties of Council</p>
<p><b>7.</b> (1) A member shall hold office for a period not exceeding three years, as may be specified in the instrument appointing him or her and shall be eligible for re-appointment.</p> <p>(2) In appointing members to the Council, the Minister shall specify their periods of appointment such that at any given time, two thirds of the old membership is retained.</p>	<p>Tenure of office of members</p>
<p><b>8.</b> A person shall not be appointed as a member who has —</p> <p>(a) in terms of a law in force in any country —</p> <ul style="list-style-type: none"> <li>(i) been adjudged or otherwise declared bankrupt or insolvent and has not been discharged, or</li> <li>(ii) made an assignment, arrangement or composition with his or her creditors, which has not been rescinded or set aside; or</li> </ul> <p>(b) within a period of ten years immediately preceding the date of his or her intended appointment, been convicted —</p> <ul style="list-style-type: none"> <li>(i) in Botswana, of a criminal offence, or</li> <li>(ii) outside Botswana, of a criminal offence which, if committed in Botswana, would have been a criminal offence,</li> </ul> <p>and sentenced by a court of competent jurisdiction to imprisonment for six months or more without the option of a fine, whether that sentence has been suspended or not and for which he or she has not received a free pardon.</p>	<p>Disqualification from appointment as member</p>
<p><b>9.</b> (1) The Minister may, by notice in writing, remove a member from office if that member —</p> <ul style="list-style-type: none"> <li>(a) is absent without reasonable cause, from three consecutive meetings of the Council of which that member has had notice;</li> <li>(b) is inefficient;</li> <li>(c) has been found to be physically or mentally incapable of performing his or her duties efficiently, and the member's medical doctor has issued a certificate to that effect;</li> <li>(d) contravenes this Act or otherwise misconducts himself or herself to the detriment of the objectives of the Council;</li> </ul>	<p>Vacation of office of member</p>

- (e) becomes subject to a disqualification set out in section 8; or
- (f) has failed to comply with section 12 (1).
- (2) A member may resign from his or her office by giving 30 days written notice to the Minister.
- (3) The office of a member shall become vacant —
  - (a) where the member appeals, 30 days from the date a ruling against the member is made on an appeal made in respect of a conviction against the member under section 8 (b);
  - (b) where the member does not appeal, 30 days from the date the member was convicted of an offence referred to in section 8 (b);
  - (c) after the member communicates his or her resignation, in writing, to the Minister, in accordance with subsection (2); or
  - (d) after 30 days have elapsed from the date the member is given notice in writing by the Minister to vacate office in accordance with subsection (1).
- (4) For the purposes of subsection (1) (d), “misconduct” includes any act done without reasonable excuse by a member which —
  - (a) amounts to failure to perform, in a proper manner, any duty imposed on him or her as a member;
  - (b) is prejudicial to the efficient conduct of the business of the Council; or
  - (c) tends to bring the Council into disrepute.

Filling of  
vacancies

**10.** (1) Where the office of a member becomes vacant before the expiry of the member’s term of office, the Minister may appoint another person to be a member in place of the member who has vacated office, and that member shall hold office for the remainder of the term of office of the member who vacated office.

(2) Where the remainder of the term of office of a member is 24 months or less, the Minister shall not appoint another person to be a member in place of the member who has vacated office.

Meetings and  
proceedings  
of Council

**11.** (1) The Council shall, for the transaction of its business, meet at least three times a year at such time and place as the chairperson may determine.

(2) The Minister shall, upon giving at least 30 days written notice to the members, convene the first meeting of the Council as soon as practicable after the commencement of this Act.

(3) Any other meeting of the Council shall be convened by the chairperson or vice chairperson at such times and places as the chairperson may determine, upon giving at least 14 days written notice to the members.

(4) Without prejudice to subsections (2) and (3), where the urgency of any particular matter does not permit the giving of a notice in accordance with subsection (3), a special meeting of the Council may be held upon giving a shorter notice as may be reasonable under the circumstances.

(5) Subject to this Act, the Council shall regulate its own proceedings.



(6) At any meeting of the Council, two thirds of the members shall constitute a quorum.

(7) A decision of the Council on any matter shall be by a simple majority of the members present and voting at the meeting and, in the event of an equality of votes, the person presiding shall have a casting vote in addition to that person's deliberative vote.

(8) An act, decision or proceeding of the Council shall not be rendered invalid by reason only of a vacancy in the Council or on account of the appointment of any member being defective.

(9) The Council may invite any person whose presence it considers necessary, to participate in the deliberations of its meetings, but that person shall not vote.

(10) The chairperson presiding at a meeting of the Council shall cause proper minutes of meetings of Council to be taken and recorded.

**12.**(1) Where a member is present at a meeting of the Council or any of its committees at which any matter which is the subject of consideration and in which matter the member is directly or indirectly interested in a private capacity is to be discussed, he or she shall immediately upon the commencement of the meeting, disclose such interest and shall not, unless the Council or a committee otherwise directs, take part in any consideration or discussion of, or vote on, any question concerning that matter.

Disclosure  
of interest

(2) A disclosure of interest made under subsection (1) shall be recorded in the minutes of the meeting at which it is made.

(3) Where a member fails to disclose his or her interest in accordance with subsection (1) and a decision by the Council or a committee of the Council is made benefiting that member, that decision shall be void to the extent that it benefits him or her.

(4) A person who contravenes subsection (1) commits an offence and is liable to a fine not exceeding P5 000, or to imprisonment for a term not exceeding three months, or to both.

**13.**(1) The Council may establish such committees as the Council considers necessary to advise it on any matter.

Committees  
of Council

(2) The Council may appoint persons who are or are not its members to be members of committees, but the chairperson of a committee shall be a member of the Council.

(3) The Council may delegate, to a committee, some of its functions as it considers appropriate.

(4) A committee shall, for the transaction of its business, meet at the times and places as the Director may determine.

(5) Sections 8 to 12 shall, with necessary modifications, apply to committees.

### PART III – *Administration of Act*

#### Primary Health Care Coordinating Committees

**14.** (1) There is hereby established a National Primary Health Care Coordinating Committee and a District Primary Health Care Coordinating Committee for every health district.

(2) The Minister shall appoint members of the National Primary Health Care Coordinating Committee and members of each District Primary Health Care Coordinating Committee.

(3) The National Primary Health Care Coordinating Committee shall include among others —

- (a) the Permanent Secretary to the Ministry;
- (b) the Deputy Permanent Secretary to the Ministry responsible for Local Government;
- (c) the Director;
- (d) the head of public health in the Ministry;
- (e) the head of the Policy Planning, Monitoring and Evaluation Department in the Ministry responsible for health;
- (f) all Deputy Permanent Secretaries in the Ministry;
- (g) the head of Primary Health Care Support Division in the Ministry;
- (h) the head of clinical services in the Ministry;
- (i) the head of HIV/AIDS Prevention and Care in the Ministry;
- (j) the head of Central Medical Stores; and
- (k) a representative of private sector health practitioners.

(4) The functions of the National Primary Health Care Coordinating Committee are to —

- (a) present, discuss and resolve technical and administrative policy matters relating to the delivery of public health services;
- (b) advise the Minister and Council on the implementation of public health policy;
- (c) develop, communicate, review and revise the terms of reference for district health services coordinating committees in all councils;
- (d) monitor and guide the district primary health care coordinating committees in the performance of their work; and
- (e) discuss and resolve any issue referred to it by a district health care coordinating committee.

(5) The Permanent Secretary to the Ministry shall be the chairperson of the National Primary Health Care Coordinating Committee.

(6) The Deputy Permanent Secretary to the Ministry shall be the vice chairperson of the National Primary Health Care Coordinating Committee.

(7) The National Primary Health Care Coordinating Committee may invite any person from a Ministry or department when issues concerning that Ministry or department come before the National Primary Health Care Coordinating Committee for consideration, to attend and participate in the deliberations of its meetings, but such person shall not vote.

(8) One half of the members of the National Primary Health Care Coordinating Committee shall constitute a quorum to conduct the business of the Committee.

(9) A District Primary Health Care Coordinating Committee shall consist of —

- (a) the District Public Health Specialist;
- (b) the head of District Health Management Team;
- (c) the head of preventive health services;
- (d) the District Chief Community Health Nurse;
- (e) the District Chief Environmental Health Officer; and
- (f) the Chief Public Health Officer.

(10) The functions of a District Primary Health Care Coordinating Committee shall be to —

- (a) develop policy implementation guidelines on matters relating to public health and to harmonise such guidelines with the National Health Policy and health programmes carried out by the Ministry and local authorities;
- (b) develop guidelines on the referral system for patients within the district and monitor their implementation;
- (c) implement and monitor the changes in the district primary health care programmes;
- (d) ensure that the implementation of primary health care programmes is in harmony with the National Health Policy; and
- (e) monitor the provision and coordination of all health services within the district.

(11) The Director may, in consultation with the Chairperson of the District Primary Health Care Coordinating Committee, invite any person whose presence the Director considers necessary, to attend and participate in the deliberations of its meetings, but that person shall not vote.

(12) The chairperson of a District Primary Health Care Coordinating Committee shall be the District Public Health Specialist who shall be responsible for health services at the district level.

(13) The deputy chairperson of a District Primary Health Care Coordinating Committee shall be the Hospital Superintendent or the Chief Medical Officer, as the case may be.

(14) The Hospital Chief Nursing Officer or the Matron, as the case may be, shall be the Deputy Secretary to the District Primary Health Care Coordinating Committee.

(15) The District Chief Environmental Health Officer shall be the Secretary to the District Primary Health Care Coordinating Committee.

(16) A District Primary Health Care Coordinating Committee shall furnish a schedule of its meetings, copies of minutes of the meetings and quarterly progress reports on its functions, to the secretariat of the National Primary Health Care Coordinating Committee.

Director of Health Services	<p><b>15.</b> (1) The Director of Health Services shall oversee the implementation of this Act.</p> <p>(2) The Director shall —</p> <p>(a) be a medical practitioner; and</p> <p>(b) have specialised qualifications in the area of clinical or public health.</p>
Powers and functions of Director	<p><b>16.</b> The Director shall —</p> <p>(a) develop and implement strategies to promote and improve public health;</p> <p>(b) ensure that this Act is complied with;</p> <p>(c) advise the Minister on any necessary or appropriate changes to this Act that may be necessary or appropriate;</p> <p>(d) carry out any other function that the Minister may determine in line with this Act;</p> <p>(e) be the chief technical advisor on national health issues; and</p> <p>(f) do anything necessary or convenient to perform any functions under this Act.</p>
Directions by Minister	<p><b>17.</b> The Minister may, in writing, give the Director such directions, not inconsistent with this Act, in respect of any power or function of the Director under this Act.</p>
Report on public health	<p><b>18.</b> (1) Within 12 months after the commencement of this Act, the Director shall submit to the Minister a report on the status of public health in the country, and at such intervals as the Minister shall determine by regulations.</p> <p>(2) The Minister shall, within 28 days after receipt of the report referred to in subsection (1), cause that report to be laid in the National Assembly, if the National Assembly is then in session, and where the National Assembly is not in session then in the following session, within 28 days after the commencement of that session.</p>
Delegation by Director	<p><b>19.</b> The Director may, in writing, delegate any of his or her functions or powers under this Act to any person, class of persons, public authority or agency.</p>
Designation of health officers	<p><b>20.</b> (1) The Minister may, in writing, require the Director to designate as a health officer —</p> <p>(a) a qualified medical practitioner; or</p> <p>(b) a person with approved qualifications,</p> <p>for purposes of discharging functions under section 22.</p> <p>(2) Where the Director fails to make any designation under subsection (1) within three months, the Director shall notify the Minister in writing stating the reasons for his or her failure.</p> <p>(3) Where the Director has given reasons to the Minister for not designating a person with approved qualifications as a health officer, and the Minister is satisfied with the reasons provided, the Minister may, in writing —</p>

<p>(a) allow the Director to designate, in accordance with the regulations, a person who does not have the approved qualifications;</p> <p>(b) allow the Director to designate a person on such terms and conditions as the Minister may determine; or</p> <p>(c) exempt the Director from being required to designate a person.</p> <p>(4) Subject to subsections (2) and (3) (c), the Minister shall designate a person with approved qualifications as health officer.</p>	
<p>(5) A person designated a health officer under this section shall be issued a certificate of designation stating that he or she has been so designated, and such certificate shall be <i>prima facie</i> proof of such designation.</p>	
<p><b>21.</b> The Director may, in writing, approve the qualifications required for designation as a health officer under section 20.</p>	Approval of qualifications
<p><b>22.</b> (1) The Director shall ensure that a health officer carries out such functions as the Director may direct.</p>	Functions of health officers
<p>(2) Without prejudice to the generality of subsection (1) a health officer shall —</p>	
<p>(a) ensure that this Act is complied with within the local government area in respect of which he or she is appointed;</p> <p>(b) assist in the preparation of any reports required to be made by the National Health Council under this Act; and</p> <p>(c) take all lawful, necessary and reasonably practicable measures to ensure equal access and equity to health care services for all including those with mental illness.</p>	
<p><b>23.</b> (1) The Director may, by Order published in the <i>Gazette</i>, declare that a public health emergency exists if —</p>	Emergency declaration
<p>(a) the Director is satisfied that the situation so dictates it; and</p> <p>(b) it is not practicable for a declaration of a state of emergency or disaster to be made under the Emergency Powers Act.</p>	
<p>(2) A public health emergency declaration made under subsection (1) shall specify —</p>	Cap. 22:04
<p>(a) the nature of the public health emergency;</p> <p>(b) the area to which the declaration relates; and</p> <p>(c) the period, not exceeding seven days, during which the declaration shall be in force.</p>	
<p><b>24.</b> (1) A public health emergency declaration shall come into force on the date on which it is made and shall continue for the period specified in the declaration.</p>	Duration of emergency declaration
<p>(2) The Director may, by Order published in the <i>Gazette</i>, extend the period of a public health emergency declaration as may be necessary.</p>	
<p><b>25.</b> (1) After making a public health emergency declaration under section 23, the Director may take any action or, in writing, give directions to —</p>	Directions by Director
<p>(a) reduce, remove or destroy any threat to public health;</p> <p>(b) segregate or isolate persons in any area;</p> <p>(c) evacuate persons from any area;</p> <p>(d) prevent or permit people's access to any area; or</p> <p>(e) control the movement of any vehicle, animal or person to any area.</p>	

	<p>(2) The Director may, in writing, give any one or more of the following directions that any —</p> <ul style="list-style-type: none"> <li>(a) specified person undergo a medical examination;</li> <li>(b) specified person move to, or stay in, a specified area;</li> <li>(c) substance or thing be seized;</li> <li>(d) substance or thing be destroyed; or</li> <li>(e) other action the Director considers appropriate be taken.</li> </ul> <p>(3) A person given a direction under subsection (2) shall comply with that direction and any regulations made under this Act.</p> <p>(4) A person who contravenes any provision of this section commits an offence and is liable to a fine not exceeding P5 000, or to imprisonment for a term not exceeding 12 months or, to both.</p>
Special powers	<p><b>26.</b> (1) The Director may, in writing, authorise persons or a class of persons to assist him or her in carrying out any direction under this Act.</p> <p>(2) A person authorised under subsection (1), or a police officer, in assisting the Director to carry out any direction under this Act, may —</p> <ul style="list-style-type: none"> <li>(a) enter, by reasonable force where necessary, any place that is reasonably necessary to enter, so as to — <ul style="list-style-type: none"> <li>(i) save human life,</li> <li>(ii) prevent injury to a person, or</li> <li>(iii) rescue any injured or endangered person;</li> </ul> </li> <li>(b) close any area, premises or vehicle;</li> <li>(c) close to traffic any road, street or other way on which traffic passes; and</li> <li>(d) remove, by reasonable force, any person who fails to comply with the direction made under section 25.</li> </ul>
Compensation	<p><b>27.</b> (1) A person may, in writing, apply to the Minister for compensation for any loss or damage suffered by that person as a result of anything done under section 25 or 26.</p> <p>(2) Compensation under subsection (1) shall be such amount the Minister considers appropriate for —</p> <ul style="list-style-type: none"> <li>(a) any action or omission, by an authorised person that is not the result of a direction under section 25; or</li> <li>(b) the loss or damage caused or that contributed to the public health emergency.</li> </ul>
Report by Director	<p><b>28.</b> After a public health emergency declaration ceases to be in force, the Director shall submit to the Minister a report containing full details of —</p> <ul style="list-style-type: none"> <li>(a) the events resulting in the making of the declaration;</li> <li>(b) directions and actions given by the Director; and</li> <li>(c) likelihood of repeat or reoccurrence of events referred to in paragraph (a).</li> </ul>
Public health inquiries	<p><b>29.</b> The Director may, with the approval of the Minister, hold an inquiry in respect of —</p> <ul style="list-style-type: none"> <li>(a) any matter concerning public health; or</li> <li>(b) the administration of this Act.</li> </ul>

<p><b>30.</b> (1) Where a matter under section 25 does not, in the opinion of the Director, justify inquiry, the Director may carry out any necessary investigation into the matter.</p>	Investigation
<p>(2) In carrying out an investigation under subsection (1), the Director —</p> <p>(a) shall have the powers specified in section 32; and</p> <p>(b) may take any action necessary to protect public health.</p>	
<p><b>31.</b> (1) An inquiry held under section 29 shall be conducted with as little formality and technicality as a proper consideration of the matter permits.</p>	Procedure at inquiry
<p>(2) In conducting the inquiry under section 29, the Director shall not be bound by the rules of evidence, but shall observe the rules of natural justice.</p>	
<p><b>32.</b> For the purpose of an inquiry under section 29, the Director may —</p> <p>(a) summon a person to appear and give evidence at the inquiry;</p> <p>(b) require a person to answer any question;</p> <p>(c) require a person to take an oath or make an affirmation;</p> <p>(d) take statements; and</p> <p>(e) require the production of any relevant document.</p>	Powers of inquiry
<p><b>33.</b> (1) The Director shall, within 30 days of completing an inquiry, submit to the Minister a report of the findings of the inquiry.</p>	Report of inquiry
<p>(2) The Minister shall, within 28 days of receipt of the report referred to in subsection (1), cause a copy of the report to be laid in the National Assembly if the National Assembly is in session, or, where the National Assembly is not in session, then within 28 days after the commencement of the following session.</p>	
<p><b>34.</b> (1) The Director, in exercising any power or performing any function under sections 29 and 30 shall have the same protection and immunity as a judge of the High Court.</p>	Protection of Director
<p>(2) A person required to attend at an inquiry or investigation as a witness shall have the same protection as a witness in a proceeding in the High Court.</p>	
<p>(3) A person shall not, without reasonable excuse, fail to —</p> <p>(a) appear or give evidence where required to do so;</p> <p>(b) answer a question put to him or her;</p> <p>(c) take an oath or make an affirmation where required to do so; or</p> <p>(d) produce a document that he or she is required to produce at an inquiry.</p>	
<p>(4) A person appearing at an inquiry or investigation shall not knowingly give evidence that is false or misleading.</p>	
<p>(5) A person shall not hinder, obstruct or delay the conduct of any inquiry or investigation.</p>	
<p>(6) A person who contravenes this section commits an offence and is liable to a fine not exceeding P5 000, or imprisonment for a term not exceeding one year, or to both.</p>	

General  
functions  
of  
District Health  
Management  
Team

**35.** The District Health Management Team shall, for its area of jurisdiction, —

- (a) develop and implement strategies to promote and improve public health;
- (b) ensure that this Act is complied with;
- (c) carry out any other function for the purpose of this Act; and
- (d) ensure that it has a management and support team to coordinate and provide support and guidance in relation to public health consisting of at least one of the following —
  - (i) a medical practitioner with appropriate public health training and experience,
  - (ii) a nurse administrator (matron or equivalent),
  - (iii) a community health nurse,
  - (iv) a senior or chief health inspector or chief environmental health officer,
  - (v) a district communicable disease officer (focusing on TB and AIDS),
  - (vi) a district rehabilitation officer or physiotherapist,
  - (vii) a district health education and nutrition officer, or a district health education officer and district nutrition officer, or
  - (viii) an administration officer of an appropriate rank.

Orders relating  
to functions

**36.** (1) The Director may, in writing, order —

- (a) the District Health Management Team to exercise any power or perform any function under this Act;
- (b) any authorised officer to carry out, in urgent circumstances, a specified function of a local authority under this Act; or
- (c) any authorised officer to perform any function, under this Act, in any area of jurisdiction of a local authority.

(2) Where the District Health Management Team or a local authority fails to exercise any power or perform any function that the Director orders it to exercise or perform, under subsection (1) (a), the Director may exercise the power or perform the function at the local authority's expense.

(3) Before the Director makes an order or takes any action under subsection (2) in relation to a local authority, the Director shall, unless the circumstances require immediate action, hold an inquiry to establish why the local authority has failed to perform any function.

(4) A local authority may, in writing, request the Director to exercise any of its powers or perform any of its functions at the local authority's expense.

Designation  
of authorised  
officers

**37.** (1) The Minister may, in writing, designate a person or class of persons to be an authorised officer or authorised officers, as the case may be, to discharge the functions under this Act.

(2) An authorised officer may require, and if so requested, shall be provided with information concerning health services provided to patients or prisoners, and may inspect such notes or records as are required to control and supervise the activities of a health service or health establishment.



(3) A person designated as an authorised officer under this section shall be issued a certificate of designation stating that he or she has been so designated, and such certificate shall be *prima facie* proof of such designation.

(4) For the purposes of subsection (2), “prisoner” has the meaning assigned to it in the Prisons Act.

Cap. 21:03

**38.** (1) For the purposes of section 37, an authorised officer may, at any reasonable time —

Entry,  
inspection,  
seizure, etc.

- (a) enter, remain in and inspect any area, premises, body of water or vehicle;
- (b) inspect anything found in or on any area, premises, body of water or vehicle;
- (c) mark, fasten, secure, take and remove a sample of anything found in or on any area, premises, body of water or vehicle;
- (d) open any container, receptacle or package found in or on any area, premises, body of water or vehicle;
- (e) weigh, count, measure or gauge anything found in or on any area, premises, body of water or vehicle;
- (f) seize anything or record found in or on any area, premises, body of water or vehicle;
- (g) take any record found in or on any area, premises, body of water or vehicle for the purpose of copying it; or
- (h) seal any area, premises, and body of water or vehicle.

(2) In exercising the powers under this section the authorised officer shall —

- (a) produce a certificate of identification issued by the Minister when requested to do so by the owner of the area, premises, body of water or vehicle;
- (b) give reasonable notice to the owner of the area, premises, body of water or vehicle unless such notice would defeat the purpose of the intended exercise of the power; and
- (c) use no more force than is necessary to exercise the power.

(3) An authorised officer may require a police officer, an interpreter or any other person to assist him or her in exercising any power under this section.

(4) An authorised officer who seizes anything under subsection (1) (f) shall, by notice in writing served on the owner of the thing —

- (a) specify the details of the thing seized;
- (b) specify the place to which the thing has been taken including if need be, the manner of disposal or destruction; and
- (c) in the case of food which is tainted, adulterated, diseased or unwholesome for human consumption, order it to be destroyed, or to be disposed off so as to prevent it from being used as food for humans or animals.

Production of records	<p><b>39.</b> (1) An authorised officer may require any person to produce any record required to be kept under this Act.</p> <p>(2) An authorised officer may —</p> <ul style="list-style-type: none"> <li>(a) examine any record produced under subsection (1);</li> <li>(b) remove the record for the purpose of paragraph (c); and</li> <li>(c) take photographs extracts or notes from, or copies of, the record by any means.</li> </ul>
Production of things for inspection	<p><b>40.</b> An authorised officer may, in writing, require any person to produce, for inspection, anything in the person's possession where —</p> <ul style="list-style-type: none"> <li>(a) the local authority or the officer reasonably believes that it may disclose evidence of the commission of an offence under this Act; or</li> <li>(b) it is necessary for the purposes of this Act.</li> </ul>
Production of licence	<p><b>41.</b> An authorised officer may —</p> <ul style="list-style-type: none"> <li>(a) require a person to produce, for inspection, any licence relevant to the provision of the public health service rendered by the holder of the licence; and</li> <li>(b) examine, remove and take photographs or copies of, or extracts or notes from any licence.</li> </ul>
Photographs, sketches, measurements and recordings	<p><b>42.</b> For the purposes of this Act, an authorised officer may —</p> <ul style="list-style-type: none"> <li>(a) take any photograph, film or video recording;</li> <li>(b) take any copy of, or extract from any record;</li> <li>(c) take any measurements;</li> <li>(d) make any sketches or drawings; and</li> <li>(e) make any other recording by any other means.</li> </ul>
Information requirements	<p><b>43.</b> (1) An authorised officer may require a person to —</p> <ul style="list-style-type: none"> <li>(a) give his or her full name and residential address;</li> <li>(b) give details of any licence, permit or exemption under this Act; and</li> <li>(c) provide any information relating to public health, that is reasonably required for the purposes of this Act.</li> </ul> <p>(2) An authorised officer may require any person to give information about that person's or another person's activities in respect of any matter under this Act.</p> <p>(3) A person who fails to comply with a requirement under this section commits an offence and is liable to a fine not exceeding P5 000, or to imprisonment for a term not exceeding three years, or to both.</p> <p>(4) An authorised officer who removes any item other than that contemplated in this Act from any land or premises being inspected shall —</p> <ul style="list-style-type: none"> <li>(a) issue a receipt for that item, to the owner, or any person in control, of the premises; and</li> <li>(b) return that item as soon as practicable after achieving the purpose for which it was removed.</li> </ul>
Entry and inspection with warrant	<p><b>44.</b> (1) An authorised officer in possession of a warrant issued by a magistrate in terms of subsection (3) may enter and inspect any residential land or premises for the purpose of carrying out functions under this Act.</p>

(2) An authorised officer shall, on entry into any residential land or premises, identify himself or herself by producing a certificate of designation.

(3) A magistrate may issue a warrant to enter and inspect any residential land or premises if, from information on oath, there are reasonable grounds to believe that —

(a) there is non-compliance with this Act or any other law relating to public health; or

(b) in the interest of public health, it is necessary to obtain information that cannot be obtained without entering the land or premises.

(4) A warrant in terms of this Act may only be carried out between 07:00 a.m. and 19:00 p.m. unless the magistrate who issued the warrant states, in writing, that entering and inspection may be carried out at night or at any other time reasonable in the circumstances.

**45.** (1) An authorised officer without a warrant may enter and inspect any residential land or premises to carry out an inspection contemplated in this Part if, in his or her opinion, there is a reasonable belief that this Act is being, is about to be or has been contravened and that the obtaining of a warrant would defeat the purpose of the inspection or search.

Entry and  
inspection  
without  
warrant

(2) An authorised officer may enter and inspect any residential land or premises, with the consent of the owner or person in charge of the land or premises.

(3) An authorised officer without a warrant may enter any residential land or premises in respect of which there is an outstanding compliance notice, issued in terms of this Act, for the purpose of determining whether that notice has been complied with.

(4) Upon entering any residential land or premises, but before an inspection is carried out, an authorised officer shall identify himself or herself and show a certificate of designation to the person giving permission for entry to the land or premises.

**46.** (1) An authorised officer may require an interpreter, a police officer or any other person to assist him or her to conduct inspection.

Persons  
who may  
accompany  
health officers

(2) Notwithstanding subsection (1), an authorised officer may reasonably require the assistance of an interpreter, police officer or any qualified person in the cause of his or her duties or in conducting inspection and may only require assistance from unqualified person in exceptional circumstances.

**47.** (1) An authorised officer who discovers that any provision of this Act has not been complied with in relation to any land or premises, shall issue a compliance notice to the owner or person in charge of that land or premises.

Compliance  
notices

(2) An authorised officer who is satisfied that the owner or person in charge of any land or premises has satisfied the terms of a compliance notice, may issue to the owner or person a compliance certificate.

(3) A compliance notice issued under subsection (1) shall remain in force until an authorised officer issues a compliance certificate in respect of that notice.

(4) For the purposes of this section —

“compliance notice” means a notice issued by an authorised officer to the owner or person in charge of land or premises requiring him or her to comply with the requirement of the law; and

“compliance certificate” means a certificate issued by an authorised officer to the owner or person in charge of land or premises who has complied with the requirement of the law.

Miscellaneous provisions relating to health officers, authorised officers and compliance procedures

**48.** For the purposes of this Act, the head of a public health department at the national or district level shall be —

(a) the owner and occupier of any land or premises that the department occupies or uses to the exclusion of any other person; and

(b) the employer or persons in the service of that department if, as an employer, the department —

(i) bears any duty imposed by this Act, or

(ii) exercises any power conferred by this Act.

Offences relating to authorised officers and their functions

**49.** A person who —

(a) refuses an authorised officer acting in terms of this Act access to any land or premises;

(b) obstructs or hinders an authorised officer who is carrying out a duty under this Act;

(c) refuses to provide an authorised officer with any information that the person is required to provide under this Act;

(d) knowingly gives false or misleading information to an authorised officer;

(e) unlawfully prevents the owner of any land or premises, or a person working for that owner, from entering the land or premises in order to comply with a requirement of this Act;

(f) impersonates an authorised officer;

(g) falsifies a warrant, compliance notice, compliance certificate or certificate of designation;

(h) fails to comply with a compliance notice;

(i) acts contrary to the terms of a warrant issued in accordance with this Act; or

(j) in the performance of any function or exercise of any power in terms of this Act, acquires any information relating to the financial or business affairs of any person, and discloses that information, except —

(i) to a person who requires that information in order to perform a function or exercise a power in terms of this Act,

(ii) where the disclosure is ordered by a court of law, or

(iii) where the disclosure is in compliance with the provisions of any law,

commits an offence and is liable to a fine not exceeding P5 000, or to imprisonment for a term not exceeding 12 months, or to both.

#### PART IV — *Maternal and Under Five Years Child Death*

**50.** (1) An officer-in-charge of a health facility shall ensure that every maternal or child under the age of five years death that occurs at the health facility is recorded and reported in such manner as may be prescribed.

Maternal death  
to be reported

(2) An adult person who is present during a maternal or child under the age of five years death, or any adult occupier of a dwelling in which a maternal or child under the age of five years death occurs, or any other adult person who is the first person to become aware of a maternal or child under the age of five years death shall report such death to a health facility situated where the death occurred, within 48 hours of such occurrence, or as soon as is practicable.

(3) An officer-in-charge of a health facility shall ensure that any maternal or child under the age of five years death reported to the health facility in terms of subsection (2) is recorded and reported within 30 days.

(4) An officer-in-charge of a health facility shall, on a monthly basis, verify every maternal or child under the age of five years death recorded by the health facility and report same to the District Registrar of Births and Deaths or Registration Officer in whose area the health facility is situated and to the Ministry.

**51.** An officer-in-charge of a health facility shall collaborate with the Kgosi in whose area the health facility is situated, in the identification of maternal or children under the age of five years deaths that occur in that area.

Health facility  
to collaborate  
with Kgosi

#### PART V — *Notifiable and Communicable Diseases*

**52.** (1) Notifiable diseases shall be under surveillance and shall be reported within such period as may be prescribed in the Integrated Disease Surveillance and Response Guidelines prepared by the Minister.

Notification of  
disease

(2) The Minister may, by Order published in the *Gazette* —

- (a) declare that any disease, other than those specified in subsection (1), shall be a notifiable disease under this Act;
- (b) declare that only the provisions of this Act as are mentioned in the Order shall apply to any notifiable disease;
- (c) restrict this Act regarding the notification of any disease, to any district or area and for that period as may be specified in the Order, or until the Order has been revoked or has expired; and
- (d) direct that persons, authorities, agencies and departments outside the Ministry shall comply with this Act, more particularly the provisions relating to disease notification.

(3) Every officer-in-charge of a health facility, a medical practitioner or health officer shall, in writing, notify the Director about a notifiable disease that occurs at the facility or that the medical practitioner or health officer comes across during the course of that medical practitioner or health officer's work.

(4) A person who contravenes subsection (3) commits an offence and is liable to a fine not exceeding P5 000, or to imprisonment for a term not exceeding one year, or to both, and in the case of a body corporate, the head of that body corporate or the officer directly responsible for the body corporate shall be liable to the same fine and imprisonment.

Inspection  
of premises  
with persons  
infected with  
communicable  
disease

**53.** A health officer or an authorised officer may, at any reasonable time of the day, enter and inspect any premises which he or she has reason to believe that —

- (a) any person suffering, or who has recently suffered from any communicable disease is or has recently been present; or
- (b) any of its inmates has recently been exposed to the infection of any communicable disease,

and may medically examine or cause to be medically examined any person in the premises for the purpose of ascertaining whether that person is suffering, or has recently suffered, from that disease.

Power to cleanse  
premises

**54.** (1) Where any health officer or an authorised officer is of the opinion that the cleansing of any premises or part of the premises, and of any articles in the premises likely to retain infection would prevent or control a communicable disease, the health officer or the authorised officer may give notice, in writing, to the owner or occupier of that premises or part of the premises specifying the steps to be taken to cleanse those premises or part of the premises and articles within that time as may be specified in the notice.

(2) A person to whom notice is given under subsection (1), who fails to comply with the notice commits an offence and is liable to a fine not exceeding P2 000, or to imprisonment for a term not exceeding six months, or to both.

(3) Where the owner or occupier of any premises or part of the premises referred to in subsection (1) is, for any reason, unable to comply with this section, a health officer or an authorised officer may, with or without the owners or occupiers consent, enter and cleanse those premises or part of the premises and articles in the premises or part of the premises.

Destruction  
of bedding,  
clothing, etc.

**55.** (1) A health officer or an authorised officer may direct the destruction of any bedding, clothing or other articles which have been exposed to infection from any communicable disease, or which, in the opinion of a health officer, are contaminated; and any such direction shall be sufficient authority for any person authorised to destroy the bedding, clothing, rags or other articles.

(2) The Minister may award compensation for any bedding, clothing or other articles destroyed under this section.

**56.** A health officer or an authorised officer may provide a proper place for the cleansing of bedding, clothing or any articles which have become contaminated, and may cause any bedding, clothing, rags or articles brought for cleansing to be cleansed free of charge.

Provision  
of cleansing  
place

**57.** (1) Where, in the opinion of a medical practitioner, health officer or an authorised officer, any person certified to be suffering from a communicable disease is not accommodated or is not being treated or nursed in such manner as to adequately guard against the spread of the communicable disease, that person may, on the order of a medical practitioner, health officer or an authorised officer be detained in or removed to a health facility or any temporary place which, in the opinion of the medical practitioner, health officer or an authorised officer is suitable for the reception of that person.

Isolation of  
persons who  
have been  
exposed to  
infection

(2) The person referred to in subsection (1) shall be detained in the health facility or temporary place in which he or she is detained or to which he or she is removed until the medical practitioner, health officer or an authorised officer, in writing, by the Director is satisfied that he or she is free from infection or can be discharged without danger to the public health.

(3) A person detained in accordance with an order of a medical practitioner, health officer, or an authorised officer who escapes or attempts to escape, commits an offence and is liable to a penalty prescribed under this Act.

**58.** (1) A person who —

Offence of  
exposure  
of infected  
persons and  
things

- (a) while suffering from any communicable disease, wilfully exposes himself or herself to another person, without proper precautions against spreading that disease in any street, public place, shop or public conveyance;
- (b) being in charge of any person suffering from a communicable disease, exposes such person in a manner stated in paragraph (a); or
- (c) gives, lends, sells, transmits or exposes, without previous cleansing, any bedding, clothing, rags or other articles which have been exposed to infection from any such disease,

commits an offence.

(2) Notwithstanding subsection (1), the proceedings under this section shall not be taken against persons conveying, with proper precautions, any bedding, clothing, rags or other articles for the purpose of having the bedding, clothing, rags or other articles cleansed.

(3) For the purposes of this section, “public conveyance” includes any train, coach, omnibus, motorcar or any vehicle of any kind, or any aircraft, if it pliers for hire or is used by members of the public.

**59.** An owner or driver of a public conveyance in which a person suffering, or suspected of suffering, from a communicable disease has been carried, shall immediately provide for the cleansing of that public conveyance on the instruction, in writing, of a health officer.

Cleansing  
of public  
conveyances



Offence of letting infected premises

**60.** A person who, knowingly, lets for hire any dwelling or premises or part of the dwelling or premises in which a person who has been suffering from a communicable disease resided without cleansing the dwelling or premises or part of, and articles in the dwelling or premises likely to retain infection, commits an offence.

Death in premises due to communicable disease

**61.** (1) In every case of a death from a communicable disease, the occupier of the premises in which the death has occurred shall immediately communicate with, and arrange for, a health officer to be notified of the death, and make the best arrangements practicable, pending the removal of the body and the carrying out of thorough cleansing, for preventing the spread of disease.

(2) A person, who without reasonable cause, fails or refuses to comply with subsection (1), commits an offence.

Disposal of body of person who died from communicable disease

**62.** (1) When —

(a) the body of a person who has died of a communicable disease is retained in a room in which any person lives, sleeps, works, or in which food is kept or prepared or eaten;

(b) any dead body is retained in any dwelling or place under circumstances which, in the opinion of a health officer, are likely to endanger health; or

(c) any dead body is found and is unclaimed or where no competent person undertakes to bury that dead body,

any magistrate or member of the Botswana Police Service of, above, the rank of sergeant, may on a certificate signed by a health officer, direct that the dead body be removed to a mortuary for post-mortem examination or, where the dead body is that of a person certified to have died of a communicable disease, may order that the dead body be buried immediately without removal to a mortuary.

(2) A person who hinders or obstructs the execution of any order or direction given under this section commits an offence.

#### *PART VI — Special Provisions Regarding Diseases Subject to the International Health Regulations, 2005*

Diseases subject to International Health Regulations

**63.** (1) The International Health Regulations, 2005 to which Botswana is a party as set out in Schedule 1 to this Act, and includes any Appendices thereto and any Resolution of the Conference of Parties, shall have the force of law in Botswana.

(2) The provisions of this Act, unless otherwise expressed, in so far as they concern diseases subject to the International Health Regulations, 2005 shall be deemed to apply to —



<p>(a) Cholera (including cholera due to the El Tor <i>vibrio</i>), dengue fever, human influenza caused by a new subtype, meningococcal disease, Poliomyelitis due to wild-type poliovirus, plague (all forms), Rift Valley fever, severe acute respiratory syndrome (SARS), smallpox (including alastrim or <i>ariola minor</i>), viral haemorrhagic fevers, (ebola, lassa, marburg), West Nile fever, yellow fever;</p> <p>(b) other diseases that are of special national or regional concern; and</p> <p>(c) any event of potential international public health concern, including those of unknown causes or sources and those involving other events or diseases than those listed in paragraphs (a) and (b).</p>	
<p>(3) Subject to subsection (1), any amendment made to the International Health Regulations, 2005, Botswana shall become a party to the amendment, and the Minister shall, by Order published in the <i>Gazette</i>, publish the amendments and upon publication the International Health Regulations, 2005 shall, in their application to Botswana, be so amended.</p>	
<p><b>64.</b> A health officer shall have the power of entry on any premises for the purpose of carrying out functions under this Act.</p>	<p>Power of entry</p>
<p><b>65.</b> (1) A person who becomes aware of any unusual sickness or mortality among rats, mice, cats, dogs or other animals susceptible to plague, rabies or other disease subject to the International Health Regulations, 2005, not due to poison or other deliberate act, shall immediately report the fact to the nearest police station or to a health or veterinary officer.</p>	<p>Notification of sickness or mortality in animals</p>
<p>(2) A person who contravenes subsection (1) commits an offence and is liable to a fine not exceeding P1 000, or to imprisonment for a term not exceeding three months, or to both.</p>	
<p><b>66.</b> A police officer, health officer, authorised officer or veterinary officer shall immediately report to the Director of Health Services, by radio, telegraph, telephone or other expeditious means, particulars of every notification received of a case of any disease subject to the International Health Regulations, 2005, or of any unusual sickness or mortality in animals, made under section 65.</p>	<p>Notification of diseases subject to International Health Regulations, 2005</p>
<p><b>67.</b> (1) Where an outbreak of any disease subject to the International Health Regulations, 2005 exists or is likely to exist, the Minister may, in the interest of public health, require any person who owns or has charge of any land or any premises, buildings or dwellings not occupied, or any person who owns or has charge of transport, bedding, hospital equipment, drugs, food or other appliances, materials or articles urgently required in connection with the outbreak, to hand over the use of that article, subject to the prompt payment of adequate compensation as hire or purchase price.</p>	<p>Requisition of premises, equipment, etc.</p>
<p>(2) A person, who without reasonable cause, fails or refuses to comply with any requirement under subsection (1), commits an offence.</p>	

PART VII — *Prevention of the Spread of Immunisable Diseases and their Re-emergence*

Emergency  
vaccination

**68.** (1) In the event of the re-occurrence or threatened outbreak of any immunisable or re-emerging immunisable disease in any area —

(a) a public vaccinator may require —

(i) any person who has or is suspected to have been in any way recently exposed to the infection to be vaccinated or revaccinated immediately, or

(ii) the parent or guardian of any child who has or is suspected to have been so exposed, to have such child vaccinated or revaccinated immediately;

(b) the Director shall, by Order published in the *Gazette*, require all persons within a defined area to attend, at specified centres, to undergo examination, vaccination or revaccination or micronutrient supplementation as circumstances may require, and the Order shall be published in the media, in the news paper with wide circulation or posted up in public places, or otherwise, as may be considered sufficient by the Director; and

(c) any public vaccinator or medical practitioner duly authorised by the Director may require any person in that area to furnish satisfactory proof that the person has been successfully vaccinated within that period as to render the vaccination valid.

(2) The Director shall, subject to subsection (1) provide further procedures where necessary to be followed.

(3) A person who fails to —

(a) comply with subsection (1); or

(b) attend at specified centres in terms of subsection (1) (b), or to furnish the proof required under subsection (1) (c) with regard to himself or herself or any child of which he or she is the parent and refuses to allow himself or herself or the child to be vaccinated, commits an offence.

Persons unfit  
for vaccination

**69.** (1) Where a public vaccinator or medical practitioner is of the opinion that any adult or child is not in a fit state to be vaccinated, the public vaccinator or medical practitioner shall issue to the adult or to the parent of the child a certificate under his or her hand in the form set out in Schedule 2 to this Act, or to the like effect, that the adult or child is not fit for vaccination.

(2) The certificate referred to in subsection (1) shall remain in force for three months, but shall be renewable for successive periods of three months until the public vaccinator or medical practitioner declares the adult or child to be fit for vaccination and the adult or child shall as soon as practicable be vaccinated.

<p><b>70.</b> (1) Where a public vaccinator or medical practitioner finds that —</p> <p>(a) a parent or child whom the public vaccinator or medical practitioner has three times attempted to vaccinate is insusceptible of successful vaccination; or</p> <p>(b) a parent or child coming to the public vaccinator or medical practitioner for vaccination has already been successfully inoculated or had infection which is the subject of inoculation,</p> <p>the public vaccinator or medical practitioner shall deliver, to the parent, a certificate under his or her hand in the form set out in Schedule 3.</p>	<p>Certificate of insusceptibility</p>
<p>(2) A certificate of insusceptibility to vaccination shall be given by a public vaccinator or medical practitioner only after the public vaccinator or medical practitioner has made three attempts to vaccinate a person, at intervals of not less than one month, and has, on each attempt, failed to successfully vaccinate the person.</p>	
<p><b>71.</b> A public vaccinator or medical practitioner who vaccinated any person against smallpox, and is satisfied that the vaccination has been successful, shall deliver to the person or parent a certificate in the form set out in Schedule 4 certifying that the person or child has been successfully vaccinated against smallpox.</p>	<p>Certificate of successful vaccination against smallpox</p>
<p><b>72.</b> A fee, other than a fee authorised by the Director, shall not be charged by any public vaccinator or medical practitioner for any certificate granted under this Act, or for any vaccination done by the public vaccinator or medical practitioner under this Act.</p>	<p>Unauthorised fee not to be charged</p>
<p><b>73.</b> A public vaccinator or medical practitioner who gives any certificate under this Act shall enter on the certificate a description of the person in respect of whom the certificate is granted, sufficient for the purpose of identification.</p>	<p>Description of person to be entered on certificate</p>
<p><b>74.</b> A person who deliberately inoculates himself or herself or any other person with material taken from a person suffering from a communicable disease, or from a vaccine vesicle on another person, or by any method not prescribed by regulations, commits an offence.</p>	<p>Inoculation from arm to arm, etc. forbidden</p>

## PART VIII — *Prevention of Introduction of Disease and Control of Disease*

<p><b>75.</b> (1) The Minister may, after consultation with the National Health Council, by Order published in the <i>Gazette</i>, prohibit, restrict or regulate the immigration or importation, into Botswana, of any person, animal, article or thing likely, in his or her opinion, to introduce any communicable disease or impose restrictions or conditions as regards the examination, detention, cleansing or otherwise of any person, animal, article or thing.</p>	<p>Introduction of disease</p>
<p>(2) A person entering Botswana shall be in possession of a valid certificate of vaccination against preventable diseases subject to the International Health Regulations, 2005 otherwise that person shall be vaccinated on arrival.</p>	

Removal of  
infected  
persons

(3) A person who contravenes or fails to comply with any order referred to in subsection (1) commits an offence and is liable to a fine not exceeding P5 000, or to imprisonment for a term not exceeding 12 months, or to both.

**76.** (1) Where a person arriving in Botswana by aircraft, train or other conveyance, or on foot, is found to be suffering from any communicable disease, and, in the opinion of a health officer, cannot be accommodated or cannot be nursed and treated so as to guard against the spread of the disease or to promote recovery, a health officer may order the removal of that person to a health facility or place of isolation for such period as may be necessary in the interests of the patient or to prevent the spread of infection.

(2) All expenses incurred in dealing with a patient under this section shall be borne by the patient and may be recovered from that patient as a civil debt.

Medical  
surveillance or  
isolation

**77.** (1) Where a person arriving in Botswana by aircraft, train or other conveyance, or on foot, is believed to have been recently exposed to infection, or to be in the incubation stage of any communicable disease, a health officer or authorised officer may —

- (a) require that person to be removed to some health facility or place of isolation until considered free from infection; or
- (b) allow that person to proceed to his or her place of destination and there report himself or herself to a health officer or an authorised officer for medical surveillance by the health officer or the authorised officer until declared free from infection.

(2) A health officer or authorised officer shall, in each case, notify the medical officer of the district where the destination of the person referred to in subsection (1) (b) is, of the fact that that person is believed to have been recently exposed to infection or to be in the incubation period of a communicable disease and has been allowed to proceed to his or her destination.

Powers of  
health  
officers

**78.** (1) Any health officer or authorised officer may, at any time, board any aircraft, train or other conveyance arriving within Botswana and may inspect any portion of the aircraft, train or other conveyance or anything and may medically examine or cause to be medically examined, any person travelling by the aircraft, train or other conveyance and require that person to answer any question for the purpose of ascertaining whether that person suffers from any communicable disease.

(2) A person who refuses to allow a health officer or authorised officer to board any aircraft, train or other conveyance or to make any inspection or medical examination referred to in subsection (1) or otherwise obstructs or hinders any officer in the execution of that person's duty, or who fails or refuses to give any information which he or she may lawfully be required to give, or who gives false or misleading information to a health officer or authorised officer knowing it to be false or misleading information, commits an offence.

**79.** The Director may, when he or she considers it necessary for the prevention of the spread of any communicable disease, designate any health officer to inspect aircraft, trains or other conveyance and any article or thing in the aircraft, train or conveyance, and to examine any person travelling by aircraft, train or other conveyance, or on foot and whether entering, leaving or travelling within Botswana.

Health officers  
to inspect  
aircraft, trains,  
etc.

**80.** (1) Where it is considered necessary for the purpose of preventing the introduction of a communicable disease into Botswana, the Minister may, by Order published in the *Gazette* —

Powers to  
enforce  
precautions

- (a) regulate, restrict or prohibit the entry into Botswana, at its borders or any specified part of Botswana, of any person;
- (b) regulate, restrict or prohibit the introduction into Botswana, at its borders or any specified part of Botswana, of any animal, article or thing;
- (c) impose requirements or conditions as regards the medical examination, detention, quarantine, cleansing, vaccination, isolation or medical surveillance or otherwise, of persons entering Botswana; or the examination, detention or cleansing or otherwise of any article or thing introduced into Botswana, at its borders or any part of Botswana; and
- (d) apply, with or without notification, any provisions of this Part to persons, animals, articles or things entering or introduced into, departing or removed from, Botswana by means of aircraft, train or other conveyance.

(2) A person who contravenes or fails to comply with any order issued under subsection (1) commits an offence.

**81.** The Minister may enter into agreements with any foreign country providing for the reciprocal notification of outbreaks of any disease subject to International Health Regulations, 2005 or any other matter affecting the public health relations of Botswana with other countries.

Agreement  
with other  
Governments

**82.** Where the Minister or any authorised officer exercises powers under this Part and by reason of the exercise of the power —

Government  
not liable

- (a) any person, conveyance, article or thing is delayed or removed or detained;
- (b) any article or thing is damaged or destroyed; or
- (c) any person is deprived of the use of any article or thing,

the Government shall not be liable to pay compensation, provided due care and reasonable precautions have been taken to avoid unnecessary delay, damage or destruction.

**PART IX — *Promotion of Sale of Medicines, Appliances or Articles for  
Alleviation or Cure of any Disease***

Publication of  
advertisements

**83.** (1) A person shall not publish any advertisement or statement intended to promote the sale of any medicine, appliance or article for the alleviation or cure of any disease or condition under this Act.

(2) A person who publishes any advertisement or statement referred to in subsection (1) by printing it in any newspaper or exhibiting it to public view in any place, or delivering or offering or exhibiting it to any person in any street or public place or in any public conveyance, or who sells, offers or shows it or sends it by post or electronic means to any person, commits an offence.

(3) This section shall not apply to any publication by the Government or other public body in the discharge of its duties or by any society or person acting with the authority of the Minister, or to any books, documents or papers published in good faith for the advancement of medical science.

(4) A prosecution under this section shall not be instituted except on information laid by the Director of Public Prosecutions.

**PART X — *Sanitation and Housing***

Nuisances  
prohibited

**84.** A person shall not cause or allow a nuisance which is likely to be injurious or dangerous to health to continue on any land or premises owned or occupied by him or her, or of which that person is in charge.

Duties of health  
officers  
regarding  
nuisances

**85.** (1) Subject to the provisions of this Part, a health officer shall, in respect of the area for which he or she has been designated, take all lawful, necessary and reasonably practicable measures for maintaining that area at all times in a clean and sanitary condition, or requiring to be remedied, any nuisance and shall institute legal proceedings against any person causing or responsible for the occurrence or continuance of the nuisance.

(2) Where it appears to a health officer that a nuisance exists on any premises occupied as offices of the public service of Botswana, the health officer shall serve notice on the head of the appropriate Government department and the latter shall immediately cause steps to be taken as may be necessary to abate the nuisance and to prevent a recurrence of the nuisance.

Unsuitable  
buildings,  
dwellings or  
premises

**86.** A health officer shall take all lawful, necessary and reasonably practicable measures for preventing or causing to be prevented or remedied all conditions likely to be injurious or dangerous to health, arising from —

- (a) the erection or occupation of unhealthy buildings, dwellings or premises;
- (b) the erection of buildings, dwellings or premises on unhealthy sites or on sites or sites of insufficient extent; or
- (c) overcrowding, construction, condition or manner of use, of any factory or trade premises, and shall take legal proceedings, to discontinue that condition, against the person responsible for the continuance of the condition.

**87.** The following shall be deemed to be nuisances liable to be dealt with in the manner provided in this Part —

What  
constitutes  
a nuisance

- (a) any railway carriage or other conveyance in a state or condition as to be injurious or dangerous to health;
- (b) any building, dwelling or premises or part of the building, dwelling or premises which is of that construction or in the state or so situated or so dirty or so verminous as to be, in the opinion of a health officer, or which is, likely to promote the spread of any disease;
- (c) any street, road or part of the street or road, any stream, pool, ditch, gutter, watercourse, sink, water-tank, cistern, water closet, privy, urinal, cesspool, soak-away pit, septic tank, cesspit, soil pipe, waste pipe, drain, sewer, waste receptacle, dustbin, dung-pit, refuse-pit, slop tank, ash-pit or manure heap so foul or in that state or so situated or constructed as, in the opinion of a health officer, to be offensive, injurious or dangerous to health;
- (d) any well or other source of water supply or any cistern or other receptacle for water, whether public or private, from which the water is used or is likely to be used by human beings for drinking or domestic purposes or in connection with any dairy or milk shop, or in connection with the manufacture or preparation of any article of food intended for human consumption, which is in the opinion of a health officer polluted or otherwise liable to render water injurious or dangerous to health;
- (e) any noxious matter or waste water flowing or discharged from any premises wherever situated, into any public street, or into any watercourse, irrigation channel or bed of water course or irrigation channel or any adjoining land not approved for the reception of the discharge;
- (f) any stable, cowshed or other building, dwelling or premises or structure used for keeping animals or birds, which is so constructed, situated, used or kept, as to be offensive, or which is injurious or dangerous to health;
- (g) any animal so kept as to be a nuisance or injurious to public health;
- (h) any accumulation of deposit of waste, offal, manure or any other matter which is offensive or which is injurious or dangerous to health;



- (i) any accumulation of stones, timber or other building material if that accumulation is in the opinion of a health officer likely to harbour rats or other vermin;
- (j) any premises in that state or condition and any building so constructed as to be likely to harbour rats or other rodents;
- (k) any building, dwelling or premises which is so overcrowded as to be injurious or dangerous to the health of the occupier or is dilapidated or defective in lighting or ventilation or is not with, or is so situated that it cannot be provided with, sanitary accommodation to the satisfaction of a health officer;
- (l) any public or other building which is so situated, constructed, used or kept as to be unsafe, injurious or dangerous to health;
- (m) any occupied dwelling for which a proper, sufficient and wholesome water supply is not available within a reasonable distance as under the circumstances it is possible to obtain;
- (n) any factory or trade premises not kept in a clean state and free from offensive smell arising from any drain, privy, water closet, earth closet or urinal, or not ventilated so as to destroy or render harmless and inoffensive, as far as practicable, any gases, vapours, dust or other impurities generated or so overcrowded or so badly lighted or ventilated as to be injurious or dangerous to the health of those employed in that factory or trade premises;
- (o) any factory or trade premises causing or giving rise to smells, noise or effluent which are offensive or which are injurious or dangerous to health;
- (p) any area of land kept or permitted to remain in such a state as to be offensive, or liable to cause any communicable or preventable disease or injury or danger to health;
- (q) any chimney emitting smoke in the quantity or in a manner as to be offensive or injurious or dangerous to health;
- (r) any act, omission, thing or condition which is or may be offensive, dangerous to life or injurious to health; and
- (s) any building or dwelling place, or business premises without adequate sanitary accommodation for the inmates or the general clientele in respect of public or business premises.

Notice to remove  
nuisance

**88.** (1) Where a health officer is satisfied of the existence of a nuisance, the health officer shall serve a notice on the author of the nuisance and, where the author of the nuisance cannot be found, the occupier of the building, dwelling or premises on which the nuisance exists or continues, shall require the author of the nuisance to remove it within the time specified in the notice, and to execute such work and do such things as may be necessary for that purpose, and where the health officer considers it necessary, specifying any work to be executed to prevent a recurrence of the nuisance.



(2) Subject to subsection (1) —

- (a) where the nuisance arises from any want for defects of a structure or character, or where the building, dwelling or premises are unoccupied, the notice shall be served on the owner; and
- (b) where the author of the nuisance cannot be found and it is clear that the nuisance does not arise or continue by the act or default or sufferance of the occupier or owner of the building, dwelling or premises, the health officer shall have the nuisance removed and may do what is necessary to prevent a recurrence of the nuisance.

(3) For the purposes of this section, “author of the nuisance” means any person by whose act, default or sufferance a nuisance is caused, exists or is continued, whether the author of nuisance is the owner or occupier or both owner and occupier or any other person.

**89.** (1) Where the person on whom a notice to remove a nuisance has been served fails to comply with any of the requirements of the notice within the time specified, the health officer shall apply to a magistrate for the issuance of a summons requiring the person on whom the notice was served to appear before the magistrate’s court.

Procedure  
where owner  
fails to  
comply  
with notice

(2) Where the court is satisfied that the alleged nuisance exists, the court shall make an order on the author of nuisance, or the occupier or owner of the building, dwelling or premises, as the case may be, requiring that author of nuisance, or the occupier or owner of the building, dwelling or premises to comply with all or any of the requirements of the notice or otherwise to remove the nuisance within a time specified in the order and to do any works necessary for the purpose.

(3) The court may, in the order referred to in subsection (2), impose a fine not exceeding P5 000 on the person on whom the order is made and may also give directions as to the payment of all costs incurred up to the time of the hearing or making of the order for the removal of the nuisance.

(4) Where the nuisance, although removed since the service of the notice, in the opinion of a health officer, is likely to cause a complaint relating to such nuisance, the health officer shall lay a complaint before a magistrate, and the magistrate shall issue a summons requiring the person on whom the notice was served to appear before him or her.

(5) Where the court is satisfied that the alleged nuisance, although removed, is likely to recur on the same building, dwelling or premises, the court shall make an order on the author of nuisance or the occupier or owner of the building or dwelling or premises, as the case may be, requiring the owner of nuisance or occupier or owner of the building, dwelling or premises to do any specified work necessary to prevent the recurrence of the nuisance and prohibiting its recurrence.

(6) In the event of the person on whom the order referred to in subsection (5) is made not complying with the order within a reasonable time, the health officer shall again cause a complaint to be made to a magistrate, who shall issue a summons requiring that person to appear before him or her, and, on proof that the order has not been complied with, the magistrate may impose a fine not exceeding P5 000, and may also give directions as to the payment of all costs up to the time of the hearing.

(7) Before making any order in terms of subsection (2) or (5) the court may, where it thinks fit, adjourn the hearing, or further hearing of the summons, until an inspection, investigation or analysis in respect of the alleged nuisance has been made by some competent person.

(8) Where the nuisance proved to exist and is to render a building, dwelling or premises unfit, in the opinion of the court, for human habitation, the court may make a closing order prohibiting the use of that building, dwelling or premises until, in its opinion, that the building, dwelling or premises is fit for human habitation.

(9) In addition to the order made under subsection (8), the court may order that no rent shall be due or payable by or on behalf of the occupier of that building, dwelling or premises in respect of the period in which the closing order exists.

(10) Where the court is satisfied that the building, dwelling or premises has been rendered fit for use as a building, dwelling or premises or as the case may be, the court may rescind the closing order and by a further order declare that, that building, dwelling or premises habitable, and the building, dwelling or premises shall, from the date of that order be let or inhabited.

(11) Notwithstanding the order made under subsection (8) declaring the building, dwelling or premises unfit for human habitation, further proceedings may be taken in accordance with this section in respect of the same building, dwelling or premises in the event of any nuisance occurring or of the building, dwelling or premises being again found to be unfit for human habitation.

**90.** (1) A person who fails to obey an order to comply with the requirements of a health officer or to remove the nuisance, shall, unless that person satisfies the court that he or she has used all diligence to carry out that order, is liable to a fine not exceeding P50 for every day during which the default continues.

(2) Where a person has failed to satisfy the court that he or she has used all diligence to carry out the orders to comply with the requirements of a health officer or to remove the nuisance in terms of subsection (1), a health officer may, in that case, enter the building, dwelling or premises to which that order relates, and remove the nuisance and do whatever may be necessary in the execution of that order, and recover, in any competent court, the expenses incurred from the person on whom the order is made.

(3) A person who wilfully acts in contravention of a closing order issued under section 89 (8) commits an offence and is liable to a fine of P1 000 for every day during which the contravention continues.

**91.** Where it appears to the satisfaction of the court, that the person by whose act or default the nuisance arises, or that the owner or occupier of the building, dwelling or premises, is not known or cannot be found, the court may order the health officer immediately to execute the works in the building, dwelling or premises directed and the cost of executing the work shall be a charge on the property on which the nuisance exists.

Court may  
order  
examination

**92.** (1) A health officer may enter any building, dwelling or premises for the purpose of ascertaining the existence of any nuisance in the building, dwelling or premises at all reasonable times of the day, and the health officer may, where necessary, dig up the ground on that building, dwelling or premises and cause the drains to be tested or other work to be done, as may be necessary, for the effectual examination of the said premises.

Power of  
health  
officer to enter  
premises

(2) Where the health officer enters the building, dwelling or premises for the purpose of ascertaining the existence of nuisance and if no nuisance is found to exist, the Ministry or relevant local authority shall restore the building, dwelling or premises at its own expense.

**93.** (1) Where, under section 92, a nuisance is proved to exist with respect to a building, dwelling or premises and the court is satisfied that, that building, dwelling or premises is so dilapidated, so defectively constructed or so situated that repairs to, or alterations of, the same are not likely to remove the nuisance and make the building, dwelling or premises fit for human habitation, the court may order the owner of that building, dwelling or premises to commence to demolish the building, dwelling or premises and other structures on the building, dwelling or premises on or before a specified day, being at least one month from the date of issuing the order, and to complete the demolition and to remove on or before a specified day, being at least one month from the date of demolition, the materials which comprised the materials from the site.

Demolition of  
dwellings

(2) The court shall give notice to the occupier of a building, dwelling or premises in respect of which the order referred to in subsection (1) has been issued requiring him or her to move from the building, dwelling or premises within a time to be specified in the notice, and where the occupier fails to comply with the notice or enters the building, dwelling or premises after the date fixed except for the purpose of demolition, he or she commits an offence.

(3) A person who fails to comply with an order made under subsection (1) commits an offence and is liable to a fine of P1 000 for every day during which the contravention continues.

(4) Where a person fails to comply with an order made under subsection (1), the health officer may, in addition to the fine imposed under subsection (3), cause the building, dwelling or premises and any other structures on the building, dwelling or premises to be demolished, and may recover, from the owner, the expense incurred in demolishing that building, dwelling or premises so after deducting the net proceeds of the sale of the material, which the health officer may sell by auction.

(5) Compensation shall not be paid to the owner or occupier of any building, dwelling, premises or other structure in respect of the demolition under subsection (1), and from the date of the demolition order, no rent shall be due or payable by or on behalf of the occupier in respect of such building, dwelling, premises or structure.

Prohibitions

**94.** (1) A person shall not within any area declared by Order published in the *Gazette* by a local authority erect any building —

(a) on the back to back system; or

(b) on made ground containing street sweepings, refuse, rubbish or other matter liable to decomposition until the approval of the health officer has been obtained and such measures for safeguarding health as the health officer may require have been taken.

(2) A person who contravenes any provision of this section commits an offence and is liable to a fine not exceeding P5 000, or to imprisonment for a term not exceeding 12 months, or to both, and to a further fine not exceeding P500 for every day during which the contravention continues after the date fixed in the order referred to in subsection (1).

#### PART XI — *Environmental Health Protection*

Environmental  
health officer

**95.** (1) The Director, in consultation with the local authority, shall designate an environmental health officer who shall, under the directions of the Director, exercise the powers and perform the functions assigned to him or her under this Act.

(2) The environmental health officer designated under subsection (1) shall be a person who is technically qualified and experienced to exercise control over environmental health matters.

(3) The Director shall furnish the environmental health officer with an identification card stating that the environmental health officer has been designated as environmental health officer under this Act and the identification card shall be *prima facie* proof of that designation.

Powers of  
environmental  
health officer

**96.** (1) The environmental health officer in the exercise of powers or the performance of his or her duties or functions under this Act, may —

(a) without prior notice, at any time, enter, inspect and examine any building, dwelling or premises or processes and every part of the building, dwelling or premises when he or she has reasonable cause to believe that any person in the building, dwelling or premises or the environment thereof warrants personal or environmental health investigations under this Act;

- (b) require, from the person in charge of the building, dwelling or premises referred to in paragraph (a), the production of a certificate issued in respect of that building, dwelling or premises and any other documentary evidence, which can authenticate one's claim to a property;
  - (c) apply tests, take samples and make inquiries and investigations as appears to him or her to be necessary for the due performance of his or her functions under this Act; and
  - (d) ensure that relevant stakeholders are also consulted throughout the process.
- (2) The powers specified in subsection (1), to the extent to which they involve entry on any building, dwelling or premises or search on the building, dwelling or premises without the consent of the owner or person having charge of the building, dwelling or premises, shall only be exercised when their exercise is reasonably required in the interests of public health.
- (3) A person who —
- (a) refuses or fails to answer, to the best of his or her ability, any question lawfully put to him or her by the environmental health officer in the exercise of his or her powers or the performance of his or her functions under this Act;
  - (b) refuses or fails to comply, to the best of his or her ability, with any lawful requirement of the environmental health officer in the exercise of his or her powers or the performance of his or her functions under this Act; or
  - (c) obstructs or interferes with the environmental health officer in the exercise of his or her powers or performance of his or her functions under this Act,

commits an offence and liable to a fine not exceeding P100 000, or to imprisonment for a term not exceeding five years, or to both.

**97.** (1) Where the environmental health officer or an authorised officer is alleged —

- (a) to have caused injury to any person or damage to any property; or
- (b) in any other manner to have detrimentally affected the rights of any person, whether in respect of property or otherwise, in the exercise of any power or the performance of any function under this Act, it shall be a defence in any legal proceedings founded on the allegation and brought against the Government, that the environmental health officer or an authorised officer used the best known or the only or most practicable available methods and acted without negligence in the exercise of the powers or the performance of the functions referred to in this section.

(2) A certificate signed by the Director to the effect that, having regard to all the circumstances, the defendant or respondent has used the best known or only the most practicable available methods, shall be accepted by the court as *prima facie* evidence of that fact.

Legal  
proceedings

Report of environmental health officer and authorised officer

Designation of certain areas as public health service areas

Investigation of complaints, etc.

Appeal

Disclosure of information relating to manufacturing process or trade secret

**98.** The environmental health officer or an authorised officer shall, before the 1st April of every year or within such longer period as the Director may approve, submit to the Minister a comprehensive report on the implementation of this Part during the preceding year.

**99.** The Minister may, by Order published in the *Gazette*, designate any area in Botswana as a public health service area, and the provisions of this Part shall apply to any such area from a date appointed, in such Order, by the Minister.

**100.** (1) On receipt of a complaint that the emission, into the environment, of objectionable or hazardous material is resulting from the carrying on of a process or other activity, and that such emission is causing or has caused injury or damage to the health of human beings or of livestock or of vegetation or other property or the environment, the environmental health officer or an authorised officer may conduct, or order an inspector to conduct, an investigation into such complaint.

(2) Where the environmental health officer or an authorised officer has reason to believe or suspect that on any premises or place a process or other activity is being carried on otherwise than in accordance with this Part or any regulation, he or she may investigate, or order an inspector to investigate, the matter.

**101.** (1) A person who is aggrieved by a decision of the environmental health officer or an authorised officer's recommendation of non issuance, cancellation or suspension of a permit or imposing any requirement under this Part may, within one month, appeal to the National Health Council against such decision.

(2) For the purpose of proceedings before it, the National Health Council may administer oaths and affirmations.

(3) A person who appeals under subsection (1) may continue to carry on the process or other activity to which such appeal relates pending the decision of the National Health Council on such appeal, if that person was carrying on such process or activity prior to the decision of the environmental health officer, an authorised officer or the imposition of any requirement, which is the subject of the appeal.

(4) A person who lodges an appeal under subsection (1) shall submit, with his or her appeal, written arguments or explanations of the grounds of his or her appeal and may further appear before the National Health Council in person or through a legal representative.

**102.** (1) A person shall not disclose any information relating to any manufacturing process or trade secret used in carrying on any particular undertaking which has been furnished to, or obtained by, him or her while performing functions under this Act unless the disclosure is made —

- (a) with the consent of the person carrying on that undertaking;
- (b) in connection with the performance of his or her functions under this Act;
- (c) to a court or tribunal where the information is directly relevant to the proceedings before the court or tribunal; or
- (d) for environmental monitoring and auditing by the relevant authorities.

(2) A person who contravenes subsection (1), commits an offence and is liable to a fine not exceeding P10 000, or to imprisonment for a term not exceeding two years, or to both.

**103.** The Director may, in order to further the object of preventing, reducing or controlling environmental pollution due to any processes or any conditions hazardous to public health —

Control of  
environmental  
pollution

- (a) publish and disseminate information, and cause educational programmes to be devised and carried out, relating to the control of environmental pollution;
- (b) arrange and promote the undertaking of studies of the quality of the air and water effluent and investigations into the levels of concentration of matter polluting the same, anywhere in Botswana; and
- (c) arrange the removal from the environment, of pollutants and contaminants hazardous to public health.

## PART XII — *HIV Testing, Prevention and Control*

**104.** (1) The Minister shall ensure that confidential HIV testing facilities are made available to —

HIV tests

- (a) a person of the age of 16 years, or above, who requests an HIV test in respect of himself or herself; or
- (b) a person who is required to undergo an HIV test under this section, sections 105 and 106 of this Act.

(2) A person shall not induce another person to undergo an HIV test for the purpose of any employment or the provision of goods or services.

(3) Notwithstanding subsection (2) —

- (a) routine HIV testing may be offered to any person in accordance with procedures or guidelines issued by the Director for the purpose of facilitating access to health related programmes and services; and
- (b) the Director, or any person authorised by him or her, may, where necessary and reasonable, require a person or a category of persons to undergo an HIV test.

(4) Where a person who is required to undergo an HIV test under subsection (3) refuses to do so, the Director may, in writing, apply to a magistrate for an order requiring that person to undergo the HIV test.

(5) An application under subsection (4) shall be in camera.

(6) When determining whether or not to make an order under subsection (4), a magistrate shall consider the following matters —

- (a) whether another person is or has been exposed to the possibility of transmission of HIV;
- (b) the right to information of the person exposed to the possibility of transmission of HIV; and
- (c) the availability of treatment in relation to HIV.



Consent to HIV  
testing

(7) The magistrate shall not make an order under subsection (4) unless he or she is satisfied, on a balance of probabilities that it is in the interest of public health or in the public interest to make the order.

**105.** (1) A person shall not conduct an HIV test in respect of another person, except —

- (a) with the consent of that other person;
- (b) if that other person is a child under the age of 16 years, with the consent, in the prescribed form, of a parent of that child;
- (c) where, in the opinion of the medical practitioner who wishes to conduct the HIV test, that other person has disability which renders the person incapable of giving consent, with the consent, in the prescribed form, in the following order of priority, of —
  - (i) a parent of that person,
  - (ii) a legal guardian of that person,
  - (iii) an adult child of that person,
  - (iv) a prescribed independent authority,
  - (v) a person with care and custody of that person, or
  - (vi) a partner of that person; or
- (d) where an HIV test is required under this or any other Act.

(2) A medical practitioner responsible for the treatment of a person may conduct an HIV test without the consent of that person where —

- (a) that person is unconscious and unable to give consent; and
- (b) the medical practitioner believes that such a test is clinically necessary or desirable in the interests of that person.

(3) A medical practitioner who conducts an HIV test under subsection (2) shall not, by reason only of conducting that test, be liable to any civil or criminal liability.

(4) The results of an HIV test shall be considered valid if the test was conducted —

- (a) in a centre, structure or health facility approved for the purpose of carrying out HIV testing; or
- (b) for epidemiological study or research authorised by the Minister.

Testing of donors  
of tissue

**106.** (1) A person who offers to donate any tissue or whose tissue is offered to be donated shall undergo an HIV test immediately before the donation is carried out.

(2) The tissue of a person shall not be used for any purpose for which it is donated unless an HIV test has been carried out on the tissue immediately before the proposed use and the result of that test is negative.

(3) A person who offers to donate any tissue and who has undergone an HIV test under subsection (1) shall not be liable to any civil or criminal liability in relation to any subsequent use of that tissue if the person believes, on reasonable grounds, that the result of the HIV test is negative.



**107.** An HIV test shall be undertaken on any blood donated by a person in accordance with the testing procedures or guidelines as may be laid down by the Minister.

Testing of  
donated blood

**108.** A person convicted with the offence of rape or defilement under the Penal Code shall be required to undergo an HIV test.

Compulsory  
testing in  
certain cases  
Cap. 08:01

**109.** (1) Before carrying out a surgical or dental procedure in respect of a person, a medical practitioner, nurse or dental practitioner shall assess whether or not the procedure is urgently required.

HIV testing  
for surgical  
and dental  
procedures

(2) Where, in the opinion of a medical practitioner, nurse or dental practitioner, the surgical or dental procedure is required in respect of a person, the medical practitioner, nurse or dental practitioner shall —

- (a) carry out the appropriate surgical or dental procedure;
- (b) refer the person to another medical practitioner, nurse or dental practitioner, as appropriate, who is available to carry out the urgently required procedure; or
- (c) seek advice from the Director in relation to appropriate action in respect of that person.

(3) Where, in the opinion of a medical practitioner, nurse or dental practitioner, the surgical or dental procedure is not urgently required in respect of a person, the medical practitioner, nurse or dental practitioner may require the person to undergo an HIV test before carrying out that procedure.

(4) Where a person undergoes an HIV test after being required to do so in terms of subsection (3) and the result of the test is positive, the medical practitioner, nurse or dental practitioner shall —

- (a) carry out the appropriate surgical or dental procedure;
- (b) refer the person to another medical practitioner, nurse or dental practitioner, as appropriate, who is available to carry out the procedure; or
- (c) seek advice from the Director in relation to appropriate action in respect of that person.

(5) Where a person refuses to undergo an HIV test after being required in terms of subsection (3), the medical practitioner, nurse or dental practitioner concerned shall —

- (a) carry out the appropriate surgical or dental procedure;
- (b) refer the person to another medical practitioner, nurse or dental practitioner, as appropriate, who is available to carry out the appropriate procedure; or
- (c) seek advice from the Director in relation to appropriate action in respect of that person.

(6) A medical practitioner, nurse or dental practitioner who carries out a medical or dental procedure under this section shall carry it out in accordance with such guidelines as may be issued by the Minister.

	<p>(7) This section shall not interfere with the right of a medical practitioner, nurse or dental practitioner to make a decision on medical grounds, whether or not to carry out any surgical or dental procedure irrespective of the result of the HIV test.</p>
Pre-test information	<p><b>110.</b> Before an HIV test is undertaken by any person under this or any other Act, a medical practitioner or an approved health care worker authorised by the medical practitioner, shall provide information to that person and any other person the medical practitioner considers should be informed, in respect of the medical and social consequences of being tested.</p>
Results of HIV tests	<p><b>111.</b> As soon as possible after the result of an HIV test is obtained, the medical practitioner or an approved health care worker authorised by the medical practitioner shall —</p> <ul style="list-style-type: none"> <li>(a) inform the tested person in person of that result; and</li> <li>(b) where the result is positive, subject to section 114, record HIV as a notifiable disease.</li> </ul>
Notification of HIV test results	<p><b>112.</b> Any notification of the result of an HIV test shall be in a form approved by the Minister.</p>
Confidentiality guidelines	<p><b>113.</b> (1) The Minister shall issue confidentiality guidelines relating to the recording, collecting, storing and security of information, records or forms used in respect of HIV tests and related medical assessments.</p> <p>(2) In issuing confidentiality guidelines, the Minister shall have regard to —</p> <ul style="list-style-type: none"> <li>(a) the guidelines for protecting confidentiality in the conduct of medical research; and</li> <li>(b) the information on confidentiality principles.</li> </ul> <p>(3) A person shall not record, collect, transmit or store information or forms in respect of HIV tests or related medical assessments of another person otherwise than in accordance with confidentiality guidelines issued under subsection (1).</p>
Confidentiality of records	<p><b>114.</b> A person shall not, in any records or forms used in relation to the notification of a positive HIV result, include any information which directly or indirectly identifies the person to whom an HIV test relates, except in accordance with any confidentiality guidelines issued under this Part.</p>
Disclosure of information concerning result of HIV test or immune function test	<p><b>115.</b> (1) A person shall not disclose any information concerning the result of an HIV test, including the HIV or HIV antibody status, the sexual behaviour of a person or the use of drugs by a person, to any other person except —</p> <ul style="list-style-type: none"> <li>(a) with the consent of that person;</li> <li>(b) where that person has died, with the consent of that person's partner, personal representative, administrator or executor;</li> <li>(c) where that person is a child under the age of 16 years, with the consent, in the prescribed form, of a parent of that child;</li> <li>(d) where, in the opinion of the medical practitioner who undertook the HIV test, that person has a disability which renders the person incapable of giving consent, with the consent, in the prescribed form, in the following order of priority, of —</li> </ul>

- (i) a parent of that person,
  - (ii) a legal guardian of that person,
  - (iii) an adult child of that person,
  - (iv) a prescribed independent authority,
  - (v) a person with care and custody of that person, or
  - (vi) a partner of that person;
  - (e) to an approved health care worker, approved specialist medical practitioner, a dental practitioner, medical practitioner or a nurse who is directly involved in the treatment or counselling of that person;
  - (g) for the purpose of an epidemiological study or research authorised by the Minister;
  - (h) to a court or tribunal where the information contained in medical records is directly relevant to the proceedings before the court or tribunal; or
  - (i) where authorised or required to do so under this Act.
- (2) Subsection (1) shall not prevent a person from disclosing statistical or other information that could not be expected to lead to the identification of the person to whom it relates.

**116.** (1) A person who is aware of being infected with HIV or is carrying and is aware of carrying HIV antibodies shall —

Transmission  
of HIV

- (a) take all reasonable measures and precautions to prevent the transmission of HIV to others;
  - (b) inform, in advance, any sexual contact or care giver or person with whom sharp instruments are shared, of that fact; and
  - (c) not place another person at risk of becoming infected with HIV.
- (2) A person who is aware of being infected with HIV or who is carrying and is aware of carrying HIV antibodies shall not place another person at risk of becoming infected with HIV.

(3) It shall be the duty of the Director or any authorised officer to ensure that a person referred to in subsection (1) has received —

- (a) adequate counselling;
  - (b) adequate medical and psychological assessment; and
  - (c) appropriate medical and psychological treatment, as per Anti Retroviral Treatment Guidelines.
- (4) A person referred to in subsection (1) or (2) may request a medical practitioner or approved health care worker authorised by a medical practitioner to inform and counsel a sexual contact or care giver of the HIV or HIV antibody status of that person.

(5) A request under subsection (4) shall be made in writing and shall contain relevant particulars.

(6) On receipt of a request made under subsection (4), the medical practitioner or approved health care worker authorised by a medical practitioner shall comply, where possible, with that request in person.

(7) A medical practitioner who is responsible for the treatment of a person and who becomes aware that the person has not, after a reasonable opportunity —

(a) complied with subsection (1) or (2); or  
(b) made a request under subsection (4)  
may, after consultation with an approved specialist medical practitioner, inform any sexual contact or care giver of that person of the HIV or HIV antibody status of that person.

(8) Any medical practitioner or approved health care worker authorised by the medical practitioner who informs a sexual contact or care giver as provided under subsection (4) or (7) shall not, by reason only of that action, be liable to any civil or criminal liability in relation to that action.

(9) The Director or any officer representing the Director may, in writing, apply to a magistrate for an order where the Director reasonably believes that a person infected with HIV —

- (a) is not complying with this Part;
- (b) knowingly or recklessly places another person at risk of becoming infected with HIV without the knowledge of that person of the infected person's HIV status; or
- (c) is likely to continue the behaviour referred to in paragraph (b).

(10) For the purpose of subsection (9), a magistrate may make any or all of the following orders —

- (a) an order that the person infected with HIV undergo such medical and psychological assessment as the Minister determines;
- (b) an order imposing restrictions on the behaviour or movements of that person for a period not exceeding 28 days; or
- (c) an order requiring that the person be isolated and detained by a person, at a place and in the manner specified in the order for a period not exceeding 28 days.

(11) In making an order in respect of a person under subsection (10), a magistrate shall take into account the following matters —

- (a) whether, and by what method, the person transmitted HIV;
- (b) the seriousness of the risk of the person infecting other persons;
- (c) the past behaviour and likely future behaviour of the person; and
- (d) any other matter the magistrate considers relevant.

(12) The Director may, in writing, apply to a magistrate to renew an order made under subsection (10) for a further period or periods not exceeding 28 days.

(13) In renewing an order made under subsection (10), a magistrate may vary the terms of the order.

(14) A person shall not fail, without reasonable cause, to comply with an order made under subsection (10) or renewed under subsection (13).

(15) Proceedings under this section shall be in camera.

(16) A person shall not publish or cause to be published a report of, or any information relating to, the whole or any part of the proceedings under this section.

(17) An isolation order made under this section shall be authority for the person named in the order to be detained by the person and at the place specified in the order.

**117.** (1) A person shall not publicly promote participation in a sexual activity of a kind which is likely to cause damage to health through the sexual transmission of HIV.

Public  
promotion  
of certain  
sexual  
behaviour

(2) Any proceedings in respect of an offence against subsection (1) shall be instituted by the Director of Public Prosecutions.

**118.** (1) Where the Director has reason to believe that an arrest may be necessary in order to enforce an isolation order made under section 116 (10), the Director may, in writing, apply to a magistrate for a warrant authorising a police officer to carry out an isolation order.

Isolation  
orders

(2) The Director may, in writing, direct a person authorised for the purpose to assist a police officer in carrying out an isolation order.

**119.** A person shall not carry out an HIV test unless the test is carried out in a centre, structure or health facility approved for the purpose of carrying out HIV testing.

Testing carried  
out in approved  
facilities

**120.** A person shall not manufacture or sell, to another person, a device for the purpose of carrying out an HIV test, except where the other person is a representative approved for that purpose by an institution recognised in this Act.

Manufacture  
and sale of  
testing kits  
and devices

**121.** In any proceedings, where a court is of the opinion that it is necessary to disclose information relating to the HIV or HIV antibody status of a person, the court may, because of the social and economic consequences to that person —

Court  
proceedings

- (a) order that the whole or any part of the proceedings be heard in camera;
- (b) order that only specified persons may be represented during the whole or any part of the proceedings; or
- (c) make an order prohibiting the publication of a report of the whole or any part of the proceedings or of any information derived from the proceedings.

**122.** (1) Any communication made by a person in undergoing an HIV test, a surgical or dental procedure or counselling under this Act, relating to his or her sexual behaviour, shall be confidential and shall not be divulged, verbally, in writing, electronically or in any other manner, without —

Evidence of  
certain  
communication

- (a) the express consent of that person;
- (b) in the case of a child, without the express consent of his or her parent; or
- (c) in the case of a deceased person, without the consent of his or her next of kin or the executor of his or her estate.

(2) The duty of confidentiality imposed by subregulation (1) shall not apply where —

- (a) the court orders the disclosure of the information; or
- (b) the information is required by a medical practitioner or by any legal representative who requires or is entitled to the information in the course of his or her professional duties.

### PART XIII — *Insect and Vector Control*

Breeding  
places of  
insects and  
vectors to be  
nuisances

**123.** For the purposes of this Act —

- (a) any water, sewage, waste matter, dung or other fluid or solid substance which permits or facilitates the breeding or multiplication of animal or vegetable parasites of human beings or domestic animals, or any insects or other agents which are known to carry such parasites, or which may cause or facilitate the infection of human beings or domestic animals by the parasites;
- (b) any collection of water in any well, pool, gutter, channel, depression, excavation, barrel, tub, bucket, or any other article, found to contain any of the immature stages of insects and vectors; and
- (c) any cesspit, latrine, urinal, dung or ash-pit found to contain any of the immature stages of insects and vectors,

shall be nuisances to be dealt with in the manner provided for in Part X for the treatment as nuisances.

### PART XIV — *Cemeteries and Crematoria*

Sites

**124.** (1) A local authority may, in consultation with the Director, by Order published in the *Gazette*, select and declare cemeteries and crematoria for certain areas and notify, in the Order, proper places to be the sites of and to be used as, cemeteries and crematoria; and except as provided in subsection (6), all dead bodies shall be buried in the cemeteries or cremated in those places.

(2) Notwithstanding subsection (1), a person or a community may, in writing, seek permission from the Minister to bury or cremate a dead body within Botswana outside a designated cemetery or crematoria.

(3) The Minister may, by Order published in the *Gazette*, declare other modes of disposal of dead bodies.

(4) The Minister may cause appropriate records and reports to be made and kept of the number of cemeteries and crematoria which are operational and those that are closed.

(5) A person may not remove any dead body from Botswana without express permission in writing, but subject to such conditions as the Minister may, by regulations, prescribe.

(6) Notwithstanding that a person dies within any area in respect of which a cemetery or crematorium has been declared under subsection (1), the person may be buried in a cemetery or cremated in a crematorium which has been declared for some other area.

**125.** (1) A body or the remains of a body which may have been interred in an authorised cemetery or in any other cemetery, burial ground or other place may not be exhumed without a permit granted by the Minister in consultation with other relevant stakeholders.

Permit to  
exhume

(2) The permit referred to in subsection (1) may be granted only to the legal personal representative or next-of-kin of the person buried, or to his or her duly authorised agent.

(3) The permit referred to in subsection (1) may be granted by the Minister in respect of any body, or the remains of a body, interred in any cemetery or burial ground or any other place, and the Minister may, in writing, prescribe the precautions and conditions as he or she may consider appropriate.

(4) Any person who exhumes a body or the remains of anybody contrary to this Act, or who neglects to observe the precautions and conditions prescribed in the permit commits an offence.

(5) Nothing contained in subsection (4) shall be deemed to affect the right of a magistrate to order the exhumation of a body or the remains of any body for the purpose of holding an enquiry into the cause of death of any person.

**126.** (1) The Minister may, in consultation with other relevant stakeholders, where he or she considers it expedient for the execution of any public work or any public mining or industrial purpose, remove any body or the remains of any body from any grave, whether in an authorised cemetery or elsewhere, and by Order, under his or her hand, direct the removal to be made in the manner as the Minister shall direct.

Essential  
exhumation

(2) An Order under subsection (1) shall not be made in respect of any grave situated in an authorised cemetery until six months' notice of the intention to make that Order has been given by notice published in the *Gazette*.

**127.** The Minister shall make proper and fitting arrangements for the reinterment, in an authorised cemetery of any body or remains of anybody removed under section 126 (1) and for the removal and re-erection of any monument; and all charges in connection with that reinterment, removal or re-erection of the monument shall be defrayed out of the Consolidated Fund.

Reinterment

**128.** (1) The Minister shall keep a record of every permit granted and of every Order made under sections 125 (1) and 126 (1), respectively.

Record of  
exhumations

(2) The record referred to in subsection (1) shall contain particulars, so far as the same can be ascertained, of the race, nationality, name, sex and age of the persons buried, date of burial, and of the place of original burial and of reburial or removal, and shall be open during office hours for inspection by any person.

Closing of  
cemeteries or  
burial ground

Requirements  
for international  
conveyance of  
dead bodies  
Cap. 65:01

**129.** A local authority may, in consultation with the Director, notify in the *Gazette* that any cemetery or burial ground shall, from that date as may be specified in the notification, be closed, and the cemetery or burial ground shall be closed accordingly, and any person who, after the specified date, buries anybody or the remains of anybody in that cemetery or burial ground, commits an offence.

**130.** (1) The provisions of this section shall apply in addition to the provisions of the Conveyance of Dead Bodies Act.

(2) A person shall not remove a dead body from Botswana, unless the body is contained in a coffin made of a prescribed material.

(3) Before being placed in the coffin, the dead body shall be —

(a) completely embalmed; and

(b) sealed in a plastic and placed in a strong hermetically sealed sheet-metal shell after all the orifices of the body have been first blocked with absorbent cotton and then the body itself being wrapped in a sheet saturated in a strong disinfectant fluid.

(4) Before the body is transported, a health officer or an authorised officer shall inspect the coffin to ensure that there is no danger to health or any cause of offence arising during the transportation.

(5) After the inspection, the health officer or an authorised officer shall issue a certificate to indicate that there is no risk of transmission of any disease.

(6) Where in the opinion of the health officer or an authorised officer, the requirements of subsections (3) and (4) have not been met, transportation shall be prohibited until the requirements have been met.

(7) The body shall be accompanied by a certificate of the cause of death signed by a qualified medical practitioner, or a duly certified copy of the certificate.

(8) Where the death occurred outside a health facility, the dead body shall also be accompanied by a certificate from the Botswana Police Service giving authority for the dead body to be removed from Botswana.

## PART XV — *Port Health*

Establishment  
of points  
of entry

Port health  
officers and  
programme

**131.** The Director shall consult the departments responsible for customs and immigration as well as other authorities relevant to the establishment of points of entry for purposes of port health services.

**132.** The Director shall, through port health programme designate a number of environmental health officers and authorised officers as the Director considers appropriate as port health officers for the implementation of the programme, and ensure that appropriate facilities for the programme at the points of entry are available.



- 133.** (1) Port health officers shall, at points of entry —
- (a) implement port health programmes and ensure compliance with public health laws;
  - (b) implement pest and vector control measures;
  - (c) arrange, where necessary, disinfection and disinfestations activities on vessels;
  - (d) monitor the quality of chemicals, safety of food and water including imported food and water and their certification documents;
  - (e) ensure the proper management of waste;
  - (f) verify the validity of health certificates, if any, of persons arriving at the port;
  - (g) inspect all vessels for possible infestation with pests or possible carriage of toxic wastes and prohibited substances; and
  - (h) detain and report any case of a quarantinable disease.
- (2) The Director may, in writing, issue specific instructions, to port health officers, related to public health issues at the point of entry.
- 134.** (1) The Director or a port health officer may, at any reasonable time, for proper performance of his or her duties and functions, enter any point of entry to make any inspection, or to perform any work, or do anything which is required or authorised by this Act or any other law.
- (2) The Director or a port health officer shall, in consultation with the relevant authorities, have a special identity card which shall allow him or her to enter any part of the points of entry in order to ensure that the provisions of this Act are complied with.
- (3) A person who denies entry to the Director, his or her deputy, a port health officer to enable him or her to perform any duty specified in this Act commits an offence.
- (4) Any person who contravenes or fails to comply with any provision of this Part commits an offence and is liable to a fine not exceeding P5 000, or to imprisonment for a term not exceeding 12 months, or to both.

Functions  
of port  
health officers

Powers of entry  
and inspection

## PART XVI — *Non-communicable Diseases*

- 135.** (1) Every user of health services has a right to participate in any decision affecting his or her personal health and treatment, unless it is not reasonably practicable for the user to participate.
- (2) Every health care provider shall inform the user of health services in an appropriate manner of —
- (a) the user's health status;
  - (b) the range of diagnostic procedures and treatment options generally available to the user;
  - (c) the benefits, risks, costs and consequences generally associated with the procedures and options referred to in paragraph (b); and
  - (d) the risks, costs and consequences that may arise in case of the user's premature discontinuation of treatment.

Participation  
in decisions

Basic health services	<p><b>136.</b> Every user of health services who has a non-communicable chronic condition has a right to basic health services that ensure —</p> <ul style="list-style-type: none"> <li>(a) continuity of health care;</li> <li>(b) greater access to appropriate specialised services;</li> <li>(c) access to appropriate care and monitoring chronic care;</li> <li>(d) home treatment and community services appropriate to chronic care; and</li> <li>(e) standard appropriate, evidence based treatment for the condition.</li> </ul>
Pharmacy management systems	<p><b>137.</b> The Director shall ensure that pharmacy management systems in public health facilities are established and efficient at all levels of the health system, to meet the needs of the patients with non-communicable diseases.</p>
Provision of services for persons with non-communicable diseases	<p><b>138.</b> The Director shall ensure that the provision of services for the management, prevention and control of non-communicable diseases is efficient.</p>
User's access	<p><b>139.</b> (1) A parent or a user who is a child shall have access to the records of that user unless —</p> <ul style="list-style-type: none"> <li>(a) the head of the health facility concerned, determines that disclosure of the content of that record to the parent could be prejudicial to the user;</li> <li>(b) the user, after being consulted by the head of the health facility, refuses to allow the contents of his or her health records to be disclosed to the parent; or</li> <li>(c) the access would be in contravention of the rights of the user.</li> </ul> <p>(2) The head of a health facility, after consulting with the health care provider responsible for, or designated by, the health facility may temporarily deny a user access to information contained in the user's health record if disclosure of that information would likely to be seriously prejudicial to the user.</p>
Treatment for experiment or research purposes	<p><b>140.</b> (1) A head of health facility shall inform the user being treated in that health facility in the appropriate manner if any treatment procedures applied to that user are, at the time of treatment, intended to be part of an experimental or research project.</p> <p>(2) The head of health facility shall not apply any treatment procedure on a user being treated at that health facility for a purpose contemplated for experiment or research, unless the following persons have each given prior written authorisation for the use of the procedure —</p> <ul style="list-style-type: none"> <li>(a) the user;</li> <li>(b) the health care provider primarily responsible for the user's treatment; and</li> <li>(c) the head of health facility and the ethics committee concerned or any other person or body to whom that authority has been delegated.</li> </ul>
Obligation to keep a record	<p><b>141.</b> A person or body in charge of a health facility shall maintain a permanent health record of every user of health services at that establishment in the prescribed manner.</p>

**142.** A health care provider may examine a user's health records for purposes of treatment, study, teaching or research, with the authorisation of the user, head of health facility concerned and the ethics committee.

Health care provider access to health records

**143.** Administration staff at any health facility may have access to the health records within the ordinary course of their duties.

Administration staff access to health records

**144.** (1) A health facility in which the user's details or files are recorded, shall set up control measures to prevent unauthorised access to those records and to the storage facility in which, or system by which, those records are kept.

Protection of health records

(2) A person who —

- (a) fails to perform a duty imposed on him or her concerning safety of health records;
- (b) falsifies any record by adding, deleting or changing any information contained in a health record;
- (c) creates, changes or destroys a health record without the authority to do so;
- (d) fails to create or change a health record when properly required to do so; or
- (e) provides false information with the intent that it be included in a health record,

commits an offence and is liable to a fine not exceeding P 5 000, or to imprisonment for a term not exceeding 12 months, or to both.

**145.** A person or user may, in writing, lay a complaint about the manner in which he or she is treated at a health facility and the complaint shall be investigated.

Laying of complaints

**146.** The Minister shall —

- (a) prescribe procedures to be followed by users of health services for laying complaints regarding the provision of health services; and
- (b) establish mechanisms to inform the users of health services of the procedures referred to in paragraph (a).

Complaints procedures

**147.** A user of health services shall —

- (a) adhere to the rules and regulations that exist in the relevant health services and health facilities;
- (b) provide the health care provider with accurate and all relevant information pertaining to the user's health status and generally cooperate with health care providers when using health services;
- (c) treat health care providers with dignity and respect;
- (d) assist in maintaining health facilities in habitable conditions;
- (e) sign a discharge certificate if the user of health services refuses to accept recommended treatment;
- (f) refrain from the use of tobacco products, non-prescribed alcohol products and other products or substances as may be hazardous, whilst on the premises of a health facility; and
- (g) refrain from carrying firearms or any other weapons in contravention of any law onto the premises of a health facility.

Duties of users of health services

Non-discrimination on grounds of health

**148.** (1) The head of a health facility shall not unfairly discriminate against any health care provider on account of the health care provider's health status.

(2) Without prejudice to subsection (1) the head of the health facility concerned may, in accordance with any guidelines determined by the Minister, impose conditions as he or she may consider necessary on the services that may be rendered by a health care provider on the basis of the health status of the user of the health service.

## PART XVII — *Child Health*

Routine childhood immunisations

**149.** (1) The Director shall, prescribe routine childhood immunisation, as set out in Schedule 5, which may be revised due to elimination and eradication of diseases or to cater for emerging and re-emerging public health problems.

(2) A parent of a child shall not refuse to present his or her child for immunisation.

(3) A parent of a child who contravenes subsection (2) commits an offence and is liable to a fine not exceeding P5 000, or to imprisonment for a term not exceeding 12 months, or to both.

(4) A court may order a parent who has been found guilty of an offence under subsection (3) to take the child concerned for immunisation within that period as the court may specify in the order.

(5) Where a health worker or a person duly authorised requires a parent of a child to furnish satisfactory proof that that child has been successfully vaccinated for all the routine immunisations, that parent shall furnish that proof without any resistance.

(6) A parent of a child resident in Botswana shall, as from the date of commencement of this Act, have vaccination records in his or her possession as proof of the vaccination status of that child.

(7) In addition to the immunisation required under subsection (1), every parent of a child shall give his or her child vitamins in accordance with the Vitamin A Supplementation Schedule set out in Schedule 6.

Consent to medical procedure

**150.** (1) Where consent is needed for a child to undergo a medical procedure or receive treatment, and the parent or legal guardian of the child declines to grant the consent, the medical practitioner shall use his or her professional judgment and carry out the medical procedure or administer the treatment.

(2) Where consent is needed for a child to undergo a medical procedure or receive treatment under subsection (1) and the parent of the child declines to grant the consent the medical practitioner shall ensure that —

- (a) the medical procedure is carried out by a registered medical practitioner in a government hospital or a registered private hospital, or a clinic approved for the purpose by the Director; and
- (b) at least one other medical practitioner has given his or her opinion in good faith, in writing, indicating that not to perform the medical procedure or administer the treatment would risk the life of the child concerned, provided that the seeking of a second opinion shall not compromise the treatment outcome.

(3) Legal proceedings, civil or criminal, shall not lie against the medical practitioner in relation to the performance of the medical procedure or treatment where that medical practitioner exercised reasonable care and diligence in carrying out his duties in connection with the procedure or treatment referred to in subsection (1).

**151.** (1) For purposes of disease surveillance, a member of the public shall report to the nearest health facility any case of occurrence of diseases prescribed by the Minister.

Surveillance

(2) A person who contravenes subsection (1) commits an offence and is liable to a fine not exceeding P1 000, or to imprisonment for a term not exceeding three months, or to both.

(3) A health worker, whether employed in the public or private sector, shall report to the public health specialist in the district all suspected cases of prescribed diseases that come to his or her attention, and carry out investigations in such manner as may be prescribed by regulations.

(4) The public health specialist referred to in subsection (3) shall ensure that active surveillance of prescribed diseases or occurrence in his or her district is done in accordance with any directive from the Minister.

(5) For the purpose of eradicating poliomyelitis and eliminating measles, a health worker, whether employed in the public or private sector, who suspects a case of poliomyelitis or measles shall report the case to the public health specialist of the district concerned, and collect relevant specimen for investigations.

(6) A health worker who contravenes subsection (5) commits an offence and is liable to a fine not exceeding P5 000, or to imprisonment for a term not exceeding 12 months, or to both.

## PART XVIII — *Basements, Nursing Homes, etc.*

**152.** (1) A person shall not, without the permission of a health officer, live in, occupy for use or let or sublet, or suffer or permit to be used, any basement for human habitation.

Basements  
as human  
habitation

(2) A person shall not, without the written permission of a health officer, use any basement as a shop, workshop or factory or for the preparation or storage of food, and shall only use that basement if it is well lit and well ventilated, free from damp and is rendered rodent proof to the satisfaction of a health officer.

Private  
hospitals and  
nursing homes

**153.** (1) A person shall not open or keep open a nursing home, maternity home, convalescent home, private hospital, clinic or any institution where invalids or convalescents are treated or received upon payment of fees or charges unless the premises are registered and the keeper or manager of that nursing home, maternity home, private hospital, clinic or any institution is licensed by the Minister in terms of the Private Hospitals and Nursing Homes Act.

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(2) The Director may, in writing, authorise a health officer to visit the premises referred to in subsection (1) and to report to him or her upon any matter or thing connected with the premises or the use of the premises.

(3) A person who knowingly obstructs a health officer authorised under subsection (2) in the discharge of his or her duties under that subsection commits an offence.

Supervision  
of vaccines,  
etc.

**154.** The Director may provide for the inspection, sampling and examination of vaccines, vaccine lymph, sera, toxins, anti-toxins, antigens, insulin, and other therapeutic substance as may be defined by regulations, imported into, or manufactured in Botswana, and intended or used for the prevention or treatment of human or animal diseases, and —

- (a) shall regulate their sale or supply;
- (b) prohibit their sale or supply; and
- (c) prohibit the importation, manufacture, sale or use of the substance which is considered to be unsafe or to be liable to be harmful or dangerous to health.

Examination  
of person older  
than 12 years

**155.** Notwithstanding any other provisions of this Act, where power is conferred enabling a person to be compulsorily examined, if the person being examined is over the age of 12 years, he or she shall have the right to demand that the examination be conducted by a health officer of the same gender or, where a health officer of the same gender is not available to conduct examination, that the examination be made in the presence of the parent of the person to be examined or in the presence of another person of the same gender as the person being examined.

#### PART XIX — *National Public Health Laboratory*

National  
Public Health  
Laboratory

**156.** (1) The Director may, by notice in the *Gazette*, establish or designate an institution as a National Public Health Laboratory.

(2) The functions of a National Public Health Laboratory shall be to —

- (a) provide and improve microbiological, chemical, toxicological, eco-toxicological and epidemiological services in the investigation of diseases and health surveillance in public health and hospital services; and
- (b) serve as a reference and research facility for health promotion and mitigation.

**157.** (1) The Minister shall designate a number of public analysts, from among suitably qualified persons, as may be required for the purposes of this Act.

Public  
analysts

(2) A public analyst shall analyse or examine promptly any specimen sent to him or her by a health officer or an authorised officer under the provisions of this Act.

(3) Subject to subsection (2), a public analyst shall notify the health officer or an authorised officer the result of the analysis or examination conducted, and shall issue, in respect of that analysis or examination, a certificate specifying the results of that analysis or examination.

(4) After the notification by the public analyst of the result of the analysis or examination conducted under subsection (2), the health officer or an authorised officer shall immediately notify the head of the relevant district health team of the test results which show that there is a disease outbreak in the district.

(5) In any proceedings under this Act, a certificate purporting to be signed by a public analyst shall be accepted as *prima facie* evidence of the facts stated in the certificate.

## PART XX — *Control of Use of Tissue and Organs in Humans*

**158.** (1) There is hereby established a National Blood Transfusion Service.

National  
Blood  
Transfusion  
Service

(2) The structure of the National Blood Transfusion Service shall be determined by the Minister by regulations.

(3) The National Blood Transfusion Service may establish district units that will exercise maximum management autonomy.

(4) The executive authority over blood transfusion services shall vest in the National Blood Transfusion Service.

(5) A person other than the National Blood Transfusion Service shall not render a blood transfusion service in Botswana.

(6) A person who contravenes the provisions of subsection (6) commits an offence.

(7) The National Blood Transfusion Service shall be a non-profit making organisation.

**159.** (1) The Minister may, by notice in the *Gazette*, designate any institution which is not an institution referred to in section 168, as an authorised institution for the purposes of empowering the institution to —

Designation of  
authorised  
institution

- (a) acquire, use and supply bodies of deceased persons for any of the purposes referred to in section 169;
- (b) acquire or use any tissue lawfully imported or removed from the body of a living or deceased person for any of the purposes referred to in section 161 or 169, as the case may be; and
- (c) supply any tissue preserved by it to an institution or person referred to in section 168 for any of the purposes referred to in section 161 or 169.

	<p>(2) When designating an institution as an authorised institution, the Minister may impose conditions as the Minister may consider appropriate and may vary or withdraw the conditions.</p>
Consent for the removal of tissue, blood or gametes from living persons	<p><b>160.</b> A person shall not remove tissue, blood or gametes from the body of another living person for a purpose referred to in section 161 unless the removal is effected —</p> <ul style="list-style-type: none"> <li>(a) in accordance with the prescribed conditions; and</li> <li>(b) with the written consent to such removal, granted in the prescribed manner.</li> </ul>
Purposes for which tissue, blood or gametes from living persons may be used	<p><b>161.</b> (1) Subject to the provisions of this Part, and unless otherwise prescribed, a person may use tissue, blood or gametes removed or withdrawn from a living person only for medical or dental purposes.</p> <p>(2) A person shall not use any tissue, blood or gametes of the following types of persons for the purposes that are contemplated in section 169 —</p> <ul style="list-style-type: none"> <li>(a) tissue, blood or gametes of a person who is mentally ill within the meaning of the Mental Disorders Act;</li> <li>(b) tissue which is not replaceable by natural processes and which has been removed from a person younger than eighteen years of age;</li> <li>(c) a gamete removed from a person younger than eighteen years of age; or</li> <li>(d) placenta, foetal tissue and umbilical cord, except with the prior consent, in writing, of the Minister and subject to that condition as may be in the consent.</li> </ul>
Cap. 63:02	
Prohibition of transplant of gonads	<p><b>162.</b> (1) A person shall not transplant a gonad removed from a deceased or living person to another living person where the transplant could result in procreation, without the prior written consent of the Minister.</p> <p>(2) A person who contravenes the provisions of subsection (1) commits an offence.</p>
Requirements with regard to tissue transplants	<p><b>163.</b> (1) A person shall not remove any tissue from a living person for transplantation to another living person or carry out such transplantation except —</p> <ul style="list-style-type: none"> <li>(a) in a hospital, health establishment or authorised institution; and</li> <li>(b) with the written authority of a medical practitioner responsible for clinical services in the hospital, health establishment or authorised institution concerned.</li> </ul> <p>(2) The medical practitioner referred to in subsection (1) (b) shall not participate in a transplant for which he or she has granted authorisation.</p>
Control of removal and use of tissue or blood	<p><b>164.</b> (1) A person shall not, unless that person is a medical practitioner, dental practitioner or authorised health officer, for the purposes of this Part, remove any tissue from a living person and use or transplant tissue so removed on another person.</p>



(2) A person shall not, unless he or she is a registered medical practitioner, dental practitioner, authorised health officer or a person acting under the supervision of the medical practitioner or dental practitioner, for the purpose of this Part, administer blood or blood product to a living person.

**165.** (1) A person shall not, unless that person is —

- (a) a person or institution referred to in section 159, an authorised institution or, in the case of tissue or gametes imported in terms of the regulations, the importer concerned, receive payment in respect of the importation or acquisition for, or the supply of any tissue or gamete or blood to another person for any of the purposes referred to in section 161 or 175; or
- (b) a person or institution referred to in section 168, or an authorised institution or person, receive any payment in respect of the importation or acquisition for, or the supply to, another person, of blood or blood product.

Payment in connection with importation, acquisition or supply of tissue, blood, blood products or gametes

(2) The provisions of this section shall not prevent a registered medical practitioner or registered dental practitioner from receiving remuneration for professional services rendered by him or her to any person.

(3) A person who receives any form of financial reward for donating tissue, gametes or blood, except for the reimbursement of costs incurred by him or her to provide the donation, commits an offence.

**166.** (1) Human organs obtained from deceased persons for the purpose of transplantation, treatment, or medical or dental training and research shall be national assets.

Human organs as national assets

(2) A person who charges a fee in relation to the donation of human organs commits an offence.

**167.** (1) A person who is competent to make a will may, in a will executed in accordance with the Wills Act —

- (a) donate his or her body or a specific tissue, to be used after his or her death for any medical or dental purposes in terms of this Act;
- (b) give consent to a post-mortem examination of his or her body for any of the purposes referred to in paragraph (a); or
- (c) nominate an institution or person as recipient of his or her body or specific tissue.

Donation of human bodies and tissue  
Cap. 31:04

(2) Subsection (1) (c) shall not apply in respect of the donation of an organ which constitutes a national asset, and the recipient of that organ shall be determined in terms of subsection (4).

(3) In the absence of a donation under subsection (1) (a) or of a contrary direction given by that person, the spouse, adult child, parent, guardian, adult brother or adult sister of that person may, after the person's death, donate the body or any specific tissue of that person to an institution or person in terms of this Act.

	<p>(4) The Director may, in the absence of a donation under subsection (1) (a) or of a contrary direction given by that person, donate any specific tissue of that person to a specific institution or person where—</p> <p>(a) none of the persons referred to in subsection (3) can be located; and</p> <p>(b) the Director is satisfied that all reasonable steps have been taken to locate those persons.</p>
Institutions to which, and persons to whom, human bodies or tissue may be donated	<p><b>168.</b> (1) A human body, tissue, blood or gametes may be donated, in terms of section 167, to any institutions or persons.</p> <p>(2) A person shall only remove organs from a person and allocate them to another person in accordance with procedures prescribed by the Minister.</p> <p>(3) A person shall not transplant an organ into another person who is not a citizen or permanent resident of Botswana without the written authority of the Minister.</p> <p>(4) The Minister shall by regulation prescribe —</p> <p>(a) criteria for the approval of organ transplant facilities; and</p> <p>(b) monitoring of transplant facilities.</p>
Purposes of donation	<p><b>169.</b> A person may donate a human body or specific tissue to a person or institution only for —</p> <p>(a) the purpose of medical and dental training;</p> <p>(b) the purpose of research; or</p> <p>(c) therapeutic purposes, including the use of tissue on any living persons or for the production of a therapeutic, diagnostic or prophylactic substances.</p>
Revocation of donation	<p><b>170.</b> A donor may revoke a donation in the same way in which it was made or, in the case of a donation by way of a will or other document, also by the intentional revocation of that will or destruction of that document.</p>
Post-mortem examination of bodies	<p><b>171.</b> A post-mortem examination of a deceased person may be conducted before the burial of that person if —</p> <p>(a) the person gave consent prior to his or her death;</p> <p>(b) the spouse, adult child, parent, adult brother or sister of the deceased gave consent; or</p> <p>(c) the examination is necessary for determining the cause of death.</p>
Removal of tissue at post-mortem examination and obtaining of tissue by institutions and persons	<p><b>172.</b> (1) The Minister may, on the written application of an authorised institution or person requiring tissue for a purpose referred to in section 169, authorise that institution or a person, in writing, to obtain the tissue from a medical practitioner referred to in section 163 (1) and (b) or an authorised institution.</p> <p>(2) When granting the authorisation under subsection (1), the Minister may prescribe conditions for which the tissue that is obtained may be used.</p> <p>(3) Notwithstanding any other written law to the contrary, a medical practitioner who is conducting a post-mortem examination in terms of —</p> <p>(a) the Inquests Act; or</p> <p>(b) section 171 of this Act,</p> <p>may remove or cause to be removed from a body, tissue stated in an authority referred to in subsection (1) and shall hand it over to the person in possession of the authority.</p>
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## PART XXI — *Miscellaneous Provisions*

**173.** Notice, order or other document required or authorised to be served under this Act may be served by —

Service of notices

- (a) delivering it to, or at, the residence of the person to whom it is addressed;
- (b) where addressed to the owner or occupier of premises, by delivering it, or a true copy of the notice, order or other document, to a person apparently over the age of 16 years on the premises;
- (c) fixing it on a conspicuous part of the premises; or
- (d) post by a prepaid letter, and if served by post, shall *prima facie* be deemed to have been served at the time when the letter containing it would be delivered in the ordinary course of post, and in proving such service it shall be sufficient to prove that the notice, order or other document was properly addressed and put in the post.

**174.** A defect in the form of any notice or order made under this Act shall not invalidate or render unlawful an administrative action, or be a ground for exception to any legal proceedings, which may be taken in the matter to which such notice or order relates, where the requirements of the notice or order are substantially and intelligibly set out.

Defect in form

**175.** (1) A health officer, veterinary officer, or a police officer of or above the rank of sergeant or any other person generally or specially authorised, in writing, by the Minister may, at any reasonable hour for the proper performance of his or her duty, enter any land, building, dwelling or premises to make any inspection or to perform any work or to do anything which is required or authorised by this Act or any other law to be done, if such inspection, work or thing is necessary for, or incidental to, the performance of his or her duties or the exercise of his or her powers.

Powers of entry and inspection

(2) A person who —

- (a) fails to give or refuses access to any health officer, veterinary officer, police officer or person authorised under subsection (1), if the officer or the person authorised requests entrance on any land or premises;
  - (b) obstructs or hinders any officer or person referred to in paragraph (a) in the execution of his or her duties under this Act;
  - (c) fails or refuses to give information that he or she may lawfully be required to give to any officer or person referred to in paragraph (a);
  - (d) gives to any officer or person, referred to in paragraph (a), false or misleading information knowing it to be false or misleading; or
  - (e) prevents the owner or any of his or her servants or workmen from complying with any requirement under this Act,
- commits an offence.

Penalties not expressly provided for

**176.** (1) A person who commits an offence against, or a contravention of, or a default in complying with, any provision of this Act, shall, where no penalty is expressly provided for that offence, contravention or default, be liable to a fine not exceeding P100 000, or to imprisonment for a term not exceeding five years, or to both.

(2) Notwithstanding subsection (1), where the offence is in respect of any land, building, dwelling or premises for which a licence is required under any law for the time being in force, for which any such conviction is obtained, the court may, in addition to, or in substitution for, any of the penalties, revoke or suspend that licence.

Regulations

**177.** (1) The Minister may make regulations for any matter which under this Act is to be provided for by regulations or which is required for the better carrying out of the objects and purposes of this Act.

(2) The Minister may, in consultation with other relevant stakeholders, develop a code of practice to guide architects, professional engineers, developers and members of the public on environmental health requirements for submission of building plans and for applications for licences to erect any structure for public use.

(3) Without prejudice to the generality of subsection (1), the Minister shall, prior to making any regulations relating to animals or poultry or disease of animals and poultry, consult the Minister responsible for Agriculture.

(4) Any regulations made under this section may prescribe penalties for any contravention, but such penalty shall not exceed P100 000, or imprisonment for a term not exceeding five years, or to both.

Enforcement of regulations by local authorities

**178.** Regulations made under section 177 (1), shall, in such areas as the Minister may direct, in consultation with the Minister responsible for local authority, by Order, be enforced by a local authority.

Powers of Minister to amend Schedules

**179.** The Minister may, by statutory instrument, amend the Schedules to this Act.

Repeal and savings  
Cap. 63:01

**180.** (1) The Public Health Act (hereinafter referred to as “the repealed Act”) is hereby repealed.

(2) Any subsidiary legislation made under or in accordance with the provisions of the repealed Act and in force immediately prior to the coming into operation of this Act, shall in so far as it is not inconsistent with the provisions of this Act continue to have force and effect as if it was made under this Act.

(3) Anything done under or in pursuance of the provisions of the repealed Act shall, insofar as it is not inconsistent with the provisions of this Act, continue to have force and effect as though it were done under or in pursuance of the provisions of this Act.

Transitional provisions

**181.** The Minister may make regulations providing for such transitional arrangements as shall be necessary for the coming into operation of this Act.

SCHEDULE 1  
(section 63 (1))

**INTERNATIONAL HEALTH REGULATIONS, 2005**

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## FOREWORD

A central and historic responsibility for the World Health Organization (WHO) has been the management of the global regime for the control of the international spread of disease. Under Articles 21 (a) and 22, the Constitution of WHO confers upon the World Health Assembly the authority to adopt regulations “designed to prevent the international spread of disease” which, after adoption by the Health Assembly, enter into force for all WHO Member States that do not affirmatively opt out of them within a specified time period.

The International Health Regulations (“the IHR” or “Regulations”) were adopted by the Health Assembly in 1969<sup>1</sup>, having been preceded by the International Sanitary Regulations adopted by the Fourth World Health Assembly in 1951. The 1969 Regulations, which initially covered six “quarantinable diseases” were amended in 1973<sup>2</sup> and 1981<sup>3</sup>, primarily to reduce the number of covered diseases from six to three (yellow fever, plague and cholera) and to mark the global eradication of smallpox.

In consideration of the growth in international travel and trade, and the emergence or re-emergence of international disease threats and other public health risks, the Forty-eighth World Health Assembly in 1995 called for a substantial revision of the Regulations adopted in 1969<sup>4</sup>. In resolution WHA48.7, the Health Assembly requested the Director-General to take steps to prepare their revision, urging broad participation and cooperation in the process. After extensive preliminary work on the revision by WHO’s Secretariat in close consultation with WHO Member States, international organisations and other relevant partners, and the momentum created by the emergence of severe acute respiratory syndrome (the first global public health emergency of the 21st century)<sup>5</sup>, the Health Assembly established an Intergovernmental Working Group in 2003 open to all Member States to review and recommend a draft revision of the Regulations to the Health Assembly<sup>6</sup>. The IHR (2005) were adopted by the Fifty-eighth World Health Assembly on 23 May 2005<sup>7</sup>. They entered into force on 15 June 2007.

The purpose and scope of the IHR (2005) are “to prevent, protect against, control and provide a public health response to the international spread of disease in ways that are commensurate with and restricted to public health risks, and which avoid unnecessary interference with international traffic and trade.” The IHR (2005) contain a range of innovations, including: (a) a scope not limited to any specific disease or manner of transmission, but covering “illness or medical condition, irrespective of origin or source, that presents or could present significant harm to humans”; (b) State Party obligations to develop certain minimum core public health capacities; (c) obligations on States Parties to notify WHO of events that may constitute a public health emergency of international concern according to defined criteria; (d) provisions authorizing WHO to take into consideration unofficial reports of public health events and to obtain verification from States Parties concerning such events; (e) procedures for the determination by the Director-General of a “public health emergency of international concern” and issuance of corresponding temporary recommendations, after taking into account the views of an Emergency Committee; (f) protection of the human rights of persons and travellers; and (g) the establishment of National IHR Focal Points and WHO IHR Contact Points for urgent communications between States Parties and WHO.

By not limiting the application of the IHR (2005) to specific diseases, it is intended that the Regulations will maintain their relevance and applicability for many years to come even in the face of the continued evolution of diseases and of the factors determining their emergence and transmission. The provisions in the IHR (2005) also update and revise many of the technical and other regulatory functions, including certificates applicable to international travel and transport, and requirements for international ports, airports and ground crossings.

This second edition contains the text of the IHR (2005), the text of World Health Assembly resolution WHA58.3, the version of the Health Part of the Aircraft General Declaration that entered into force on 15 July 2007, appendices containing a list of States Parties and State Party reservations and other communications in connection with the IHR (2005).

## **REVISION OF THE INTERNATIONAL HEALTH REGULATIONS**

The Fifty-eighth World Health Assembly,

Having considered the draft revised International Health Regulations<sup>1</sup>;

Having regard to articles 2 (*k*), 2 1 (*a*) and 22 of the Constitution of WHO;

Recalling references to the need for revising and updating the International Health Regulations in resolutions WHA48.7 on revision and updating of the International Health Regulations, WHA54.14 on global health security: epidemic alert and response, WHA55.16 on global public health response to natural occurrence, accidental release or deliberate use of biological and chemical agents or radionuclear material that affect health, WHA56.28 on revision of the International Health Regulations, and WHA56.29 on severe acute respiratory syndrome (SARS), with a view to responding to the need to ensure global public health;

Welcoming resolution 58/3 of the United Nations General Assembly on enhancing capacity building in global public health, which underscores the importance of the International Health Regulations and urges that high priority should be given to their revision;

Affirming the continuing importance of WHO's role in global outbreak alert and response to public health events, in accordance with its mandate;

Underscoring the continued importance of the International Health Regulations as the key global instrument for protection against the international spread of disease;

1. Commending the successful conclusion of the work of the Intergovernmental Working Group on Revision of the International Health Regulations, ADOPTS the revised International Health Regulations attached to this resolution, to be referred to as the "International Health Regulations (2005)";

2. CALLS UPON Member States and the Director-General to implement fully the International Health Regulations (2005), in accordance with the purpose and scope set out in Article 2 and the principles embodied in Article 3;



3. DECIDES, for the purposes of paragraph 1 of Article 54 of the International Health Regulations (2005), that States Parties and the Director-General shall submit their first report to the Sixty-first World Health Assembly, and that the Health Assembly shall on that occasion consider the schedule for the submission of further such reports and the first review on the functioning of the Regulations pursuant to paragraph 2 of Article 54;

4. FURTHER DECIDES that, for the purposes of paragraph 1 of Article 14 of the International Health Regulations (2005), the other competent intergovernmental organisations or international bodies with which WHO is expected to cooperate and coordinate its activities, as appropriate, include the following: United Nations, International Labour Organization, Food and Agriculture Organization, International Atomic Energy Agency, International Civil Aviation Organization, International Maritime Organization, International Committee of the Red Cross, International Federation of Red Cross and Red Crescent Societies, International Air Transport Association, International Shipping Federation, and *Office International des Epizooties*;

5. URGES Member States:

- (1) to build, strengthen and maintain the capacities required under the International Health Regulations (2005), and to mobilize the resources necessary for that purpose;
- (2) to collaborate actively with each other and WHO in accordance with the relevant provisions of the International Health Regulations (2005), so as to ensure their effective implementation;
- (3) to provide support to developing countries and countries with economies in transition if they so request in the building, strengthening and maintenance of the public health capacities required under the International Health Regulations (2005);
- (4) to take all appropriate measures for furthering the purpose and eventual implementation of the International Health Regulations (2005) pending their entry into force, including development of the necessary public health capacities and legal and administrative provisions, and, in particular, to initiate the process for introducing use of the decision instrument contained in Annex 2;

6. REQUESTS the Director-General:

- (1) to give prompt notification of adoption of the International Health Regulations (2005) in accordance with paragraph 1 of Article 65 thereof;
- (2) to inform other competent intergovernmental organisations or international bodies of adoption of the International Health Regulations (2005) and, as appropriate, to cooperate with them in the updating of their norms and standards and to coordinate with them the activities of WHO under the International Health Regulations (2005) with a view to ensuring application of adequate measures for the protection of public health and strengthening of the global public-health response to the international spread of disease;

- (3) to transmit to the International Civil Aviation Organization (ICAO) the recommended changes to the Health Part of the Aircraft General Declaration,<sup>1</sup> and, after completion by ICAO of its revision of the Aircraft General Declaration, to inform the Health Assembly and replace Annex 9 of the International Health Regulations (2005) with the Health Part of the Aircraft General Declaration as revised by ICAO;
- (4) to build and strengthen the capacities of WHO to perform fully and effectively the functions entrusted to it under the International Health Regulations (2005), in particular through strategic health operations that provide support to countries in detection and assessment of, and response to, public health emergencies;
- (5) to collaborate with States Parties to the International Health Regulations (2005), as appropriate, including through the provision or facilitation of technical cooperation and logistical support;
- (6) to collaborate with States Parties to the extent possible in the mobilization of financial resources to provide support to developing countries in building, strengthening and maintaining the capacities required under the International Health Regulations (2005);
- (7) to draw up, in consultation with Member States, guidelines for the application of health measures at ground crossings in accordance with Article 29 of the International Health Regulations (2005);
- (8) to establish the Review Committee of the International Health Regulations (2005) in accordance with Article 50 of the Regulations;
- (9) to take steps immediately to prepare guidelines for implementation and evaluation of the decision instrument contained in the International Health Regulations (2005), including elaboration of a procedure for review of its functioning, which shall be submitted to the Health Assembly for its consideration pursuant to paragraph 3 of Article 54 of the Regulations;
- (10) to take steps to establish an IHR Roster of Experts and to invite proposals for its membership, pursuant to Article 47 of the International Health Regulations (2005).

## INTERNATIONAL HEALTH REGULATIONS (2005)

### PART I – DEFINITIONS, PURPOSE AND SCOPE, PRINCIPLES AND RESPONSIBLE AUTHORITIES

#### *Article 1 – Definitions*

1. For the purposes of the International Health Regulations (hereinafter “the IHR” or “Regulations”):
  - “affected” means persons, baggage, cargo, containers, conveyances, goods, postal parcels or human remains that are infected or contaminated, or carry sources of infection or contamination, so as to constitute a public health risk;
  - “affected area” means a geographical location specifically for which health measures have been recommended by WHO under these Regulations;
  - “aircraft” means an aircraft making an international voyage;
  - “airport” means any airport where international flights arrive or depart;
  - “arrival” of a conveyance means:
    - (a) in the case of a seagoing vessel, arrival or anchoring in the defined area of a port;
    - (b) in the case of an aircraft, arrival at an airport;
    - (c) in the case of an inland navigation vessel on an international voyage, arrival at a point of entry;
    - (d) in the case of a train or road vehicle, arrival at a point of entry;
  - “baggage” means the personal effects of a traveller;
  - “cargo” means goods carried on a conveyance or in a container;
  - “competent authority” means an authority responsible for the implementation and application of health measures under these Regulations;
  - “container” means an article of transport equipment:
    - (a) of a permanent character and accordingly strong enough to be suitable for repeated use;
    - (b) specially designed to facilitate the carriage of goods by one or more modes of transport, without intermediate reloading;
    - (c) fitted with devices permitting its ready handling, particularly its transfer from one mode of transport to another; and
    - (d) specially designed as to be easy to fill and empty;
  - “container loading area” means a place or facility set aside for containers used in international traffic;
  - “contamination” means the presence of an infectious or toxic agent or matter on a human or animal body surface, in or on a product prepared for consumption or on other inanimate objects, including conveyances, that may constitute a public health risk;
  - “conveyance” means an aircraft, ship, train, road vehicle or other means of transport on an international voyage;
  - “conveyance operator” means a natural or legal person in charge of a conveyance or their agent;
  - “crew” means persons on board a conveyance who are not passengers;

- “decontamination” means a procedure whereby health measures are taken to eliminate an infectious or toxic agent or matter on a human or animal body surface, in or on a product prepared for consumption or on other inanimate objects, including conveyances, that may constitute a public health risk;
- “departure” means, for persons, baggage, cargo, conveyances or goods, the act of leaving a territory;
- “deratting” means the procedure whereby health measures are taken to control or kill rodent vectors of human disease present in baggage, cargo, containers, conveyances, facilities, goods and postal parcels at the point of entry;
- “Director-General” means the Director-General of the World Health Organization;
- “disease” means an illness or medical condition, irrespective of origin or source, that presents or could present significant harm to humans;
- “disinfection” means the procedure whereby health measures are taken to control or kill infectious agents on a human or animal body surface or in or on baggage, cargo, containers, conveyances, goods and postal parcels by direct exposure to chemical or physical agents;
- “disinsection” means the procedure whereby health measures are taken to control or kill the insect vectors of human diseases present in baggage, cargo, containers, conveyances, goods and postal parcels;
- “event” means a manifestation of disease or an occurrence that creates a potential for disease;
- “*free pratique*” means permission for a ship to enter a port, embark or disembark, discharge or load cargo or stores; permission for an aircraft, after landing, to embark or disembark, discharge or load cargo or stores; and permission for a ground transport vehicle, upon arrival, to embark or disembark, discharge or load cargo or stores;
- “goods” mean tangible products, including animals and plants, transported on an international voyage, including for utilization on board a conveyance;
- “ground crossing” means a point of land entry in a State Party, including one utilised by road vehicles and trains;
- “ground transport vehicle” means a motorized conveyance for overland transport on an international voyage, including trains, coaches, lorries and automobiles;
- “health measure” means procedures applied to prevent the spread of disease or contamination; a health measure does not include law enforcement or security measures;
- “ill person” means an individual suffering from or affected with a physical ailment that may pose a public health risk;
- “infection” means the entry and development or multiplication of an infectious agent in the body of humans and animals that may constitute a public health risk;
- “inspection” means the examination, by the competent authority or under its supervision, of areas, baggage, containers, conveyances, facilities, goods or postal parcels, including relevant data and documentation, to determine if a public health risk exists;
- “international traffic” means the movement of persons, baggage, cargo, containers, conveyances, goods or postal parcels across an international border, including international trade;

“international voyage” means:

- (a) in the case of a conveyance, a voyage between points of entry in the territories of more than one State, or a voyage between points of entry in the territory or territories of the same State if the conveyance has contacts with the territory of any other State on its voyage but only as regards those contacts;
- (b) in the case of a traveller, a voyage involving entry into the territory of a State other than the territory of the State in which that traveller commences the voyage;

“intrusive” means possibly provoking discomfort through close or intimate contact or questioning;

“invasive” means the puncture or incision of the skin or insertion of an instrument or foreign material into the body or the examination of a body cavity. For the purposes of these Regulations, medical examination of the ear, nose and mouth, temperature assessment using an ear, oral or cutaneous thermometer, or thermal imaging; medical inspection; auscultation; external palpation; retinoscopy; external collection of urine, faeces or saliva samples; external measurement of blood pressure; and electrocardiography shall be considered to be non-invasive;

“isolation” means separation of ill or contaminated persons or affected baggage, containers, conveyances, goods or postal parcels from others in such a manner as to prevent the spread of infection or contamination;

“medical examination” means the preliminary assessment of a person by an authorised health worker or by a person under the direct supervision of the competent authority, to determine the person’s health status and potential public health risk to others, and may include the scrutiny of health documents, and a physical examination when justified by the circumstances of the individual case;

“National IHR Focal Point” means the national centre, designated by each State Party, which shall be accessible at all times for communications with WHO IHR Contact Points under these Regulations;

“Organization” or “WHO” means the World Health Organization;

“permanent residence” has the meaning as determined in the national law of the State Party concerned;

“personal data” means any information relating to an identified or identifiable natural person;

“point of entry” means a passage for international entry or exit of travellers, baggage, cargo, containers, conveyances, goods and postal parcels as well as agencies and areas providing services to them on entry or exit;

“port” means a seaport or a port on an inland body of water where ships on an international voyage arrive or depart;

“postal parcel” means an addressed article or package carried internationally by postal or courier services;

“public health emergency of international concern” means an extraordinary event which is determined, as provided in these Regulations:

- (i) to constitute a public health risk to other States through the international spread of disease; and
- (ii) to potentially require a coordinated international response;

“public health observation” means the monitoring of the health status of a traveller over time for the purpose of determining the risk of disease transmission;

“public health risk” means a likelihood of an event that may affect adversely the health of human populations, with an emphasis on one which may spread internationally or may present a serious and direct danger;

“quarantine” means the restriction of activities and/or separation from others of suspect persons who are not ill or of suspect baggage, containers, conveyances or goods in such a manner as to prevent the possible spread of infection or contamination;

“recommendation” and “recommended” refer to temporary or standing recommendations issued under these Regulations;

“reservoir” means an animal, plant or substance in which an infectious agent normally lives and whose presence may constitute a public health risk;

“road vehicle” means a ground transport vehicle other than a train;

“scientific evidence” means information furnishing a level of proof based on the established and accepted methods of science;

“scientific principles” means the accepted fundamental laws and facts of nature known through the methods of science;

“ship” means a seagoing or inland navigation vessel on an international voyage;

“standing recommendation” means non-binding advice issued by WHO for specific ongoing public health risks pursuant to Article 16 regarding appropriate health measures for routine or periodic application needed to prevent or reduce the international spread of disease and minimize interference with international traffic;

“surveillance” means the systematic ongoing collection, collation and analysis of data for public health purposes and the timely dissemination of public health information for assessment and public health response as necessary;

“suspect” means those persons, baggage, cargo, containers, conveyances, goods or postal parcels considered by a State Party as having been exposed, or possibly exposed, to a public health risk and that could be a possible source of spread of disease;

“temporary recommendation” means non-binding advice issued by WHO pursuant to Article 15 for application on a time-limited, risk-specific basis, in response to a public health emergency of international concern, so as to prevent or reduce the international spread of disease and minimize interference with international traffic;

“temporary residence” has the meaning as determined in the national law of the State Party concerned;

“traveller” means a natural person undertaking an international voyage;

“vector” means an insect or other animal which normally transports an infectious agent that constitutes a public health risk;

“verification” means the provision of information by a State Party to WHO confirming the status of an event within the territory or territories of that State Party;

“WHO IHR Contact Point” means the unit within WHO which shall be accessible at all times for communications with the National IHR Focal Point.

2. Unless otherwise specified or determined by the context, reference to these Regulations includes the annexes thereto.

## *Article 2 – Purpose and scope*

The purpose and scope of these Regulations are to prevent, protect against, control and provide a public health response to the international spread of disease in ways that are commensurate with and restricted to public health risks, and which avoid unnecessary interference with international traffic and trade.

## *Article 3 – Principles*

1. The implementation of these Regulations shall be with full respect for the dignity, human rights and fundamental freedoms of persons.
2. The implementation of these Regulations shall be guided by the Charter of the United Nations and the Constitution of the World Health Organization.
3. The implementation of these Regulations shall be guided by the goal of their universal application for the protection of all people of the world from the international spread of disease.
4. States have, in accordance with the Charter of the United Nations and the principles of international law, the sovereign right to legislate and to implement legislation in pursuance of their health policies. In doing so they should uphold the purpose of these Regulations.

## *Article 4 – Responsible authorities*

1. Each State Party shall designate or establish a National IHR Focal Point and the authorities responsible within its respective jurisdiction for the implementation of health measures under these Regulations.

2. National IHR Focal Points shall be accessible at all times for communications with the WHO IHR Contact Points provided for in paragraph 3 of this Article. The functions of National IHR Focal Points shall include:

- (a) sending to WHO IHR Contact Points, on behalf of the State Party concerned, urgent communications concerning the implementation of these Regulations, in particular under Articles 6 to 12; and
- (b) disseminating information to, and consolidating input from, relevant sectors of the administration of the State Party concerned, including those responsible for surveillance and reporting, points of entry, public health services, clinics and hospitals and other government departments.

3. WHO shall designate IHR Contact Points, which shall be accessible at all times for communications with National IHR Focal Points. WHO IHR Contact Points shall send urgent communications concerning the implementation of these Regulations, in particular under Articles 6 to 12, to the National IHR Focal Point of the States Parties concerned. WHO IHR Contact Points may be designated by WHO at the headquarters or at the regional level of the Organization.

4. States Parties shall provide WHO with contact details of their National IHR Focal Point and WHO shall provide States Parties with contact details of WHO IHR Contact Points. These contact details shall be continuously updated and annually confirmed. WHO shall make available to all States Parties the contact details of National IHR Focal Points it receives pursuant to this Article.

## **PART II — INFORMATION AND PUBLIC HEALTH RESPONSE**

### *Article 5 — Surveillance*

1. Each State Party shall develop, strengthen and maintain, as soon as possible but no later than five years from the entry into force of these Regulations for that State Party, the capacity to detect, assess, notify and report events in accordance with these Regulations, as specified in Annex 1.

2. Following the assessment referred to in paragraph 2, Part A of Annex 1, a State Party may report to WHO on the basis of a justified need and an implementation plan and, in so doing, obtain an extension of two years in which to fulfil the obligation in paragraph 1 of this Article. In exceptional circumstances, and supported by a new implementation plan, the State Party may request a further extension not exceeding two years from the Director-General, who shall make the decision, taking into account the technical advice of the Committee established under Article 50 (hereinafter the “Review Committee”). After the period mentioned in paragraph 1 of this Article, the State Party that has obtained an extension shall report annually to WHO on progress made towards the full implementation.

3. WHO shall assist States Parties, upon request, to develop, strengthen and maintain the capacities referred to in paragraph 1 of this Article.

4. WHO shall collect information regarding events through its surveillance activities and assess their potential to cause international disease spread and possible interference with international traffic. Information received by WHO under this paragraph shall be handled in accordance with Articles 11 and 45 where appropriate.

### *Article 6 — Notification*

1. Each State Party shall assess events occurring within its territory by using the decision instrument in Annex 2. Each State Party shall notify WHO, by the most efficient means of communication available, by way of the National IHR Focal Point, and within 24 hours of assessment of public health information, of all events which may constitute a public health emergency of international concern within its territory in accordance with the decision instrument, as well as any health measure implemented in response to those events. If the notification received by WHO involves the competency of the International Atomic Energy Agency (IAEA), WHO shall immediately notify the IAEA.

2. Following a notification, a State Party shall continue to communicate to WHO timely, accurate and sufficiently detailed public health information available to it on the notified event, where possible including case definitions, laboratory results, source and type of the risk, number of cases and deaths, conditions affecting the spread of the disease and the health measures employed; and report, when necessary, the difficulties faced and support needed in responding to the potential public health emergency of international concern.

### *Article 7 — Information-sharing during unexpected or unusual public health events*

If a State Party has evidence of an unexpected or unusual public health event within its territory, irrespective of origin or source, which may constitute a public health emergency of international concern, it shall provide to WHO all relevant public health information. In such a case, the provisions of Article 6 shall apply in full.



#### *Article 8 – Consultation*

In the case of events occurring within its territory not requiring notification as provided in Article 6, in particular those events for which there is insufficient information available to complete the decision instrument, a State Party may nevertheless keep WHO advised thereof through the National IHR Focal Point and consult with WHO on appropriate health measures. Such communications shall be treated in accordance with paragraphs 2 to 4 of Article 11. The State Party in whose territory the event has occurred may request WHO assistance to assess any epidemiological evidence obtained by that State Party.

#### *Article 9 – Other reports*

1. WHO may take into account reports from sources other than notifications or consultations and shall assess these reports according to established epidemiological principles and then communicate information on the event to the State Party in whose territory the event is allegedly occurring. Before taking any action based on such reports, WHO shall consult with and attempt to obtain verification from the State Party in whose territory the event is allegedly occurring in accordance with the procedure set forth in Article 10. To this end, WHO shall make the information received available to the States Parties and only where it is duly justified may WHO maintain the confidentiality of the source. This information will be used in accordance with the procedure set forth in Article 11.

2. States Parties shall, as far as practicable, inform WHO within 24 hours of receipt of evidence of a public health risk identified outside their territory that may cause international disease spread, as manifested by exported or imported:

- (a) human cases;
- (b) vectors which carry infection or contamination; or
- (c) goods that are contaminated.

#### *Article 10 – Verification*

1. WHO shall request, in accordance with Article 9, verification from a State Party of reports from sources other than notifications or consultations of events which may constitute a public health emergency of international concern allegedly occurring in the State's territory. In such cases, WHO shall inform the State Party concerned regarding the reports it is seeking to verify.

2. Pursuant to the foregoing paragraph and to Article 9, each State Party, when requested by WHO, shall verify and provide:

- (a) within 24 hours, an initial reply to, or acknowledgement of, the request from WHO;
- (b) within 24 hours, available public health information on the status of events referred to in WHO's request; and
- (c) information to WHO in the context of an assessment under Article 6, including relevant information as described in that Article.

3. When WHO receives information of an event that may constitute a public health emergency of international concern, it shall offer to collaborate with the State Party concerned in assessing the potential for international disease spread, possible interference with international traffic and the adequacy of control measures. Such activities may include collaboration with other standard-setting organizations and the offer to mobilize international assistance in order to support the national authorities in conducting and coordinating on-site assessments. When requested by the State Party, WHO shall provide information supporting such an offer.

4. If the State Party does not accept the offer of collaboration, WHO may, when justified by the magnitude of the public health risk, share with other States Parties the information available to it, whilst encouraging the State Party to accept the offer of collaboration by WHO, taking into account the views of the State Party concerned.

#### *Article 11 – Provision of information by WHO*

1. Subject to paragraph 2 of this Article, WHO shall send to all States Parties and, as appropriate, to relevant intergovernmental organisations, as soon as possible and by the most efficient means available, in confidence, such public health information which it has received under Articles 5 to 10 inclusive and which is necessary to enable States Parties to respond to a public health risk. WHO should communicate information to other States Parties that might help them in preventing the occurrence of similar incidents.

2. WHO shall use information received under Articles 6 and 8 and paragraph 2 of Article 9 for verification, assessment and assistance purposes under these Regulations and, unless otherwise agreed with the States Parties referred to in those provisions, shall not make this information generally available to other States Parties, until such time as:

- (a) the event is determined to constitute a public health emergency of international concern in accordance with Article 12; or
- (b) information evidencing the international spread of the infection or contamination has been confirmed by WHO in accordance with established epidemiological principles; or
- (c) there is evidence that:
  - (i) control measures against the international spread are unlikely to succeed because of the nature of the contamination, disease agent, vector or reservoir; or
  - (ii) the State Party lacks sufficient operational capacity to carry out necessary measures to prevent further spread of disease; or
- (d) the nature and scope of the international movement of travellers, baggage, cargo, containers, conveyances, goods or postal parcels that may be affected by the infection or contamination requires the immediate application of international control measures.

3. WHO shall consult with the State Party in whose territory the event is occurring as to its intent to make information available under this Article.

4. When information received by WHO under paragraph 2 of this Article is made available to States Parties in accordance with these Regulations, WHO may also make it available to the public if other information about the same event has already become publicly available and there is a need for the dissemination of authoritative and independent information.

#### *Article 12 – Determination of a public health emergency of international concern*

1. The Director-General shall determine, on the basis of the information received, in particular from the State Party within whose territory an event is occurring, whether an event constitutes a public health emergency of international concern in accordance with the criteria and the procedure set out in these Regulations.

2. If the Director-General considers, based on an assessment under these Regulations, that a public health emergency of international concern is occurring, the Director-General shall consult with the State Party in whose territory the event arises regarding this preliminary determination. If the Director-General and the State Party are in agreement regarding this determination, the Director-General shall, in accordance with the procedure set forth in Article 49, seek the views of the Committee established under Article 48 (hereinafter the “Emergency Committee”) on appropriate temporary recommendations.

3. If, following the consultation in paragraph 2 above, the Director-General and the State Party in whose territory the event arises do not come to a consensus within 48 hours on whether the event constitutes a public health emergency of international concern, a determination shall be made in accordance with the procedure set forth in Article 49.

4. In determining whether an event constitutes a public health emergency of international concern, the Director-General shall consider:

- (a) information provided by the State Party;
- (b) the decision instrument contained in Annex 2;
- (c) the advice of the Emergency Committee;
- (d) scientific principles as well as the available scientific evidence and other relevant information; and
- (e) an assessment of the risk to human health, of the risk of international spread of disease and of the risk of interference with international traffic.

5. If the Director-General, following consultations with the State Party within whose territory the public health emergency of international concern has occurred, considers that a public health emergency of international concern has ended, the Director-General shall take a decision in accordance with the procedure set out in Article 49.

#### *Article 13 – Public health response*

1. Each State Party shall develop, strengthen and maintain, as soon as possible but no later than five years from the entry into force of these Regulations for that State Party, the capacity to respond promptly and effectively to public health risks and public health emergencies of international concern as set out in Annex 1. WHO shall publish, in consultation with Member States, guidelines to support States Parties in the development of public health response capacities.

2. Following the assessment referred to in paragraph 2, Part A of Annex 1, a State Party may report to WHO on the basis of a justified need and an implementation plan and, in so doing, obtain an extension of two years in which to fulfil the obligation in paragraph 1 of this Article. In exceptional circumstances and supported by a new implementation plan, the State Party may request a further extension not exceeding two years from the Director-General, who shall make the decision, taking into account the technical advice of the Review Committee. After the period mentioned in paragraph 1 of this Article, the State Party that has obtained an extension shall report annually to WHO on progress made towards the full implementation.

3. At the request of a State Party, WHO shall collaborate in the response to public health risks and other events by providing technical guidance and assistance and by assessing the effectiveness of the control measures in place, including the mobilization of international teams of experts for on-site assistance, when necessary.

4. If WHO, in consultation with the States Parties concerned as provided in Article 12, determines that a public health emergency of international concern is occurring, it may offer, in addition to the support indicated in paragraph 3 of this Article, further assistance to the State Party, including an assessment of the severity of the international risk and the adequacy of control measures. Such collaboration may include the offer to mobilize international assistance in order to support the national authorities in conducting and coordinating on-site assessments. When requested by the State Party, WHO shall provide information supporting such an offer.

5. When requested by WHO, States Parties should provide, to the extent possible, support to WHO-coordinated response activities.

6. When requested, WHO shall provide appropriate guidance and assistance to other States Parties affected or threatened by the public health emergency of international concern.

*Article 14 – Cooperation of WHO with intergovernmental organisations and international bodies*

1. WHO shall cooperate and coordinate its activities, as appropriate, with other competent intergovernmental organisations or international bodies in the implementation of these Regulations, including through the conclusion of agreements and other similar arrangements.

2. In cases in which notification or verification of, or response to, an event is primarily within the competence of other intergovernmental organisations or international bodies, WHO shall coordinate its activities with such organisations or bodies in order to ensure the application of adequate measures for the protection of public health.

3. Notwithstanding the foregoing, nothing in these Regulations shall preclude or limit the provision by WHO of advice, support, or technical or other assistance for public health purposes.

**PART III – RECOMMENDATIONS**

*Article 15 – Temporary recommendations*

1. If it has been determined in accordance with Article 12 that a public health emergency of international concern is occurring, the Director-General shall issue temporary recommendations in accordance with the procedure set out in Article 49. Such temporary recommendations may be modified or extended as appropriate, including after it has been determined that a public health emergency of international concern has ended, at which time other temporary recommendations may be issued as necessary for the purpose of preventing or promptly detecting its recurrence.

2. Temporary recommendations may include health measures to be implemented by the State Party experiencing the public health emergency of international concern, or by other States Parties, regarding persons, baggage, cargo, containers, conveyances, goods and/or postal parcels to prevent or reduce the international spread of disease and avoid unnecessary interference with international traffic.

3. Temporary recommendations may be terminated in accordance with the procedure set out in Article 49 at any time and shall automatically expire three months after their issuance. They may be modified or extended for additional periods of up to three months. Temporary recommendations may not continue beyond the second World Health Assembly after the determination of the public health emergency of international concern to which they relate.

*Article 16 – Standing recommendations*

WHO may make standing recommendations of appropriate health measures in accordance with Article 53 for routine or periodic application. Such measures may be applied by States Parties regarding persons, baggage, cargo, containers, conveyances, goods and/or postal parcels for specific, ongoing public health risks in order to prevent or reduce the international spread of disease and avoid unnecessary interference with international traffic. WHO may, in accordance with Article 53, modify or terminate such recommendations, as appropriate.

### *Article 17 – Criteria for recommendations*

When issuing, modifying or terminating temporary or standing recommendations, the Director-General shall consider:

- (a) the views of the States Parties directly concerned;
- (b) the advice of the Emergency Committee or the Review Committee, as the case may be;
- (c) scientific principles as well as available scientific evidence and information;
- (d) health measures that, on the basis of a risk assessment appropriate to the circumstances, are not more restrictive of international traffic and trade and are not more intrusive to persons than reasonably available alternatives that would achieve the appropriate level of health protection;
- (e) relevant international standards and instruments;
- (f) activities undertaken by other relevant intergovernmental organisations and international bodies; and
- (g) other appropriate and specific information relevant to the event.

With respect to temporary recommendations, the consideration by the Director-General of subparagraphs (e) and (f) of this Article may be subject to limitations imposed by urgent circumstances.

### *Article 18 – Recommendations with respect to persons, baggage, cargo, containers, conveyances, goods and postal parcels*

1. Recommendations issued by WHO to States Parties with respect to persons may include the following advice:

- no specific health measures are advised;
- review travel history in affected areas;
- review proof of medical examination and any laboratory analysis;
- require medical examinations;
- review proof of vaccination or other prophylaxis;
- require vaccination or other prophylaxis;
- place suspect persons under public health observation;
- implement quarantine or other health measures for suspect persons;
- implement isolation and treatment where necessary of affected persons;
- implement tracing of contacts of suspect or affected persons;
- refuse entry of suspect and affected persons;
- refuse entry of unaffected persons to affected areas; and
- implement exit screening and/or restrictions on persons from affected areas.

2. Recommendations issued by WHO to States Parties with respect to baggage, cargo, containers, conveyances, goods and postal parcels may include the following advice:

- no specific health measures are advised;
- review manifest and routing;
- implement inspections;
- review proof of measures taken on departure or in transit to eliminate infection or contamination;
- implement treatment of the baggage, cargo, containers, conveyances, goods, postal parcels or human remains to remove infection or contamination, including vectors and reservoirs;

- the use of specific health measures to ensure the safe handling and transport of human remains;
- implement isolation or quarantine;
- seizure and destruction of infected or contaminated or suspect baggage, cargo, containers, conveyances, goods or postal parcels under controlled conditions if no available treatment or process will otherwise be successful; and
- refuse departure or entry.

## **PART IV — POINTS OF ENTRY**

### *Article 19 — General obligations*

Each State Party shall, in addition to the other obligations provided for under these Regulations:

- (a) ensure that the capacities set forth in Annex 1 for designated points of entry are developed within the timeframe provided in paragraph 1 of Article 5 and paragraph 1 of Article 13;
- (b) identify the competent authorities at each designated point of entry in its territory; and
- (c) furnish to WHO, as far as practicable, when requested in response to a specific potential public health risk, relevant data concerning sources of infection or contamination, including vectors and reservoirs, at its points of entry, which could result in international disease spread.

### *Article 20 — Airports and ports*

1. States Parties shall designate the airports and ports that shall develop the capacities provided in Annex 1.
2. States Parties shall ensure that Ship Sanitation Control Exemption Certificates and Ship Sanitation Control Certificates are issued in accordance with the requirements in Article 39 and the model provided in Annex 3.
3. Each State Party shall send to WHO a list of ports authorised to offer:
  - (a) the issuance of Ship Sanitation Control Certificates and the provision of the services referred to in Annexes 1 and 3; or
  - (b) the issuance of Ship Sanitation Control Exemption Certificates only; and
  - (c) extension of the Ship Sanitation Control Exemption Certificate for a period of one month until the arrival of the ship in the port at which the Certificate may be received.

Each State Party shall inform WHO of any changes which may occur to the status of the listed ports. WHO shall publish the information received under this paragraph.

4. WHO may, at the request of the State Party concerned, arrange to certify, after an appropriate investigation, that an airport or port in its territory meets the requirements referred to in paragraphs 1 and 3 of this Article. These certifications may be subject to periodic review by WHO, in consultation with the State Party.

5. WHO, in collaboration with competent intergovernmental organisations and international bodies, shall develop and publish the certification guidelines for airports and ports under this Article. WHO shall also publish a list of certified airports and ports.

*Article 21 – Ground crossings*

1. Where justified for public health reasons, a State Party may designate ground crossings that shall develop the capacities provided in Annex 1, taking into consideration:
  - (a) the volume and frequency of the various types of international traffic, as compared to other points of entry, at a State Party's ground crossings which might be designated; and
  - (b) the public health risks existing in areas in which the international traffic originates, or through which it passes, prior to arrival at a particular ground crossing.
2. States Parties sharing common borders should consider:
  - (a) entering into bilateral or multilateral agreements or arrangements concerning prevention or control of international transmission of disease at ground crossings in accordance with Article 57; and
  - (b) joint designation of adjacent ground crossings for the capacities in Annex 1 in accordance with paragraph 1 of this Article.

*Article 22 – Role of competent authorities*

1. The competent authorities shall:
  - (a) be responsible for monitoring baggage, cargo, containers, conveyances, goods, postal parcels and human remains departing and arriving from affected areas, so that they are maintained in such a condition that they are free of sources of infection or contamination, including vectors and reservoirs;
  - (b) ensure, as far as practicable, that facilities used by travellers at points of entry are maintained in a sanitary condition and are kept free of sources of infection or contamination, including vectors and reservoirs;
  - (c) be responsible for the supervision of any deratting, disinfection, disinsection or decontamination of baggage, cargo, containers, conveyances, goods, postal parcels and human remains or sanitary measures for persons, as appropriate under these Regulations;
  - (d) advise conveyance operators, as far in advance as possible, of their intent to apply control measures to a conveyance, and shall provide, where available, written information concerning the methods to be employed;
  - (e) be responsible for the supervision of the removal and safe disposal of any contaminated water or food, human or animal dejecta, wastewater and any other contaminated matter from a conveyance;
  - (f) take all practicable measures consistent with these Regulations to monitor and control the discharge by ships of sewage, refuse, ballast water and other potentially disease-causing matter which might contaminate the waters of a port, river, canal, strait, lake or other international waterway;

- (g) be responsible for supervision of service providers for services concerning travellers, baggage, cargo, containers, conveyances, goods, postal parcels and human remains at points of entry, including the conduct of inspections and medical examinations as necessary;
- (h) have effective contingency arrangements to deal with an unexpected public health event; and
- (i) communicate with the National IHR Focal Point on the relevant public health measures taken pursuant to these Regulations.

2. Health measures recommended by WHO for travellers, baggage, cargo, containers, conveyances, goods, postal parcels and human remains arriving from an affected area may be reapplied on arrival, if there are verifiable indications and/or evidence that the measures applied on departure from the affected area were unsuccessful.

3. Disinsection, deratting, disinfection, decontamination and other sanitary procedures shall be carried out so as to avoid injury and as far as possible discomfort to persons, or damage to the environment in a way which impacts on public health, or damage to baggage, cargo, containers, conveyances, goods and postal parcels.

## **PART V — PUBLIC HEALTH MEASURES**

### **Chapter I — General provisions**

#### *Article 23 — Health measures on arrival and departure*

1. Subject to applicable international agreements and relevant articles of these Regulations, a State Party may require for public health purposes, on arrival or departure:

(a) with regard to travellers:

- (i) information concerning the traveller's destination so that the traveller may be contacted;
- (ii) information concerning the traveller's itinerary to ascertain if there was any travel in or near an affected area or other possible contacts with infection or contamination prior to arrival, as well as review of the traveller's health documents if they are required under these Regulations; and/or
- (iii) a non-invasive medical examination which is the least intrusive examination that would achieve the public health objective;

(b) inspection of baggage, cargo, containers, conveyances, goods, postal parcels and human remains.

2. On the basis of evidence of a public health risk obtained through the measures provided in paragraph 1 of this Article, or through other means, States Parties may apply additional health measures, in accordance with these Regulations, in particular, with regard to a suspect or affected traveller, on a case-by-case basis, the least intrusive and invasive medical examination that would achieve the public health objective of preventing the international spread of disease.

3. No medical examination, vaccination, prophylaxis or health measure under these Regulations shall be carried out on travellers without their prior express informed consent or that of their parents or guardians, except as provided in paragraph 2 of Article 31, and in accordance with the law and international obligations of the State Party.



4. Travellers to be vaccinated or offered prophylaxis pursuant to these Regulations, or their parents or guardians, shall be informed of any risk associated with vaccination or with non-vaccination and with the use or non-use of prophylaxis in accordance with the law and international obligations of the State Party. States Parties shall inform medical practitioners of these requirements in accordance with the law of the State Party.

5. Any medical examination, medical procedure, vaccination or other prophylaxis which involves a risk of disease transmission shall only be performed on, or administered to, a traveller in accordance with established national or international safety guidelines and standards so as to minimize such a risk.

## **Chapter II — Special provisions for conveyances and conveyance operators**

### *Article 24 — Conveyance operators*

1. States Parties shall take all practicable measures consistent with these Regulations to ensure that conveyance operators:
  - (a) comply with the health measures recommended by WHO and adopted by the State Party;
  - (b) inform travellers of the health measures recommended by WHO and adopted by the State Party for application on board; and
  - (c) permanently keep conveyances for which they are responsible free of sources of infection or contamination, including vectors and reservoirs. The application of measures to control sources of infection or contamination may be required if evidence is found.
2. Specific provisions pertaining to conveyances and conveyance operators under this Article are provided in Annex 4. Specific measures applicable to conveyances and conveyance operators with regard to vector-borne diseases are provided in Annex 5.

### *Article 25 — Ships and aircraft in transit*

Subject to Articles 27 and 43 or unless authorised by applicable international agreements, no health measure shall be applied by a State Party to:

- (a) a ship not coming from an affected area which passes through a maritime canal or waterway in the territory of that State Party on its way to a port in the territory of another State. Any such ship shall be permitted to take on, under the supervision of the competent authority, fuel, water, food and supplies;
- (b) a ship which passes through waters within its jurisdiction without calling at a port or on the coast; and
- (c) an aircraft in transit at an airport within its jurisdiction, except that the aircraft may be restricted to a particular area of the airport with no embarking and disembarking or loading and discharging. However, any such aircraft shall be permitted to take on, under the supervision of the competent authority, fuel, water, food and supplies.

#### *Article 26 – Civilian lorries, trains and coaches in transit*

Subject to Articles 27 and 43 or unless authorised by applicable international agreements, no health measure shall be applied to a civilian lorry, train or coach not coming from an affected area which passes through a territory without embarking, disembarking, loading or discharging.

#### *Article 27 – Affected conveyances*

1. If clinical signs or symptoms and information based on fact or evidence of a public health risk, including sources of infection and contamination, are found on board a conveyance, the competent authority shall consider the conveyance as affected and may:

- (a) disinfect, decontaminate, disinsect or derat the conveyance, as appropriate, or cause these measures to be carried out under its supervision; and
- (b) decide in each case the technique employed to secure an adequate level of control of the public health risk as provided in these Regulations. Where there are methods or materials advised by WHO for these procedures, these should be employed, unless the competent authority determines that other methods are as safe and reliable.

The competent authority may implement additional health measures, including isolation of the conveyances, as necessary, to prevent the spread of disease. Such additional measures should be reported to the National IHR Focal Point.

2. If the competent authority for the point of entry is not able to carry out the control measures required under this Article, the affected conveyance may nevertheless be allowed to depart, subject to the following conditions:

- (a) the competent authority shall, at the time of departure, inform the competent authority for the next known point of entry of the type of information referred to under subparagraph (b); and
- (b) in the case of a ship, the evidence found and the control measures required shall be noted in the Ship Sanitation Control Certificate.

Any such conveyance shall be permitted to take on, under the supervision of the competent authority, fuel, water, food and supplies.

3. A conveyance that has been considered as affected shall cease to be regarded as such when the competent authority is satisfied that:

- (a) the measures provided in paragraph 1 of this Article have been effectively carried out; and
- (b) there are no conditions on board that could constitute a public health risk.

*Article 28 — Ships and aircraft at points of entry*

1. Subject to Article 43 or as provided in applicable international agreements, a ship or an aircraft shall not be prevented for public health reasons from calling at any point of entry. However, if the point of entry is not equipped for applying health measures under these Regulations, the ship or aircraft may be ordered to proceed at its own risk to the nearest suitable point of entry available to it, unless the ship or aircraft has an operational problem which would make this diversion unsafe.

2. Subject to Article 43 or as provided in applicable international agreements, ships or aircraft shall not be refused *free pratique* by States Parties for public health reasons; in particular they shall not be prevented from embarking or disembarking, discharging or loading cargo or stores, or taking on fuel, water, food and supplies. States Parties may subject the granting of *free pratique* to inspection and, if a source of infection or contamination is found on board, the carrying out of necessary disinfection, decontamination, disinsection or deratting, or other measures necessary to prevent the spread of the infection or contamination.

3. Whenever practicable and subject to the previous paragraph, a State Party shall authorise the granting of *free pratique* by radio or other communication means to a ship or an aircraft when, on the basis of information received from it prior to its arrival, the State Party is of the opinion that the arrival of the ship or aircraft will not result in the introduction or spread of disease.

4. Officers in command of ships or pilots in command of aircraft, or their agents, shall make known to the port or airport control as early as possible before arrival at the port or airport of destination any cases of illness indicative of a disease of an infectious nature or evidence of a public health risk on board as soon as such illnesses or public health risks are made known to the officer or pilot. This information must be immediately relayed to the competent authority for the port or airport. In urgent circumstances, such information should be communicated directly by the officers or pilots to the relevant port or airport authority.

5. The following shall apply if a suspect or affected aircraft or ship, for reasons beyond the control of the pilot in command of the aircraft or the officer in command of the ship, lands elsewhere than at the airport at which the aircraft was due to land or berths elsewhere than at the port at which the ship was due to berth:

- (a) the pilot in command of the aircraft or the officer in command of the ship or other person in charge shall make every effort to communicate without delay with the nearest competent authority;
- (b) as soon as the competent authority has been informed of the landing it may apply health measures recommended by WHO or other health measures provided in these Regulations;
- (c) unless required for emergency purposes or for communication with the competent authority, no traveller on board the aircraft or ship shall leave its vicinity and no cargo shall be removed from that vicinity, unless authorised by the competent authority; and
- (d) when all health measures required by the competent authority have been completed, the aircraft or ship may, so far as such health measures are concerned, proceed either to the airport or port at which it was due to land or berth, or, if for technical reasons it cannot do so, to a conveniently situated airport or port.

6. Notwithstanding the provisions contained in this Article, the officer in command of a ship or pilot in command of an aircraft may take such emergency measures as may be necessary for the health and safety of travellers on board. He or she shall inform the competent authority as early as possible concerning any measures taken pursuant to this paragraph.

*Article 29 — Civilian lorries, trains and coaches at points of entry*

WHO, in consultation with States Parties, shall develop guiding principles for applying health measures to civilian lorries, trains and coaches at points of entry and passing through ground crossings.

**Chapter III — Special provisions for travellers**

*Article 30 — Travellers under public health observation*

Subject to Article 43 or as authorised in applicable international agreements, a suspect traveller who on arrival is placed under public health observation may continue an international voyage, if the traveller does not pose an imminent public health risk and the State Party informs the competent authority of the point of entry at destination, if known, of the traveller's expected arrival. On arrival, the traveller shall report to that authority.

*Article 31 — Health measures relating to entry of travellers*

1. Invasive medical examination, vaccination or other prophylaxis shall not be required as a condition of entry of any traveller to the territory of a State Party, except that, subject to Articles 32, 42 and 45, these Regulations do not preclude States Parties from requiring medical examination, vaccination or other prophylaxis or proof of vaccination or other prophylaxis:

- (a) when necessary to determine whether a public health risk exists;
- (b) as a condition of entry for any travellers seeking temporary or permanent residence;
- (c) as a condition of entry for any travellers pursuant to Article 43 or Annexes 6 and 7; or
- (d) which may be carried out pursuant to Article 23.

2. If a traveller for whom a State Party may require a medical examination, vaccination or other prophylaxis under paragraph 1 of this Article fails to consent to any such measure, or refuses to provide the information or the documents referred to in paragraph 1 (a) of Article 23, the State Party concerned may, subject to Articles 32, 42 and 45, deny entry to that traveller. If there is evidence of an imminent public health risk, the State Party may, in accordance with its national law and to the extent necessary to control such a risk, compel the traveller to undergo or advise the traveller, pursuant to paragraph 3 of Article 23, to undergo:

- (a) the least invasive and intrusive medical examination that would achieve the public health objective;
- (b) vaccination or other prophylaxis; or
- (c) additional established health measures that prevent or control the spread of disease, including isolation, quarantine or placing the traveller under public health observation.

#### *Article 32 — Treatment of travellers*

In implementing health measures under these Regulations, States Parties shall treat travellers with respect for their dignity, human rights and fundamental freedoms and minimize any discomfort or distress associated with such measures, including by:

- (a) treating all travellers with courtesy and respect;
- (b) taking into consideration the gender, sociocultural, ethnic or religious concerns of travellers; and
- (c) providing or arranging for adequate food and water, appropriate accommodation and clothing, protection for baggage and other possessions, appropriate medical treatment, means of necessary communication if possible in a language that they can understand and other appropriate assistance for travellers who are quarantined, isolated or subject to medical examinations or other procedures for public health purposes.

### **Chapter IV — Special provisions for goods, containers and container loading areas**

#### *Article 33 — Goods in transit*

Subject to Article 43 or unless authorised by applicable international agreements, goods, other than live animals, in transit without transshipment shall not be subject to health measures under these Regulations or detained for public health purposes.

#### *Article 34 — Container and container loading areas*

1. States Parties shall ensure, as far as practicable, that container shippers use international traffic containers that are kept free from sources of infection or contamination, including vectors and reservoirs, particularly during the course of packing.

2. States Parties shall ensure, as far as practicable, that container loading areas are kept free from sources of infection or contamination, including vectors and reservoirs.

3. Whenever, in the opinion of a State Party, the volume of international container traffic is sufficiently large, the competent authorities shall take all practicable measures consistent with these Regulations, including carrying out inspections, to assess the sanitary condition of container loading areas and containers in order to ensure that the obligations contained in these Regulations are implemented.

4. Facilities for the inspection and isolation of containers shall, as far as practicable, be available at container loading areas.

5. Container consignees and consignors shall make every effort to avoid cross-contamination when multiple-use loading of containers is employed.

### **PART VI — HEALTH DOCUMENTS**

#### *Article 35 — General rule*

No health documents, other than those provided for under these Regulations or in recommendations issued by WHO, shall be required in international traffic, provided however that this Article shall not apply to travellers seeking temporary or permanent residence, nor shall it apply to document requirements concerning the public health status of goods or cargo in international trade pursuant to applicable international agreements. The competent authority may request travellers to complete contact information forms and questionnaires on the health of travellers, provided that they meet the requirements set out in Article 23.

### *Article 36 — Certificates of vaccination or other prophylaxis*

1. Vaccines and prophylaxis for travellers administered pursuant to these Regulations, or to recommendations and certificates relating thereto, shall conform to the provisions of Annex 6 and, when applicable, Annex 7 with regard to specific diseases.

2. A traveller in possession of a certificate of vaccination or other prophylaxis issued in conformity with Annex 6 and, when applicable, Annex 7, shall not be denied entry as a consequence of the disease to which the certificate refers, even if coming from an affected area, unless the competent authority has verifiable indications and/or evidence that the vaccination or other prophylaxis was not effective.

### *Article 37 — Maritime Declaration of Health*

1. The master of a ship, before arrival at its first port of call in the territory of a State Party, shall ascertain the state of health on board, and, except when that State Party does not require it, the master shall, on arrival, or in advance of the vessel's arrival if the vessel is so equipped and the State Party requires such advance delivery, complete and deliver to the competent authority for that port a Maritime Declaration of Health which shall be countersigned by the ship's surgeon, if one is carried.

2. The master of a ship, or the ship's surgeon if one is carried, shall supply any information required by the competent authority as to health conditions on board during an international voyage.

3. A Maritime Declaration of Health shall conform to the model provided in Annex 8.

4. A State Party may decide:

- (a) to dispense with the submission of the Maritime Declaration of Health by all arriving ships; or
- (b) to require the submission of the Maritime Declaration of Health under a recommendation concerning ships arriving from affected areas or to require it from ships which might otherwise carry infection or contamination.

The State Party shall inform shipping operators or their agents of these requirements.

### *Article 38 — Health Part of the Aircraft General Declaration*

1. The pilot in command of an aircraft or the pilot's agent, in flight or upon landing at the first airport in the territory of a State Party, shall, to the best of his or her ability, except when that State Party does not require it, complete and deliver to the competent authority for that airport the Health Part of the Aircraft General Declaration which shall conform to the model specified in Annex 9.

2. The pilot in command of an aircraft or the pilot's agent shall supply any information required by the State Party as to health conditions on board during an international voyage and any health measure applied to the aircraft.

3. A State Party may decide:

- (a) to dispense with the submission of the Health Part of the Aircraft General Declaration by all arriving aircraft; or
- (b) to require the submission of the Health Part of the Aircraft General Declaration under a recommendation concerning aircraft arriving from affected areas or to require it from aircraft which might otherwise carry infection or contamination.

The State Party shall inform aircraft operators or their agents of these requirements.

### *Article 39 – Ship sanitation certificates*

1. Ship Sanitation Control Exemption Certificates and Ship Sanitation Control Certificates shall be valid for a maximum period of six months. This period may be extended by one month if the inspection or control measures required cannot be accomplished at the port.

2. If a valid Ship Sanitation Control Exemption Certificate or Ship Sanitation Control Certificate is not produced or evidence of a public health risk is found on board a ship, the State Party may proceed as provided in paragraph 1 of Article 27.

3. The certificates referred to in this Article shall conform to the model in Annex 3.

4. Whenever possible, control measures shall be carried out when the ship and holds are empty. In the case of a ship in ballast, they shall be carried out before loading.

5. When control measures are required and have been satisfactorily completed, the competent authority shall issue a Ship Sanitation Control Certificate, noting the evidence found and the control measures taken.

6. The competent authority may issue a Ship Sanitation Control Exemption Certificate at any port specified under Article 20 if it is satisfied that the ship is free of infection and contamination, including vectors and reservoirs. Such a certificate shall normally be issued only if the inspection of the ship has been carried out when the ship and holds are empty or when they contain only ballast or other material, of such a nature or so disposed as to make a thorough inspection of the holds possible.

7. If the conditions under which control measures are carried out are such that, in the opinion of the competent authority for the port where the operation was performed, a satisfactory result cannot be obtained, the competent authority shall make a note to that effect on the Ship Sanitation Control Certificate.

## **PART VII – CHARGES**

### *Article 40 – Charges for health measures regarding travellers*

1. Except for travellers seeking temporary or permanent residence, and subject to paragraph 2 of this Article, no charge shall be made by a State Party pursuant to these Regulations for the following measures for the protection of public health:

- (a) any medical examination provided for in these Regulations, or any supplementary examination which may be required by that State Party to ascertain the health status of the traveller examined;
- (b) any vaccination or other prophylaxis provided to a traveller on arrival that is not a published requirement or is a requirement published less than 10 days prior to provision of the vaccination or other prophylaxis;
- (c) appropriate isolation or quarantine requirements of travellers;
- (d) any certificate issued to the traveller specifying the measures applied and the date of application; or
- (e) any health measures applied to baggage accompanying the traveller.

2. States Parties may charge for health measures other than those referred to in paragraph 1 of this Article, including those primarily for the benefit of the traveller.

3. Where charges are made for applying such health measures to travellers under these Regulations, there shall be in each State Party only one tariff for such charges and every charge shall:

- (a) conform to this tariff;
- (b) not exceed the actual cost of the service rendered; and
- (c) be levied without distinction as to the nationality, domicile or residence of the traveller concerned.

4. The tariff, and any amendment thereto, shall be published at least 10 days in advance of any levy thereunder.

5. Nothing in these Regulations shall preclude States Parties from seeking reimbursement for expenses incurred in providing the health measures in paragraph 1 of this Article:

- (a) from conveyance operators or owners with regard to their employees; or
- (b) from applicable insurance sources.

6. Under no circumstances shall travellers or conveyance operators be denied the ability to depart from the territory of a State Party pending payment of the charges referred to in paragraphs 1 or 2 of this Article.

*Article 41 – Charges for baggage, cargo, containers, conveyances, goods or postal parcels*

1. Where charges are made for applying health measures to baggage, cargo, containers, conveyances, goods or postal parcels under these Regulations, there shall be in each State Party only one tariff for such charges and every charge shall:

- (a) conform to this tariff;
- (b) not exceed the actual cost of the service rendered; and
- (c) be levied without distinction as to the nationality, flag, registry or ownership of the baggage, cargo, containers, conveyances, goods or postal parcels concerned. In particular, there shall be no distinction made between national and foreign baggage, cargo, containers, conveyances, goods or postal parcels.

2. The tariff, and any amendment thereto, shall be published at least 10 days in advance of any levy thereunder.

## **PART VIII — GENERAL PROVISIONS**

*Article 42 – Implementation of health measures*

Health measures taken pursuant to these Regulations shall be initiated and completed without delay, and applied in a transparent and non-discriminatory manner.

*Article 43 – Additional health measures*

1. These Regulations shall not preclude States Parties from implementing health measures, in accordance with their relevant national law and obligations under international law, in response to specific public health risks or public health emergencies of international concern, which:

- (a) achieve the same or greater level of health protection than WHO recommendations; or
- (b) are otherwise prohibited under Article 25, Article 26, paragraphs 1 and 2 of Article 28, Article 30, paragraph 1 (c) of Article 31 and Article 33, provided such measures are otherwise consistent with these Regulations.

Such measures shall not be more restrictive of international traffic and not more invasive or intrusive to persons than reasonably available alternatives that would achieve the appropriate level of health protection.



2. In determining whether to implement the health measures referred to in paragraph 1 of this Article or additional health measures under paragraph 2 of Article 23, paragraph 1 of Article 27, paragraph 2 of Article 28 and paragraph 2 (c) of Article 31, States Parties shall base their determinations upon:

- (a) scientific principles;
- (b) available scientific evidence of a risk to human health, or where such evidence is insufficient, the available information including from WHO and other relevant intergovernmental organisations and international bodies; and
- (c) any available specific guidance or advice from WHO.

3. A State Party implementing additional health measures referred to in paragraph 1 of this Article which significantly interfere with international traffic shall provide to WHO the public health rationale and relevant scientific information for it. WHO shall share this information with other States Parties and shall share information regarding the health measures implemented. For the purpose of this Article, significant interference generally means refusal of entry or departure of international travellers, baggage, cargo, containers, conveyances, goods, and the like, or their delay, for more than 24 hours.

4. After assessing information provided pursuant to paragraph 3 and 5 of this Article and other relevant information, WHO may request that the State Party concerned reconsider the application of the measures.

5. A State Party implementing additional health measures referred to in paragraphs 1 and 2 of this Article that significantly interfere with international traffic shall inform WHO, within 48 hours of implementation, of such measures and their health rationale unless these are covered by a temporary or standing recommendation.

6. A State Party implementing a health measure pursuant to paragraph 1 or 2 of this Article shall within three months review such a measure taking into account the advice of WHO and the criteria in paragraph 2 of this Article.

7. Without prejudice to its rights under Article 56, any State Party impacted by a measure taken pursuant to paragraph 1 or 2 of this Article may request the State Party implementing such a measure to consult with it. The purpose of such consultations is to clarify the scientific information and public health rationale underlying the measure and to find a mutually acceptable solution.

8. The provisions of this Article may apply to implementation of measures concerning travellers taking part in mass congregations.

#### *Article 44 – Collaboration and assistance*

1. States Parties shall undertake to collaborate with each other, to the extent possible, in:
  - (a) the detection and assessment of, and response to, events as provided under these Regulations;
  - (b) the provision or facilitation of technical cooperation and logistical support, particularly in the development, strengthening and maintenance of the public health capacities required under these Regulations;
  - (c) the mobilization of financial resources to facilitate implementation of their obligations under these Regulations; and
  - (d) the formulation of proposed laws and other legal and administrative provisions for the implementation of these Regulations.

2. WHO shall collaborate with States Parties, upon request, to the extent possible, in:
  - (a) the evaluation and assessment of their public health capacities in order to facilitate the effective implementation of these Regulations;
  - (b) the provision or facilitation of technical cooperation and logistical support to States Parties; and
  - (c) the mobilization of financial resources to support developing countries in building, strengthening and maintaining the capacities provided for in Annex 1.

3. Collaboration under this Article may be implemented through multiple channels, including bilaterally, through regional networks and the WHO regional offices, and through intergovernmental organisations and international bodies.

#### *Article 45 – Treatment of personal data*

1. Health information collected or received by a State Party pursuant to these Regulations from another State Party or from WHO which refers to an identified or identifiable person shall be kept confidential and processed anonymously as required by national law.

2. Notwithstanding paragraph 1, States Parties may disclose and process personal data where essential for the purposes of assessing and managing a public health risk, but States Parties, in accordance with national law, and WHO must ensure that the personal data are:

- (a) processed fairly and lawfully, and not further processed in a way incompatible with that purpose;
- (b) adequate, relevant and not excessive in relation to that purpose;
- (c) accurate and, where necessary, kept up to date; every reasonable step must be taken to ensure that data which are inaccurate or incomplete are erased or rectified; and
- (d) not kept longer than necessary.

3. Upon request, WHO shall as far as practicable provide an individual with his or her personal data referred to in this Article in an intelligible form, without undue delay or expense and, when necessary, allow for correction.

#### *Article 46 – Transport and handling of biological substances, reagents and materials for diagnostic purposes*

States Parties shall, subject to national law and taking into account relevant international guidelines, facilitate the transport, entry, exit, processing and disposal of biological substances and diagnostic specimens, reagents and other diagnostic materials for verification and public health response purposes under these Regulations.

## **PART IX — THE IHR ROSTER OF EXPERTS, THE EMERGENCY COMMITTEE AND THE REVIEW COMMITTEE**

### **Chapter I – The IHR Roster of Experts**

#### *Article 47 – Composition*

The Director-General shall establish a roster composed of experts in all relevant fields of expertise (hereinafter the “IHR Expert Roster”). The Director-General shall appoint the members of the IHR Expert Roster in accordance with the WHO Regulations for Expert Advisory Panels and Committees (hereinafter the “WHO Advisory Panel Regulations”), unless otherwise provided in these Regulations. In addition, the Director-General shall appoint one member at the request of each State Party and, where appropriate, experts proposed by relevant intergovernmental and regional economic integration organisations. Interested States Parties shall notify the Director-General of the qualifications and fields of expertise of each of the experts they propose for membership. The Director-General shall periodically inform the States Parties, and relevant intergovernmental and regional economic integration organisations, of the composition of the IHR Expert Roster.

### **Chapter II – The Emergency Committee**

#### *Article 48 – Terms of reference and composition*

1. The Director-General shall establish an Emergency Committee that at the request of the Director-General shall provide its views on:

- (a) whether an event constitutes a public health emergency of international concern;
- (b) the termination of a public health emergency of international concern; and
- (c) the proposed issuance, modification, extension or termination of temporary recommendations.

2. The Emergency Committee shall be composed of experts selected by the Director-General from the IHR Expert Roster and, when appropriate, other expert advisory panels of the Organisation. The Director-General shall determine the duration of membership with a view to ensuring its continuity in the consideration of a specific event and its consequences. The Director-General shall select the members of the Emergency Committee on the basis of the expertise and experience required for any particular session and with due regard to the principles of equitable geographical representation. At least one member of the Emergency Committee should be an expert nominated by a State Party within whose territory the event arises.

3. The Director-General may, on his or her own initiative or at the request of the Emergency Committee, appoint one or more technical experts to advise the Committee.

#### *Article 49 – Procedure*

1. The Director-General shall convene meetings of the Emergency Committee by selecting a number of experts from among those referred to in paragraph 2 of Article 48, according to the fields of expertise and experience most relevant to the specific event that is occurring. For the purpose of this Article, “meetings” of the Emergency Committee may include teleconferences, videoconferences or electronic communications.

2. The Director-General shall provide the Emergency Committee with the agenda and any relevant information concerning the event, including information provided by the States Parties, as well as any temporary recommendation that the Director-General proposes for issuance.

3. The Emergency Committee shall elect its Chairperson and prepare following each meeting a brief summary report of its proceedings and deliberations, including any advice on recommendations.

4. The Director-General shall invite the State Party in whose territory the event arises to present its views to the Emergency Committee. To that effect, the Director-General shall notify to it the dates and the agenda of the meeting of the Emergency Committee with as much advance notice as necessary. The State Party concerned, however, may not seek a postponement of the meeting of the Emergency Committee for the purpose of presenting its views thereto.

5. The views of the Emergency Committee shall be forwarded to the Director-General for consideration. The Director-General shall make the final determination on these matters.

6. The Director-General shall communicate to States Parties the determination and the termination of a public health emergency of international concern, any health measure taken by the State Party concerned, any temporary recommendation, and the modification, extension and termination of such recommendations, together with the views of the Emergency Committee. The Director-General shall inform conveyance operators through States Parties and the relevant international agencies of such temporary recommendations, including their modification, extension or termination. The Director-General shall subsequently make such information and recommendations available to the general public.

States Parties in whose territories the event has occurred may propose to the Director-General the termination of a public health emergency of international concern and/or the temporary recommendations, and may make a presentation to that effect to the Emergency Committee.

### **Chapter III – The Review Committee**

#### *Article 50 – Terms of reference and composition*

1. The Director-General shall establish a Review Committee, which shall carry out the following functions:

- (a) make technical recommendations to the Director-General regarding amendments to these Regulations;
- (b) provide technical advice to the Director-General with respect to standing recommendations, and any modifications or termination thereof;
- (c) provide technical advice to the Director-General on any matter referred to it by the Director-General regarding the functioning of these Regulations.

2. The Review Committee shall be considered an expert committee and shall be subject to the WHO Advisory Panel Regulations, unless otherwise provided in this Article.

3. The Members of the Review Committee shall be selected and appointed by the Director-General from among the persons serving on the IHR Expert Roster and, when appropriate, other expert advisory panels of the Organisation.

4. The Director-General shall establish the number of members to be invited to a meeting of the Review Committee, determine its date and duration, and convene the Committee.

5. The Director-General shall appoint members to the Review Committee for the duration of the work of a session only.

6. The Director-General shall select the members of the Review Committee on the basis of the principles of equitable geographical representation, gender balance, a balance of experts from developed and developing countries, representation of a diversity of scientific opinion, approaches and practical experience in various parts of the world, and an appropriate interdisciplinary balance.

#### *Article 51 — Conduct of business*

1. Decisions of the Review Committee shall be taken by a majority of the members present and voting.

2. The Director-General shall invite Member States, the United Nations and its specialized agencies and other relevant intergovernmental organisations or non-governmental organisations in official relations with WHO to designate representatives to attend the Committee sessions. Such representatives may submit memoranda and, with the consent of the Chairperson, make statements on the subjects under discussion. They shall not have the right to vote.

#### *Article 52 — Reports*

1. For each session, the Review Committee shall draw up a report setting forth the Committee's views and advice. This report shall be approved by the Review Committee before the end of the session. Its views and advice shall not commit the Organisation and shall be formulated as advice to the Director-General. The text of the report may not be modified without the Committee's consent.

2. If the Review Committee is not unanimous in its findings, any member shall be entitled to express his or her dissenting professional views in an individual or group report, which shall state the reasons why a divergent opinion is held and shall form part of the Committee's report.

3. The Review Committee's report shall be submitted to the Director-General, who shall communicate its views and advice to the Health Assembly or the Executive Board for their consideration and action.

#### *Article 53 — Procedures for standing recommendations*

When the Director-General considers that a standing recommendation is necessary and appropriate for a specific public health risk, the Director-General shall seek the views of the Review Committee. In addition to the relevant paragraphs of Articles 50 to 52, the following provisions shall apply:

- (a) proposals for standing recommendations, their modification or termination may be submitted to the Review Committee by the Director-General or by States Parties through the Director-General;
- (b) any State Party may submit relevant information for consideration by the Review Committee;
- (c) the Director-General may request any State Party, intergovernmental organisation or non-governmental organisation in official relations with WHO to place at the disposal of the Review Committee information in its possession concerning the subject of the proposed standing recommendation as specified by the Review Committee;
- (d) the Director-General may, at the request of the Review Committee or on the Director-General's own initiative, appoint one or more technical experts to advise the Review Committee. They shall not have the right to vote;

- (e) any report containing the views and advice of the Review Committee regarding standing recommendations shall be forwarded to the Director-General for consideration and decision. The Director-General shall communicate the Review Committee's views and advice to the Health Assembly;
- (f) the Director-General shall communicate to States Parties any standing recommendation, as well as the modifications or termination of such recommendations, together with the views of the Review Committee;
- (g) standing recommendations shall be submitted by the Director-General to the subsequent Health Assembly for its consideration.

## **PART X — FINAL PROVISIONS**

### *Article 54 — Reporting and review*

1. States Parties and the Director-General shall report to the Health Assembly on the implementation of these Regulations as decided by the Health Assembly.

2. The Health Assembly shall periodically review the functioning of these Regulations. To that end it may request the advice of the Review Committee, through the Director-General. The first such review shall take place no later than five years after the entry into force of these Regulations.

3. WHO shall periodically conduct studies to review and evaluate the functioning of Annex 2. The first such review shall commence no later than one year after the entry into force of these Regulations. The results of such reviews shall be submitted to the Health Assembly for its consideration, as appropriate.

### *Article 55 — Amendments*

1. Amendments to these Regulations may be proposed by any State Party or by the Director-General. Such proposals for amendments shall be submitted to the Health Assembly for its consideration.

2. The text of any proposed amendment shall be communicated to all States Parties by the Director-General at least four months before the Health Assembly at which it is proposed for consideration.

3. Amendments to these Regulations adopted by the Health Assembly pursuant to this Article shall come into force for all States Parties on the same terms, and subject to the same rights and obligations, as provided for in Article 22 of the Constitution of WHO and Articles 59 to 64 of these Regulations.

### *Article 56 — Settlement of disputes*

1. In the event of a dispute between two or more States Parties concerning the interpretation or application of these Regulations, the States Parties concerned shall seek in the first instance to settle the dispute through negotiation or any other peaceful means of their own choice, including good offices, mediation or conciliation. Failure to reach agreement shall not absolve the parties to the dispute from the responsibility of continuing to seek to resolve it.

2. In the event that the dispute is not settled by the means described under paragraph 1 of this Article, the States Parties concerned may agree to refer the dispute to the Director-General, who shall make every effort to settle it.

3. A State Party may at any time declare in writing to the Director-General that it accepts arbitration as compulsory with regard to all disputes concerning the interpretation or application of these Regulations to which it is a party or with regard to a specific dispute in relation to any other State Party accepting the same obligation. The arbitration shall be conducted in accordance with the Permanent Court of Arbitration Optional Rules for Arbitrating Disputes between Two States applicable at the time a request for arbitration is made. The States Parties that have agreed to accept arbitration as compulsory shall accept the arbitral award as binding and final. The Director-General shall inform the Health Assembly regarding such action as appropriate.

4. Nothing in these Regulations shall impair the rights of States Parties under any international agreement to which they may be parties to resort to the dispute settlement mechanisms of other intergovernmental organisations or established under any international agreement.

5. In the event of a dispute between WHO and one or more States Parties concerning the interpretation or application of these Regulations, the matter shall be submitted to the Health Assembly.

#### *Article 57 — Relationship with other international agreements*

1. States Parties recognize that the IHR and other relevant international agreements should be interpreted so as to be compatible. The provisions of the IHR shall not affect the rights and obligations of any State Party deriving from other international agreements.

2. Subject to paragraph 1 of this Article, nothing in these Regulations shall prevent States Parties having certain interests in common owing to their health, geographical, social or economic conditions, from concluding special treaties or arrangements in order to facilitate the application of these Regulations, and in particular with regard to:

- (a) the direct and rapid exchange of public health information between neighbouring territories of different States;
- (b) the health measures to be applied to international coastal traffic and to international traffic in waters within their jurisdiction;
- (c) the health measures to be applied in contiguous territories of different States at their common frontier;
- (d) arrangements for carrying affected persons or affected human remains by means of transport specially adapted for the purpose; and
- (e) deratting, disinsection, disinfection, decontamination or other treatment designed to render goods free of disease-causing agents.

3. Without prejudice to their obligations under these Regulations, States Parties that are members of a regional economic integration organisation shall apply in their mutual relations the common rules in force in that regional economic integration organisation.

#### *Article 58 — International sanitary agreements and regulations*

1. These Regulations, subject to the provisions of Article 62 and the exceptions hereinafter provided, shall replace as between the States bound by these Regulations and as between these States and WHO, the provisions of the following international sanitary agreements and regulations:

- (a) International Sanitary Convention, signed in Paris, 21 June 1926;
- (b) International Sanitary Convention for Aerial Navigation, signed at The Hague, 12 April 1933;

- (c) International Agreement for dispensing with Bills of Health, signed in Paris, 22 December 1934;
- (d) International Agreement for dispensing with Consular Visas on Bills of Health, signed in Paris, 22 December 1934;
- (e) Convention modifying the International Sanitary Convention of 21 June 1926, signed in Paris, 31 October 1938;
- (f) International Sanitary Convention, 1944, modifying the International Sanitary Convention of 21 June 1926, opened for signature in Washington, 15 December 1944;
- (g) International Sanitary Convention for Aerial Navigation, 1944, modifying the International Sanitary Convention of 12 April 1933, opened for signature in Washington, 15 December 1944;
- (h) Protocol of 23 April 1946 to prolong the International Sanitary Convention, 1944, signed in Washington;
- (i) Protocol of 23 April 1946 to prolong the International Sanitary Convention for Aerial Navigation, 1944, signed in Washington;
- (j) International Sanitary Regulations, 1951, and the Additional Regulations of 1955, 1956, 1960, 1963 and 1965; and
- (k) the International Health Regulations of 1969 and the amendments of 1973 and 1981.

2. The Pan American Sanitary Code, signed at Havana, 14 November 1924, shall remain in force with the exception of Articles 2, 9, 10, 11, 16 to 53 inclusive, 61 and 62, to which the relevant part of paragraph 1 of this Article shall apply.

*Article 59 — Entry into force; period for rejection or reservations*

1. The period provided in execution of Article 22 of the Constitution of WHO for rejection of, or reservation to, these Regulations or an amendment thereto, shall be 18 months from the date of the notification by the Director-General of the adoption of these Regulations or of an amendment to these Regulations by the Health Assembly. Any rejection or reservation received by the Director-General after the expiry of that period shall have no effect.

2. These Regulations shall enter into force 24 months after the date of notification referred to in paragraph 1 of this Article, except for:

- (a) a State that has rejected these Regulations or an amendment thereto in accordance with Article 61;
- (b) a State that has made a reservation, for which these Regulations shall enter into force as provided in Article 62;
- (c) a State that becomes a Member of WHO after the date of the notification by the Director-General referred to in paragraph 1 of this Article, and which is not already a party to these Regulations, for which these Regulations shall enter into force as provided in Article 60; and
- (d) a State not a Member of WHO that accepts these Regulations, for which they shall enter into force in accordance with paragraph 1 of Article 64.

3. If a State is not able to adjust its domestic legislative and administrative arrangements fully with these Regulations within the period set out in paragraph 2 of this Article, that State shall submit within the period specified in paragraph 1 of this Article a declaration to the Director-General regarding the outstanding adjustments and achieve them no later than 12 months after the entry into force of these Regulations for that State Party.



#### *Article 60 — New Member States of WHO*

Any State which becomes a Member of WHO after the date of the notification by the Director-General referred to in paragraph 1 of Article 59, and which is not already a party to these Regulations, may communicate its rejection of, or any reservation to, these Regulations within a period of twelve months from the date of the notification to it by the Director-General after becoming a Member of WHO. Unless rejected, these Regulations shall enter into force with respect to that State, subject to the provisions of Articles 62 and 63, upon expiry of that period. In no case shall these Regulations enter into force in respect to that State earlier than 24 months after the date of notification referred to in paragraph 1 of Article 59.

#### *Article 61 — Rejection*

If a State notifies the Director-General of its rejection of these Regulations or of an amendment thereto within the period provided in paragraph 1 of Article 59, these Regulations or the amendment concerned shall not enter into force with respect to that State. Any international sanitary agreement or regulations listed in Article 58 to which such State is already a party shall remain in force as far as such State is concerned.

#### *Article 62 — Reservations*

1. States may make reservations to these Regulations in accordance with this Article. Such reservations shall not be incompatible with the object and purpose of these Regulations.

2. Reservations to these Regulations shall be notified to the Director-General in accordance with paragraph 1 of Article 59 and Article 60, paragraph 1 of Article 63 or paragraph 1 of Article 64, as the case may be. A State not a Member of WHO shall notify the Director-General of any reservation with its notification of acceptance of these Regulations. States formulating reservations should provide the Director-General with reasons for the reservations.

3. A rejection in part of these Regulations shall be considered as a reservation.

4. The Director-General shall, in accordance with paragraph 2 of Article 65, issue notification of each reservation received pursuant to paragraph 2 of this Article. The Director-General shall:

- (a) if the reservation was made before the entry into force of these Regulations, request those Member States that have not rejected these Regulations to notify him or her within six months of any objection to the reservation, or
- (b) if the reservation was made after the entry into force of these Regulations, request States Parties to notify him or her within six months of any objection to the reservation.

States objecting to a reservation should provide the Director-General with reasons for the objection.

5. After this period, the Director-General shall notify all States Parties of the objections he or she has received with regard to reservations. Unless by the end of six months from the date of the notification referred to in paragraph 4 of this Article a reservation has been objected to by one-third of the States referred to in paragraph 4 of this Article, it shall be deemed to be accepted and these Regulations shall enter into force for the reserving State, subject to the reservation.

6. If at least one-third of the States referred to in paragraph 4 of this Article object to the reservation by the end of six months from the date of the notification referred to in paragraph 4 of this Article, the Director-General shall notify the reserving State with a view to its considering withdrawing the reservation within three months from the date of the notification by the Director-General.

7. The reserving State shall continue to fulfil any obligations corresponding to the subject matter of the reservation, which the State has accepted under any of the international sanitary agreements or regulations listed in Article 58.

8. If the reserving State does not withdraw the reservation within three months from the date of the notification by the Director-General referred to in paragraph 6 of this Article, the Director-General shall seek the view of the Review Committee if the reserving State so requests. The Review Committee shall advise the Director-General as soon as possible and in accordance with Article 50 on the practical impact of the reservation on the operation of these Regulations.

9. The Director-General shall submit the reservation, and the views of the Review Committee if applicable, to the Health Assembly for its consideration. If the Health Assembly, by a majority vote, objects to the reservation on the ground that it is incompatible with the object and purpose of these Regulations, the reservation shall not be accepted and these Regulations shall enter into force for the reserving State only after it withdraws its reservation pursuant to Article 63. If the Health Assembly accepts the reservation, these Regulations shall enter into force for the reserving State, subject to its reservation.

#### *Article 63 — Withdrawal of rejection and reservation*

1. A rejection made under Article 61 may at any time be withdrawn by a State by notifying the Director-General. In such cases, these Regulations shall enter into force with regard to that State upon receipt by the Director-General of the notification, except where the State makes a reservation when withdrawing its rejection, in which case these Regulations shall enter into force as provided in Article 62. In no case shall these Regulations enter into force in respect to that State earlier than 24 months after the date of notification referred to in paragraph 1 of Article 59.

2. The whole or part of any reservation may at any time be withdrawn by the State Party concerned by notifying the Director-General. In such cases, the withdrawal will be effective from the date of receipt by the Director-General of the notification.

#### *Article 64 — States not Members of WHO*

1. Any State not a Member of WHO, which is a party to any international sanitary agreement or regulations listed in Article 58 or to which the Director-General has notified the adoption of these Regulations by the World Health Assembly, may become a party hereto by notifying its acceptance to the Director-General and, subject to the provisions of Article 62, such acceptance shall become effective upon the date of entry into force of these Regulations, or, if such acceptance is notified after that date, three months after the date of receipt by the Director-General of the notification of acceptance.

2. Any State not a Member of WHO which has become a party to these Regulations may at any time withdraw from participation in these Regulations, by means of a notification addressed to the Director-General which shall take effect six months after the Director-General has received it. The State which has withdrawn shall, as from that date, resume application of the provisions of any international sanitary agreement or regulations listed in Article 58 to which it was previously a party.

#### *Article 65 — Notifications by the Director-General*

1. The Director-General shall notify all States Members and Associate Members of WHO, and also other parties to any international sanitary agreement or regulations listed in Article 58, of the adoption by the Health Assembly of these Regulations.

2. The Director-General shall also notify these States, as well as any other State which has become a party to these Regulations or to any amendment to these Regulations, of any notification received by WHO under Articles 60 to 64 respectively, as well as of any decision taken by the Health Assembly under Article 62.

#### *Article 66 — Authentic texts*

1. The Arabic, Chinese, English, French, Russian and Spanish texts of these Regulations shall be equally authentic. The original texts of these Regulations shall be deposited with WHO.

2. The Director-General shall send, with the notification provided in paragraph 1 of Article 59, certified copies of these Regulations to all Members and Associate Members, and also to other parties to any of the international sanitary agreements or regulations listed in Article 58.

3. Upon the entry into force of these Regulations, the Director-General shall deliver certified copies thereof to the Secretary-General of the United Nations for registration in accordance with Article 102 of the Charter of the United Nations.

#### **ANNEX 1**

##### **A. CORE CAPACITY REQUIREMENTS FOR SURVEILLANCE AND RESPONSE**

1. States Parties shall utilise existing national structures and resources to meet their core capacity requirements under these Regulations, including with regard to:

- (a) their surveillance, reporting, notification, verification, response and collaboration activities; and
- (b) their activities concerning designated airports, ports and ground crossings.

2. Each State Party shall assess, within two years following the entry into force of these Regulations for that State Party, the ability of existing national structures and resources to meet the minimum requirements described in this Annex. As a result of such assessment, States Parties shall develop and implement plans of action to ensure that these core capacities are present and functioning throughout their territories as set out in paragraph 1 of Article 5 and paragraph 1 of Article 13.

3. States Parties and WHO shall support assessments, planning and implementation processes under this Annex.

4. At the local community level and/or primary public health response level the capacities:

- (a) to detect events involving disease or death above expected levels for the particular time and place in all areas within the territory of the State Party; and

- (b) to report all available essential information immediately to the appropriate level of health-care response. At the community level, reporting shall be to local community health-care institutions or the appropriate health personnel. At the primary public health response level, reporting shall be to the intermediate or national response level, depending on organisational structures. For the purposes of this Annex, essential information includes the following: clinical descriptions, laboratory results, sources and type of risk, numbers of human cases and deaths, conditions affecting the spread of the disease and the health measures employed; and
- (c) to implement preliminary control measures immediately.

5. At the intermediate public health response levels the capacities:

- (a) to confirm the status of reported events and to support or implement additional control measures; and
- (b) to assess reported events immediately and, if found urgent, to report all essential information to the national level. For the purposes of this Annex, the criteria for urgent events include serious public health impact and/or unusual or unexpected nature with high potential for spread.

6. At the national level.

*Assessment and notification.* The capacities:

- (a) to assess all reports of urgent events within 48 hours; and
- (b) to notify WHO immediately through the National IHR Focal Point when the assessment indicates the event is notifiable pursuant to paragraph 1 of Article 6 and Annex 2 and to inform WHO as required pursuant to Article 7 and paragraph 2 of Article 9.

*Public health response.* The capacities:

- (a) to determine rapidly the control measures required to prevent domestic and international spread;
- (b) to provide support through specialized staff, laboratory analysis of samples (domestically or through collaborating centres) and logistical assistance (e.g. equipment, supplies and transport);
- (c) to provide on-site assistance as required to supplement local investigations;
- (d) to provide a direct operational link with senior health and other officials to approve rapidly and implement containment and control measures;
- (e) to provide direct liaison with other relevant government ministries;
- (f) to provide, by the most efficient means of communication available, links with hospitals, clinics, airports, ports, ground crossings, laboratories and other key operational areas for the dissemination of information and recommendations received from WHO regarding events in the State Party's own territory and in the territories of other States Parties;
- (g) to establish, operate and maintain a national public health emergency response plan, including the creation of multidisciplinary/multisectoral teams to respond to events that may constitute a public health emergency of international concern; and
- (h) to provide the foregoing on a 24-hour basis.

## **B. CORE CAPACITY REQUIREMENTS FOR DESIGNATED AIRPORTS, PORTS AND GROUND CROSSINGS**

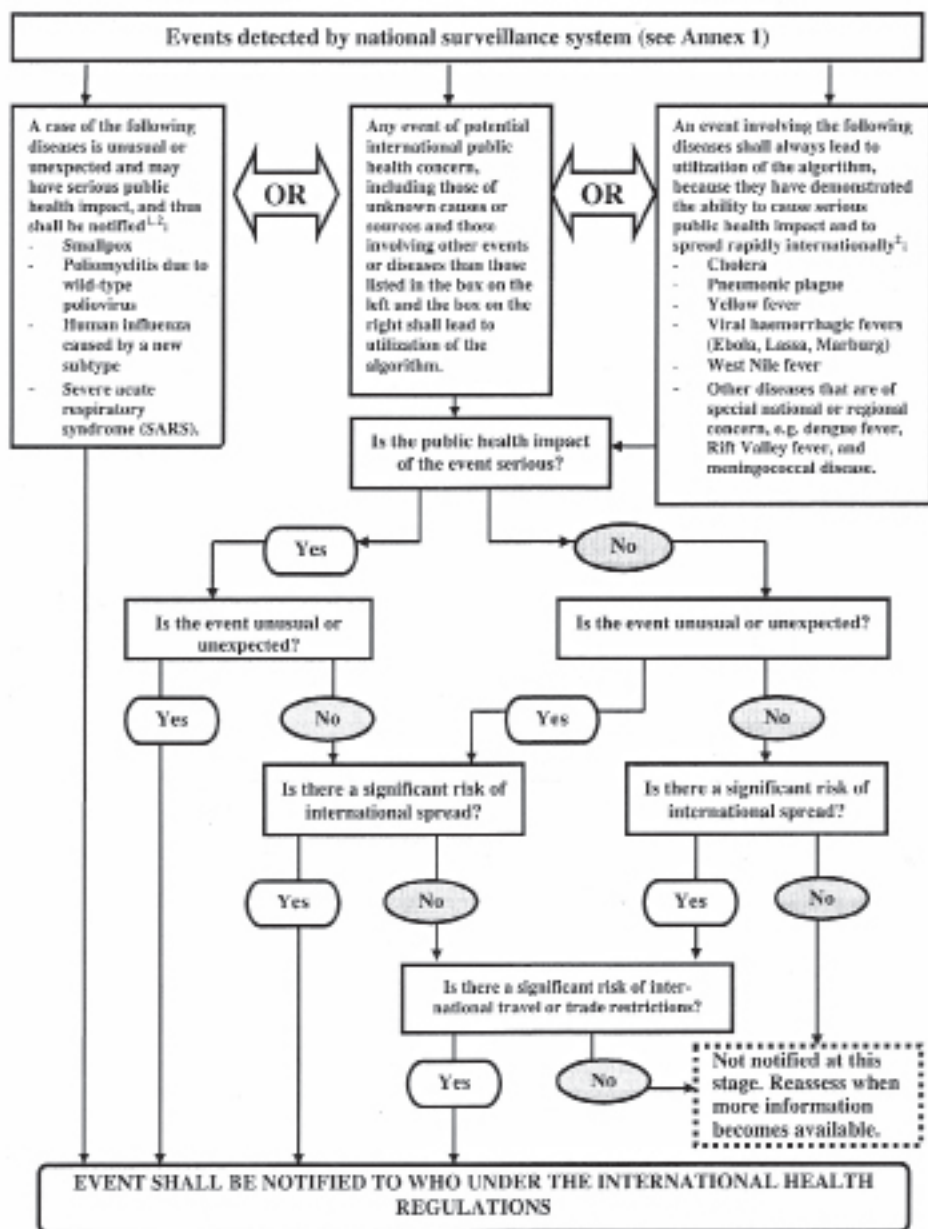
1. At all times. The capacities:
  - (a) to provide access to:
    - (i) an appropriate medical service including diagnostic facilities located so as to allow the prompt assessment and care of ill travellers; and
    - (ii) adequate staff, equipment and premises;
  - (b) to provide access to equipment and personnel for the transport of ill travellers to an appropriate medical facility;
  - (c) to provide trained personnel for the inspection of conveyances;
  - (d) to ensure a safe environment for travellers using point of entry facilities, including potable water supplies, eating establishments, flight catering facilities, public washrooms, appropriate solid and liquid waste disposal services and other potential risk areas, by conducting inspection programmes, as appropriate; and
  - (e) to provide as far as practicable a programme and trained personnel for the control of vectors and reservoirs in and near points of entry.

For responding to events that may constitute a public health emergency of international concern.

The capacities:

- (a) to provide appropriate public health emergency response by establishing and maintaining a public health emergency contingency plan, including the nomination of a coordinator and contact points for relevant point of entry, public health and other agencies and services;
- (b) to provide assessment of and care for affected travellers or animals by establishing arrangements with local medical and veterinary facilities for their isolation, treatment and other support services that may be required;
- (c) to provide appropriate space, separate from other travellers, to interview suspect or affected persons;
- (d) to provide for the assessment and, if required, quarantine of suspect travellers, preferably in facilities away from the point of entry;
- (e) to apply recommended measures to disinsect, derat, disinfect, decontaminate or otherwise treat baggage, cargo, containers, conveyances, goods or postal parcels including, when appropriate, at locations specially designated and equipped for this purpose;
- (f) to apply entry or exit controls for arriving and departing travellers; and
- (g) to provide access to specially designated equipment, and to trained personnel with appropriate personal protection, for the transfer of travellers who may carry infection or contamination.

ANNEX 2  
DECISION INSTRUMENT FOR THE ASSESSMENT AND NOTIFICATION  
OF EVENTS THAT MAY CONSTITUTE A PUBLIC HEALTH EMERGENCY  
OF INTERNATIONAL CONCERN



<sup>1</sup> As per WHO case definitions.

<sup>2</sup> The disease list shall be used only for the purposes of these Regulations.

**EXAMPLES FOR THE APPLICATION OF THE DECISION INSTRUMENT FOR  
THE ASSESSMENT AND NOTIFICATION OF EVENTS THAT MAY  
CONSTITUTE A PUBLIC HEALTH EMERGENCY OF  
INTERNATIONAL CONCERN**

*The examples appearing in this Annex are not binding and are for indicative guidance purposes to assist in the interpretation of the decision instrument criteria.*

DOES THE EVENT MEET AT LEAST TWO OF THE FOLLOWING CRITERIA?

	<b>I. Is the public health impact of the event serious?</b>
	<p>1. <i>Is the number of cases and/or number of deaths for this type of event large for the given place, time or population?</i></p>
<b>Is the public health impact of the event serious?</b>	<p>2. <i>Has the event the potential to have a high public health impact?</i></p> <p>THE FOLLOWING ARE EXAMPLES OF CIRCUMSTANCES THAT CONTRIBUTE TO HIGH PUBLIC HEALTH IMPACT:</p> <ul style="list-style-type: none"> <li>✓ Event caused by a pathogen with high potential to cause epidemic (infectiousness of the agent, high case fatality, multiple transmission routes or healthy carrier).</li> <li>✓ Indication of treatment failure (new or emerging antibiotic resistance, vaccine failure, antidote resistance or failure).</li> <li>✓ Event represents a significant public health risk even if no or very few human cases have yet been identified.</li> <li>✓ Cases reported among health staff.</li> <li>✓ The population at risk is especially vulnerable (refugees, low level of immunization, children, elderly, low immunity, undernourished, etc.).</li> <li>✓ Concomitant factors that may hinder or delay the public health response (natural catastrophes, armed conflicts, unfavourable weather conditions, multiple foci in the State Party).</li> <li>✓ Event in an area with high population density.</li> <li>✓ Spread of toxic, infectious or otherwise hazardous materials that may be occurring naturally or otherwise that has contaminated or has the potential to contaminate a population and/or a large geographical area.</li> </ul>

	<p>3. <i>Is external assistance needed to detect, investigate, respond and control the current event, or prevent new cases?</i></p> <p><b>THE FOLLOWING ARE EXAMPLES OF WHEN ASSISTANCE MAY BE REQUIRED:</b></p> <ul style="list-style-type: none"> <li>✓ Inadequate human, financial, material or technical resources – in particular: <ul style="list-style-type: none"> <li>— insufficient laboratory or epidemiological capacity to investigate the event (equipment, personnel, financial resources);</li> <li>— insufficient antidotes, drugs and/or vaccine and/or protective equipment, decontamination equipment, or supportive equipment to cover estimated needs;</li> <li>— existing surveillance system is inadequate to detect new cases in a timely manner.</li> </ul> </li> </ul>
	<p><b>IS THE PUBLIC HEALTH IMPACT OF THE EVENT SERIOUS?</b></p>
	<p><b>Answer “yes” if you have answered “yes” to questions 1, 2 or 3 above</b></p>

Is the event unusual or unexpected?	<p><b>II. Is the event unusual or unexpected?</b></p>
	<p>4. <i>Is the event unusual?</i></p> <p><b>THE FOLLOWING ARE EXAMPLES OF UNUSUAL EVENTS:</b></p> <ul style="list-style-type: none"> <li>✓ The event is caused by an unknown agent or the source, vehicle, route of transmission is unusual or unknown.</li> <li>✓ Evolution of cases more severe than expected (including morbidity or case-fatality) or with unusual symptoms.</li> <li>✓ Occurrence of the event itself unusual for the area, season or population.</li> </ul>
	<p>5. <i>Is the event unexpected from a public health perspective?</i></p> <p><b>THE FOLLOWING ARE EXAMPLES OF UNEXPECTED EVENTS:</b></p> <ul style="list-style-type: none"> <li>✓ Event caused by a disease/agent that had already been eliminated or eradicated from the State Party or not previously reported.</li> </ul>
	<p><b>IS THE EVENT UNUSUAL OR UNEXPECTED?</b></p>
	<p><b>Answer “yes” if you have answered “yes” to questions 4 or 5 above</b></p>



Is there a significant risk of international spread?	<b>III. Is there a significant risk of international spread?</b>
	6. <i>Is there evidence of an epidemiological link to similar events in other States?</i>
	7. <i>Is there any factor that should alert us to the potential for cross border movement of the agent, vehicle or host?</i>
	<p><b>THE FOLLOWING ARE EXAMPLES OF CIRCUMSTANCES THAT MAY PREDISPOSE TO INTERNATIONAL SPREAD:</b></p> <ul style="list-style-type: none"> <li>✓ Where there is evidence of local spread, an index case (or other linked cases) with a <input type="checkbox"/> history within the previous month of: <ul style="list-style-type: none"> <li>— international travel (or time equivalent to the incubation period if the pathogen is known);</li> <li>— participation in an international gathering (pilgrimage, sports event, conference, etc.);</li> <li>— close contact with an international traveller or a highly mobile population.</li> </ul> </li> <li>✓ Event caused by an environmental contamination that has the potential to spread across <input type="checkbox"/> international borders.</li> <li>✓ Event in an area of intense international traffic with limited capacity for sanitary control or environmental detection or decontamination.</li> </ul> <p><b>IS THERE A SIGNIFICANT RISK OF INTERNATIONAL SPREAD:</b></p> <p>answer “yes” if you have answered “yes” to questions 6 or 7 above.</p>

Risk of international restrictions?	<b>IV. Is there a significant risk of international travel or trade restrictions?</b>
	8. <i>Have similar events in the past resulted in international restriction on trade and/or travel?</i>
	9. <i>Is the source suspected or known to be a food product, water or any other goods that might be contaminated that has been exported/imported to/from other States?</i>
	10. <i>Has the event occurred in association with an international gathering or in an area of intense international tourism?</i>
	11. <i>Has the event caused requests for more information by foreign officials or international media?</i>
	<p><b>IS THERE A SIGNIFICANT RISK OF INTERNATIONAL TRADE OR TRAVEL RESTRICTIONS?</b></p> <p>answer “yes” if you have answered “yes” to questions 8, 9, 10 or 11 above.</p>

**State Parties that answer “yes” to the question whether the event meets any two of the four criteria (I-IV) above, shall notify WHO under Article 6 of the International Health Regulations.**



ATTACHMENT TO MODEL SHIP SANITATION CONTROL EXEMPTION CERTIFICATE/SHIP  
SANITATION CONTROL CERTIFICATE

Areas/facilities/systems inspected <sup>1</sup>	Evidence found	Sample results	Documents reviewed	Control measures applied	Re-inspection date	Comments regarding conditions found
Food						
Source						
Storage						
Preparation						
Service						
Water						
Source						
Storage						
Distribution						
Waste						
Holding						
Treatment						
Disposal						
Swimming pools/spas						
Equipment						
Operation						
Medical facilities						
Equipment and medical devices						
Operation						
Medicines						
Other areas inspected						

<sup>1</sup>Indicate when the areas listed are not applicable by marking N/A

## ANNEX 4

### **TECHNICAL REQUIREMENTS PERTAINING TO CONVEYANCES AND CONVEYANCE OPERATORS**

#### Section A – Conveyance operators

1. Conveyance operators shall facilitate:
  - (a) inspections of the cargo, containers and conveyance;
  - (b) medical examinations of persons on board;
  - (c) application of other health measures under these Regulations; and
  - (d) provision of relevant public health information requested by the State Party.
2. Conveyance operators shall provide to the competent authority a valid Ship Sanitation Control Exemption Certificate or a Ship Sanitation Control Certificate or a Maritime Declaration of Health, or the Health Part of an Aircraft General Declaration, as required under these Regulations.

#### Section B – Conveyances

1. Control measures applied to baggage, cargo, containers, conveyances and goods under these Regulations shall be carried out so as to avoid as far as possible injury or discomfort to persons or damage to the baggage, cargo, containers, conveyances and goods. Whenever possible and appropriate, control measures shall be applied when the conveyance and holds are empty.

2. States Parties shall indicate in writing the measures applied to cargo, containers or conveyances, the parts treated, the methods employed, and the reasons for their application. This information shall be provided in writing to the person in charge of an aircraft and, in case of a ship, on the Ship Sanitation Control Certificate. For other cargo, containers or conveyances, States Parties shall issue such information in writing to consignors, consignees, carriers, the person in charge of the conveyance or their respective agents.

## ANNEX 5

### **SPECIFIC MEASURES FOR VECTOR-BORNE DISEASES**

1. WHO shall publish, on a regular basis, a list of areas where disinsection or other vector control measures are recommended for conveyances arriving from these areas. Determination of such areas shall be made pursuant to the procedures regarding temporary or standing recommendations, as appropriate.

2. Every conveyance leaving a point of entry situated in an area where vector control is recommended should be disinsected and kept free of vectors. When there are methods and materials advised by the Organisation for these procedures, these should be employed. The presence of vectors on board conveyances and the control measures used to eradicate them shall be included:

- (a) in the case of aircraft, in the Health Part of the Aircraft General Declaration, unless this part of the Declaration is waived by the competent authority at the airport of arrival;
- (b) in the case of ships, on the Ship Sanitation Control Certificates; and
- (c) in the case of other conveyances, on a written proof of treatment issued to the consignor, consignee, carrier, the person in charge of the conveyance or their agent, respectively.

3. States Parties should accept disinsecting, deratting and other control measures for conveyances applied by other States if methods and materials advised by the Organisation have been applied.

4. States Parties shall establish programmes to control vectors that may transport an infectious agent that constitutes a public health risk to a minimum distance of 400 metres from those areas of point of entry facilities that are used for operations involving travellers, conveyances, containers, cargo and postal parcels, with extension of the minimum distance if vectors with a greater range are present.

5. If a follow-up inspection is required to determine the success of the vector control measures applied, the competent authorities for the next known port or airport of call with a capacity to make such an inspection shall be informed of this requirement in advance by the competent authority advising such follow-up. In the case of ships, this shall be noted on the Ship Sanitation Control Certificate.

6. A conveyance may be regarded as suspect and should be inspected for vectors and reservoirs if:

- (a) it has a possible case of vector-borne disease on board;
- (b) a possible case of vector-borne disease has occurred on board during an international voyage; or
- (c) it has left an affected area within a period of time where on-board vectors could still carry disease.

7. A State Party should not prohibit the landing of an aircraft or berthing of a ship in its territory if the control measures provided for in paragraph 3 of this Annex or otherwise recommended by the Organisation are applied. However, aircraft or ships coming from an affected area may be required to land at airports or divert to another port specified by the State Party for that purpose.

8. A State Party may apply vector control measures to a conveyance arriving from an area affected by a vector-borne disease if the vectors for the foregoing disease are present in its territory.

## ANNEX 6

### VACCINATION, PROPHYLAXIS AND RELATED CERTIFICATES

1. Vaccines or other prophylaxis specified in Annex 7 or recommended under these Regulations shall be of suitable quality; those vaccines and prophylaxis designated by WHO shall be subject to its approval. Upon request, the State Party shall provide to WHO appropriate evidence of the suitability of vaccines and prophylaxis administered within its territory under these Regulations.

2. Persons undergoing vaccination or other prophylaxis under these Regulations shall be provided with an international certificate of vaccination or prophylaxis (hereinafter the "certificate") in the form specified in this Annex. No departure shall be made from the model of the certificate specified in this Annex.

3. Certificates under this Annex are valid only if the vaccine or prophylaxis used has been approved by WHO.

4. Certificates must be signed in the hand of the clinician, who shall be a medical practitioner or other authorised health worker, supervising the administration of the vaccine or prophylaxis. The certificate must also bear the official stamp of the administering centre; however, this shall not be an accepted substitute for the signature.

5. Certificates shall be fully completed in English or in French. They may also be completed in another language, in addition to either English or French.

6. Any amendment of this certificate, or erasure, or failure to complete any part of it, may render it invalid.

7. Certificates are individual and shall in no circumstances be used collectively. Separate certificates shall be issued for children.

8. A parent or guardian shall sign the certificate when the child is unable to write. The signature of an illiterate shall be indicated in the usual manner by the person's mark and the indication by another that this is the mark of the person concerned.

9. If the supervising clinician is of the opinion that the vaccination or prophylaxis is contraindicated on medical grounds, the supervising clinician shall provide the person with reasons, written in English or French, and where appropriate in another language in addition to English or French, underlying that opinion, which the competent authorities on arrival should take into account. The supervising clinician and competent authorities shall inform such persons of any risk associated with non-vaccination and with the non-use of prophylaxis in accordance with paragraph 4 of Article 23.

10. An equivalent document issued by the Armed Forces to an active member of those Forces shall be accepted in lieu of an international certificate in the form shown in this Annex if:

- (a) it embodies medical information substantially the same as that required by such form; and
- (b) it contains a statement in English or in French and where appropriate in another language in addition to English or French recording the nature and date of the vaccination or prophylaxis and to the effect that it is issued in accordance with this paragraph.

## **MODEL INTERNATIONAL CERTIFICATE OF VACCINATION OR PROPHYLAXIS**

This is to certify that .....[name] date of birth.....

sex ....., nationality.....national identification

document ....., if applicable .....

whose signature follows .....

has on the date indicated been vaccinated or received prophylaxis against:

(name of disease or condition) .....

in accordance with the International Health Regulations.

Vaccine or prophylaxis	Date	Signature and professional status of supervising clinician	Manufacturer and batch No. of vaccine or prophylaxis	Certificate valid from until	Official stamp of administering centre
1.					
2.					

This certificate is valid only if the vaccine or prophylaxis used has been approved by the World Health Organization.

This certificate must be signed in the hand of the clinician, who shall be a medical practitioner or other authorised health worker, supervising the administration of the vaccine or prophylaxis. The certificate must also bear the official stamp of the administering centre; however, this shall not be an accepted substitute for the signature.

Any amendment of this certificate, or erasure, or failure to complete any part of it, may render it invalid.

The validity of this certificate shall extend until the date indicated for the particular vaccination or prophylaxis. The certificate shall be fully completed in English or in French. The certificate may also be completed in another language on the same document, in addition to either English or French.

## ANNEX 7

### REQUIREMENTS CONCERNING VACCINATION OR PROPHYLAXIS FOR SPECIFIC DISEASES

1. In addition to any recommendation concerning vaccination or prophylaxis, the following diseases are those specifically designated under these Regulations for which proof of vaccination or prophylaxis may be required for travellers as a condition of entry to a State Party:

Vaccination against yellow fever.

2. Recommendations and requirements for vaccination against yellow fever:
  - (a) For the purpose of this Annex:
    - (i) the incubation period of yellow fever is six days;
    - (ii) yellow fever vaccines approved by WHO provide protection against infection starting 10 days following the administration of the vaccine;
    - (iii) this protection continues for 10 years; and
    - (iv) the validity of a certificate of vaccination against yellow fever shall extend for a period of 10 years, beginning 10 days after the date of vaccination or, in the case of a revaccination within such period of 10 years, from the date of that revaccination.
  - (b) Vaccination against yellow fever may be required of any traveller leaving an area where the Organisation has determined that a risk of yellow fever transmission is present.

- (c) If a traveller is in possession of a certificate of vaccination against yellow fever which is not yet valid, the traveller may be permitted to depart, but the provisions of paragraph 2 (h) of this Annex may be applied on arrival.
- (d) A traveller in possession of a valid certificate of vaccination against yellow fever shall not be treated as suspect, even if coming from an area where the Organisation has determined that a risk of yellow fever transmission is present.
- (e) In accordance with paragraph 1 of Annex 6 the yellow fever vaccine used must be approved by the Organization.
- (f) States Parties shall designate specific yellow fever vaccination centres within their territories in order to ensure the quality and safety of the procedures and materials employed.
- (g) Every person employed at a point of entry in an area where the Organisation has determined that a risk of yellow fever transmission is present, and every member of the crew of a conveyance using any such point of entry, shall be in possession of a valid certificate of vaccination against yellow fever.
- (h) A State Party, in whose territory vectors of yellow fever are present, may require a traveller from an area where the Organisation has determined that a risk of yellow fever transmission is present, who is unable to produce a valid certificate of vaccination against yellow fever, to be quarantined until the certificate becomes valid, or until a period of not more than six days, reckoned from the date of last possible exposure to infection, has elapsed, whichever occurs first.
- (i) Travellers who possess an exemption from yellow fever vaccination, signed by an authorized medical officer or an authorized health worker, may nevertheless be allowed entry, subject to the provisions of the foregoing paragraph of this Annex and to being provided with information regarding protection from yellow fever vectors. Should the travellers not be quarantined, they may be required to report any feverish or other symptoms to the competent authority and be placed under surveillance.

## ANNEX 8

### MODEL OF MARITIME DECLARATION OF HEALTH

To be completed and submitted to the competent authorities by the masters of ships arriving from foreign ports. Submitted at the port of Date .....

Name of ship or inland navigation vessel .....Registration/IMO No.

..... arriving from sailing to .....

(Nationality) (Flag of vessel) ..... Master's name .....

Gross tonnage (ship) .....

Tonnage (inland navigation vessel) .....

Valid Sanitation Control Exemption/Control Certificate carried on board? Yes/No

..... Issued at ..... date .....



Re-inspection required? Yes ..... No .....

Has ship/vessel visited an affected area identified by the World Health Organization? Yes

..... No .....

Port and date of visit .....

List ports of call from commencement of voyage with dates of departure, or within past thirty days, whichever is shorter:

.....  
Upon request of the competent authority at the port of arrival, list crew members, passengers or other persons who have joined ship/vessel since international voyage began or within past thirty days, whichever is shorter, including all ports/countries visited in this period (add additional names to the attached schedule):

(1) ..... Name joined from: (1) .....(2) ..... (3)

(2) ..... Name joined from: (1) .....(2) ..... (3)

(3) ..... Name joined from: (1) .....(2) ..... (3)

Number of crew members on board .....

Number of passengers on board .....

#### **Health-questions,**

(1) Has any person died on board during the voyage otherwise than as a result of accident?

Yes ..... No .....If yes, state particulars in attached schedule.

Total no. of deaths .....

Is there on board or has there been during the international voyage any case of disease which you suspect to be of an infectious nature? Yes ..... No .....

If yes, state particulars in attached schedule.

(2) Has the total number of ill passengers during the voyage been greater than normal/expected? Yes ..... No ..... How many ill persons?

(3) Is there any ill person on board now? Yes ..... No .....

If yes, state particulars in attached schedule.

(4) Was a medical practitioner consulted? Yes ..... No .....

If yes, state particulars of medical treatment or advice provided in attached schedule.

(5) Are you aware of any condition on board which may lead to infection or spread of disease? Yes ..... No ..... If yes, state particulars in attached schedule.

(6) Has any sanitary measure (e.g. quarantine, isolation, disinfection or decontamination) been applied on board? Yes..... No ..... If yes, specify type, place and date .....

(7) Have any stowaways been found on board? Yes ..... No .....  
If yes, where did they join the ship (if known)? .....

(8) Is there a sick animal or pet on board? Yes ..... No .....

Note: In the absence of a surgeon, the master should regard the following symptoms as grounds for suspecting the existence of a disease of an infectious nature:

.....

(a) fever, persisting for several days or accompanied by (i) prostration; (ii) decreased consciousness; (iii) glandular swelling; (iv) jaundice; (v) cough or shortness of breath; (vi) unusual bleeding; or (vii) paralysis;

(b) with or without fever: (i) any acute skin rash or eruption; (ii) severe vomiting (other than sea sickness); (iii) severe diarrhoea; or (iv) recurrent convulsions.

I hereby declare that the particulars and answers to the questions given in this Declaration of Health (including the schedule) are true and correct to the best of my knowledge and belief.

Signed.....

Master

Countersigned .....

Ship's Surgeon (if carried)

Date.....

ATTACHMENT TO MODEL OF MARITIME DECLARATION OF HEALTH

Name	Class or rating	Age	Sex	Nationality	Port, date joined ship/vessel	Nature of illness	Date of onset of symptoms	Reported to a port medical officer?	Disposal of of case	Drugs, medicines or other treatment given to patient	Comments

ANNEX 9

THIS DOCUMENT IS PART OF THE AIRCRAFT GENERAL DECLARATION,  
PROMULGATED BY THE INTERNATIONAL CIVIL AVIATION ORGANIZATION  
HEALTH PART OF THE AIRCRAFT GENERAL DECLARATION<sup>1</sup>

Declaration of Health

Name and seat number or function of persons on board with illnesses other than airsickness or the effects of accidents, who may be suffering from a communicable disease (a fever – temperature 38°C/100 °F or greater – associated with one or more of the following signs or symptoms, e.g. appearing obviously unwell; persistent coughing; impaired breathing; persistent diarrhoea; persistent vomiting; skin rash; bruising or bleeding without previous injury; or confusion of recent onset, increases the likelihood that the person is suffering from a communicable disease) as well as such cases of illness disembarked during a previous stop

.....  
Details of each disinsecting or sanitary treatment (place, date, time, method) during the flight. If no disinsecting has been carried out during the flight, give details of most recent disinsecting

.....  
Signature, if required, with time and date Crew member concerned

.....

## APPENDIX 1

### STATES PARTIES TO THE INTERNATIONAL HEALTH REGULATIONS (2005)<sup>1</sup>

Except as otherwise indicated, the International Health Regulations (2005) entered into force on 15 June 2007 for the following States:

Afghanistan, Albania, Algeria, Andorra, Angola, Antigua and Barbuda, Argentina, Armenia, Australia, Austria, Azerbaijan, Bahamas, Bahrain, Bangladesh, Barbados, Belarus, Belgium, Belize, Benin, Bhutan, Bolivia, Bosnia and Herzegovina, Botswana, Brazil, Brunei Darussalam, Bulgaria, Burkina Faso, Burundi, Cambodia, Cameroon, Canada, Cape Verde, Central African Republic, Chad, Chile, China<sup>2</sup>, Colombia, Comoros, Congo, Cook Islands, Costa Rica, Cote d'Ivoire, Croatia, Cuba, Cyprus, Czech Republic, Democratic People's Republic of Korea, Democratic Republic of the Congo, Denmark, Djibouti, Dominica, Dominican Republic, Ecuador, Egypt, El Salvador, Equatorial Guinea, Eritrea, Estonia, Ethiopia, Fiji, Finland, France, Gabon, Gambia, Georgia, Germany, Ghana, Greece<sup>2</sup>, Grenada, Guatemala, Guinea, Guinea-Bissau, Guyana, Haiti, Holy Sea, Honduras, Hungary, Iceland, India (8 August 2007)<sup>2</sup>, Indonesia, Iran (Islamic Republic of)<sup>2</sup>, Iraq, Ireland, Israel, Italy, Jamaica, Japan, Jordan, Kazakhstan, Kenya, Kiribati, Kuwait, Kyrgyzstan, Lao People's Democratic Republic, Latvia, Lebanon, Lesotho, Liberia, Libyan Arab Jamahiriya, Lithuania, Luxembourg, Madagascar, Malawi, Malaysia, Maldives, Mali, Malta, Marshall Islands, Mauritania, Mauritius, Mexico, Micronesia (Federated States of), Moldova, Monaco, Mongolia, Montenegro (5 February 2008), Morocco, Mozambique, Myanmar, Namibia, Nauru, Nepal, Netherlands, New Zealand, Nicaragua, Niger, Nigeria, Niue, Norway, Oman, Pakistan, Palau, Panama, Papua New Guinea, Paraguay, Peru, Philippines, Poland, Portugal<sup>2</sup>, Qatar, Republic of Korea, Romania, Russian Federation, Rwanda, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Samoa, San Marino, Sao Tome and Principe, Saudi Arabia, Senegal, Serbia, Seychelles, Sierra Leone, Singapore, Slovakia, Slovenia, Solomon Islands, Somalia, South Africa, Spain, Sri Lanka, Sudan, Suriname, Swaziland, Sweden, Switzerland, Syrian Arab Republic, Tajikistan, Thailand, The former Yugoslav Republic of Macedonia, Timor-Leste, Togo, Tonga<sup>2</sup>, Trinidad and Tobago, Tunisia, Turkey<sup>2</sup>, Turkmenistan, Tuvalu, Uganda, Ukraine, United Arab Emirates, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania, United States of America (18 July 2007)<sup>2</sup>, Uruguay, Uzbekistan, Vanuatu, Venezuela (Bolivarian Republic of), Viet Nam, Yemen, Zambia, Zimbabwe.

<sup>1</sup> At 5 February 2008.

<sup>2</sup> Indicates that a State Party has submitted, to the Director-General of WHO, documentation related to the International Health Regulations (2005), which has been circulated by the Director-General to all Member States of WHO as well as to other States eligible to become Parties to the Regulations pursuant to Article 64 thereof.

## APPENDIX 2

### RESERVATIONS AND OTHER STATE PARTY COMMUNICATIONS IN CONNECTION WITH THE INTERNATIONAL HEALTH REGULATIONS (2005)<sup>1,2</sup>

#### I. RESERVATIONS AND UNDERSTANDINGS INDIA

I am directed to refer to Reservations in respect of India mentioned in Annexure-II to IHR 1969 (Revised up to 1983) {copy enclosed} and to request you to notify the following Reservations in respect of India for notification under Article 62 of the recently circulated IHR 2005: —

#### Proposed Reservation to IHR 2005: —

1. The Government of India reserves the right to consider the whole territory of a country as infected with yellow fever whenever yellow fever has been notified under Article 6 and other relevant articles in this regard of IHR (2005). The Government of India reserves the right to continue to regard an area as infected with yellow fever until there is definite evidence that yellow fever infection has been completely eradicated from that area.

2. Yellow Fever disease will be treated as disease of Public health emergency of international concern and all health measures being applied presently like disinsection of conveyance, vaccination requirements and quarantine of passengers and crew (as may be required) (as per Article 7, 9.2 (b), 42 and relevant annexures) will be continued as has been stipulated under Annex – II of IHR-1969 (Revised in 1983).

#### **UNITED STATES OF AMERICA**

The Mission, by means of this note, informs the Acting Director-General of the World Health Organization that the Government of the United States of America accepts the IHRs, subject to the reservation and understandings referred to below.

The Mission, by means of this note, and in accordance with Article 22 of the Constitution of the World Health Organization and article 59 (1) of the IHRs, submits the following reservation on behalf of the Government of the United States of America:

The Government of the United States of America reserves the right to assume obligations under these Regulations in a manner consistent with its fundamental principles of federalism. With respect to obligations concerning the development, strengthening, and maintenance of the core capacity requirements set forth in Annex 1, these Regulations shall be implemented by the Federal Government or the state governments, as appropriate and in accordance with our Constitution, to the extent that the implementation of these obligations comes under the legal jurisdiction of the Federal Government. To the extent that such obligations come under the legal jurisdiction of the state governments, the Federal Government shall bring such obligations with a favorable recommendation to the notice of the appropriate state authorities.

The Mission, by means of this note, also submits three understandings on behalf of the Government of the United States of America. The first understanding relates to the application of the IHRs to incidents involving natural, accidental or deliberate release of chemical, biological or radiological materials:

In view of the definitions of “disease,” “event,” and “public health emergency of international concern” as set forth in Article 1 of these Regulations, the notification requirements of Articles 6 and 7, and the decision instrument and guidelines set forth in Annex 2, the United States understands that States Parties to these Regulations have assumed an obligation to notify to WHO potential public health emergencies of international concern, irrespective of origin or source, whether they involve the natural, accidental or deliberate release of biological, chemical or radionuclear materials.

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<sup>1</sup> At 5 February 2008.

<sup>2</sup> This Appendix reproduces the relevant parts of the communications submitted by States, which have been edited by the Secretariat of WHO, or translations thereof. Copies of the original communications are available at <http://www.who.int/ihr>.

The second understanding relates to the application of Article 9 of the IHRs:

Article 9 of these Regulations obligates a State Party “as far as practicable” to notify the World Health Organization (WHO) of evidence received by that State of a public health risk occurring outside of its territory that may result in the international spread of disease. Among other notifications that could prove to be impractical under this article, it is the United States’ understanding that any notification that would undermine the ability of the U.S. Armed Forces to operate effectively in pursuit of U.S. national security interests would not be considered practical for purposes of this Article.

The third understanding relates to the question of whether the IHRs create judicially enforceable private rights. Based on its delegation’s participation in the negotiations of the IHRs, the Government of the United States of America does not believe that the IHRs were intended to create judicially enforceable private rights:

The United States understands that the provisions of the Regulations do not create judicially enforceable private rights.

## **II. OBJECTIONS TO RESERVATIONS AND UNDERSTANDINGS IRAN (Islamic Republic of)**

The Permanent Mission of the Islamic Republic of Iran to the United Nations Office and other International Organizations in Geneva presents its compliments to the World Health Organization and with reference to note verbale No. C.L.2.2007 dated 17 January 2007 concerning the Reservation and Understandings of the Government of the United States of America on the International Health Regulations (IHR), has the honor to convey the official objection of the Government of the Islamic Republic of Iran to the same Reservation and Understandings, based on the following:

According to the IHR, while “States may make reservations to these Regulations”, “such reservations shall not be incompatible with the object and purpose of these regulations”. Furthermore, in accordance with the IHR, “the implementation of these Regulations shall be guided by the goal of their universal application for the protection of all people of the world from the international spread of disease”.

The Government of the Islamic Republic of Iran believes that, by giving more prominence to federalism than its obligations under the IHR, the reserving Government attempts to evade its due responsibilities and obligations. The aforementioned Government, by adopting a selective approach, provides its states with the option of exempting themselves from full compliance with the provisions of the IHR. Since implementation of the IHR largely depends on the development, strengthening and maintenance of the core capacity requirements set forth in Annex 1, reservation of such a general nature leads to undermining the IHR foundations as well as its integrity and universal applicability. Such reservation is considered to be incompatible with the object and purpose of these Regulations and is, therefore, unacceptable.

Moreover, the understandings and interpretations assumed by a government, too, should not affect the obligations to be undertaken by that government and must not be incompatible with the object and purpose of the Regulations.

As regards to the first Understanding of the reserving Government, it must be recalled that the majority of WHO Member States participating in the IHR negotiations, categorically rejected the inclusion of the related interpretation within the provisions of the IHR. Their rejections were prompted to avoid confusion over respective obligations of the State Parties under the IHR and to preempt overlapping of the competencies and duplication of work among the relevant intergovernmental organizations or international bodies. Article 6.1 and 14.2 of the IHR address such concerns.

The second Understanding attempts to dilute the obligations of the U.S. Government under the IHR. It is an attempt to place national interests above the treaty obligations by excluding the U.S. Armed Forces from the IHR bindings. The universal applicability of the IHR for the protection of all peoples of the world from the international spread of diseases leaves no room for exempting the American Armed Forces, in particular those operating abroad. Such an exemption could not be conceded to, taking into account the nature, direction and possible public health consequences of the U.S. Armed Forces operations. It should be recalled that during IHR negotiations, the majority of WHO Member States strongly rejected the above exclusion proposed by the U.S. Government. It is, therefore, in violation of the U.S. obligations under the IHR and is incompatible with the object and purpose of these regulations, to which the Government of the Islamic Republic of Iran strongly objects.

The Government of the Islamic Republic of Iran reiterates that it does not consider the Reservation and the two Understandings stated by the U.S. Government, as legally binding.

### III. DECLARATIONS AND STATEMENTS

#### CHINA<sup>1</sup>

1. The Government of the People's Republic of China decides that the *International Health Regulations (2005)* (hereinafter referred to as "the IHR") applies to the entire territory of the People's Republic of China, including the Hong Kong Special Administrative Region, the Macau Special Administrative Region and the Taiwan Province.

2. The Ministry of Health of the People's Republic of China is designated as China's National Focal Point, pursuant to Paragraph 1 of Article 4 of the IHR. The local health administrative authorities are the health authorities responsible for the implementation of the IHR in their respective jurisdictions. The General Administration of Quality Supervision, Inspection and Quarantine of the People's Republic of China and its local offices are the competent authorities of the points of entry referred to in Article 22 of the IHR.

3. To meet the needs of applying the IHR, the Government of the People's Republic of China is revising the Frontier Health and Quarantine Law of the People's Republic of China. It has incorporated the development, enhancement and maintenance of the core capability-building for rapid and effective response to public health hazards and public health emergencies of international concern into its program of establishing a national health emergency response system during the 11th Five-year Plan for National Economic and Social Development. It is formulating the technical standards for the surveillance, reporting, assessment, determination and notification of public health emergencies of international concern. It has established an inter-agency information-sharing and coordination mechanism for implementing the IHR. And it has conducted cooperation and exchanges with relevant states parties on the implementation of the IHR.

4. The Government of the People's Republic of China endorses and will implement the resolution of the 59th World Health Assembly calling upon its member states to comply immediately, on a voluntary basis, with provisions of the IHR considered relevant to the risk posed by the avian influenza and pandemic influenza.

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<sup>1</sup> English translation provided by the Government.

## GREECE

### **Reply dated 24 January 2007 to the statement made by the Republic of Turkey on 14 December 2006**

The Permanent Mission of Greece to the United Nations Office and other International Organizations in Geneva presents its compliments to the Director-General of the World Health Organization and, with reference to the latter's Note Verbale under Ref. No. C.L.3.2007, dated January 17th, 2007, and the Note Verbale enclosed therein of the Permanent Mission of the Republic of Turkey Ref. No. 520.20/2006/BMCO DT/12201, dated December 14th, 2006, has the honour to draw the attention of the Director-General to the fact that the correct title of the Montreux Convention regarding the regime of the straits of the Dardanelles, the Marmara sea and the Bosphorus is: "The Convention Regarding the Regime of the Straits signed at Montreux on July 20th, 1936".

Furthermore, concerning the reference made in the aforementioned Note Verbale of the Permanent Mission of Turkey to the maritime traffic regulations unilaterally adopted in Turkey in 1998, we would like to remind the Director-General that they are in contravention to the provisions of the International Law of the Sea, the Montreux Convention and the relevant rules and Recommendations of the International Maritime Organization adopted on June 1st, 1994.

### **Reply dated 16 April 2007 to the Note Verbale from the Permanent Mission of Turkey dated 1 March 2007**

- A. Firstly, it should be noted that there is no substantive link between the content of the Turkish statement contained in Note Verbale 520.20/BMCO DT/12201 dated 14th December, 2006 and the new International Health Regulations. In fact, the Turkish statement seeks to elicit tacit acceptance or recognition of the national regulations, adopted by Turkey, concerning maritime traffic through the Straits.

However, these regulations were adopted unilaterally and were not approved by the International Maritime Organization or the parties of the Montreux Convention of 1936 which governs the issue.

Concerning its precise content, the statement goes on to assert that Turkey rightly points out that as far as the implementation of the new International Health Regulations for maritime traffic in the Straits is concerned, this should be done in accordance with the provisions of the Montreux Convention of 1936 regarding the regime of the Straits. It is, however, self-evident that the new Health Regulations do not influence the existing international regime of navigation through the Straits, neither could they do so, as there is no connection of substance between them.

The Turkish statement goes on to assert that the Turkish Maritime Traffic Regulations of 1998 will also be taken into account. This means that the Turkish Authorities will enforce the International Health Regulations subject to certain ill-defined national modifications, which are in fact themselves in contravention of the international obligations Turkey has undertaken under the Montreux Convention.



Furthermore, the Turkish Authorities reserve the right to also take into account any further revision of their national traffic regulations, to be adopted in the same unilateral way in the future. In fact, this would seem simply that, in so far as the Straits are concerned, Turkey may implement the new International Heath Regulations as it sees fit.

The reference, therefore, to national legislation and to any future revisions of this legislation, while irrelevant to the subject at hand, is nonetheless problematic because it seeks to subject international conventional obligations to national rules and regulations.

- B.** Furthermore, the Turkish Regulations concerning traffic in the Straits are themselves not in conformity with:
- The 1936 Montreux Convention: this Convention enshrines full freedom of navigation (articles 1 and 2) through the Straits without any restrictions whatsoever (apart from sanitary control) and without any formalities, irrespective of the kind of cargo or the timing of the transit. Thus, the Turkish Regulations by, amongst other things, imposing a compulsory reporting system (Reg. 6,25 and al.) and, particularly, by providing for the possibility of the total suspension of traffic (Reg. 20) are incompatible with the Montreux Convention.
  - The IMO Rules and Regulations: Paragraphs 1.2 and 1.3 foresee that only in the case where a vessel is unable to comply with the Traffic Separation Scheme do the Turkish Authorities have the right to temporarily suspend two-way traffic and to regulate the resulting one way traffic. The IMO Rules and Regulations on no account foresee a total suspension of traffic in the Straits. The Turkish Regulations, on the other hand, provide for the possibility to completely suspend traffic in general for a wide variety of reasons.
  - The international law of the sea regarding navigation through international straits: such law encourages cooperation in order to ensure the safe transit of vessels through the Straits and in order to protect the environment. The Turkish Regulations, however, were adopted unilaterally, in contravention of the law of the sea and the relevant law of treaties.
- C.** As to the Turkish Note dated 1st March 2007 (Ref. No: 520.20/2007/BMCO DT/ 171 1), the information contained there in is inaccurate on several points. More specifically, the said Turkish Note states:
- that the Turkish Regulations “have been put into effect taking into account Turkey’s obligations and rights arising from the Montreux Convention”, whereas the latter contains and rights arising from the Montreux Convention”, whereas the latter contains no provision which authorises Turkey to unilaterally issue traffic regulations.
  - that Turkey “informed IMO of the safety measures taken in the Straits”, whereas Turkey has consistently refused to officially submit its national regulations to IMO for discussion and examination, alleging that it is a matter of exclusive Turkish jurisdiction.
  - that “... Traffic Separation Schemes and Reporting System... were adopted by IMO together with some other rules in 1995”, whereas only Traffic Separation Schemes were adopted by that Organization, together with the relevant IMO Rules and Recommendations. The Reporting System included in the Turkish Regulations was never adopted by IMO.

- that “... the maritime Safety Committee of the IMO confirmed at its 71st session that the routing system and the associated IMO Rules and Recommendations... had contributed significantly to an increase in safety ...” in an attempt to create the impression that the IMO is referring to the Turkish Regulations, whereas it is only referring to the measures adopted within the IMO itself.

In the light of the above, Greece considers the statement made by Turkey in its Note Verbale 520.20/2006/BMCO DT/12201 dated 14th December 2006 as irrelevant to the International Health Regulations, thus having no legal effect as to the latter’s implementation. Furthermore, Greece reiterates the point made in her Note Verbale no. (331) 6395/6/AS 168 dated 24 January 2007 as to the importance of using the correct terminology when referring to international instruments such as the Montreux Convention.

## **PORTUGAL**

### **Declaration of the Presidency of the Council of the European Union (EU) on the reservation of the Government of the United States of America concerning the International Health Regulations**

The International Health Regulations (IHR) are a very effective tool for reinforcing the connection between the surveillance systems and in establishing rapid reaction mechanisms. The EC and its 27 Member States have strongly supported the revised IHR, which recently came into force, and we will continue this support for the implementation of the IHR in full and without restrictions.

The EC and its 27 Member States take note of the above mentioned reservation and declare that they understand it to mean that, in accordance with the principle that a Party may not invoke the provisions of its internal law as justification for its failure to perform its international obligations, this reservation in no way intends to question the obligations stemming from the IHR. The EC and its 27 Member States understand that the Federal Government of the United States of America fully recognises those obligations and that it will exercise every effort to ensure that the provisions of the IHR are fully implemented and given full effect by the pertinent authorities in the United States of America.

### **Declaration of the Presidency of the Council of the European Union (EU) on the statement of the Government of Turkey concerning the International Health Regulations**

The International Health Regulations (IHR) are a very effective tool for reinforcing the connection between the surveillance systems and in establishing rapid reaction mechanisms. The EC and its 27 Member States have strongly supported the revised IHR, which recently came into force, and we will continue this support for the implementation of the IHR in full and without restrictions.

The EC and its 27 Member States take note of Turkey’s intention to implement the provisions of the IHR in accordance with the Convention regarding the regime of the Straits, signed at Montreux on 20 July 1936.

The EC and its 27 Member States understand the desire of the Turkish authorities to respect their international obligations, such as the Montreux Convention regarding traffic in the Straits. In this respect they would like to refer to Article 57 of the IHR, which provides that States Parties recognize that the IHR and other relevant international agreements should be interpreted so as to be compatible. The provisions of the IHR shall not affect the rights and obligations of any State Party deriving from other international agreements.

Concerning the reference by Turkey to internal legislation which has no direct bearing on the implementation of the IHR, the EC and its 27 Member States understand that Turkey will ensure that the application of its internal legislation fully respects the letter and spirit of the IHR and the regime of freedom of navigation in the Straits as established by the Montreux Convention.

**Declaration of the Presidency of the Council of the European Union (EU) on the reservation of the Government of India concerning the International Health Regulations**

The International Health Regulations (IHR) are a very effective tool for reinforcing the connection between the surveillance systems and in establishing rapid reaction mechanisms. The EC and its 27 Member States have strongly supported the revised IHR, which recently came into force, and we will continue this support for the implementation of the IHR in full and without restrictions.

The EC and its 27 Member States understand the willingness of the Government of India to apply strong measures in order to keep the territory of India free of yellow fever. The EC and its 27 Member States recognise the challenges in ensuring the surveillance and protection of such a large territory, considering the existence of factors (e.g. presence of aedes) which may facilitate the spread of contamination.

The EC and its 27 Member States nevertheless expect that this reservation will be implemented in a reasonable way, considering the potentially unnecessary interference it could have with international traffic and trade from the largest part of the geographical territory of the EC in the case of a yellow fever outbreak in an outermost region of the EU or in a non-European part of a Member State of the EC (e.g. Guyana, Antilles). The fact that the Government of India considers yellow fever to be a notifiable disease should not trigger disproportionate control measures.

The commitment of the EC and its 27 Member States to ensure the rapid and comprehensive implementation of the IHR will reinforce the measures already implemented to maintain the whole territory of the EC free of yellow fever.

**TURKEY**

**Statement made by the Republic of Turkey on 14 December 2006**

Turkey will implement the provisions of the International Health Regulations in accordance with the Convention regarding the regime of the Turkish Straits, signed at Montreux on 20 July 1936, as well as by taking into account Turkish 1998 Maritime Traffic Regulations for the Turkish Straits and any future revisions to be made thereto.

**Reply dated 1 March 2007 to the Note Verbale from the Permanent Mission of Greece dated 24 January 2007**

The Maritime Traffic Regulations for the Turkish Straits have been put into effect taking into account Turkey's obligations and rights arising from the Montreux Convention. The said Regulations do not contain any element that is in contravention of international law or International Maritime Organization's (IMO) Rules and Recommendations and are being implemented accordingly.

The measures taken in the Turkish Straits in accordance with the said Regulations are aimed at improving the safety of navigation, human life, cultural and environmental heritage. Moreover, the safety measures are needed vis-a-vis the risks and dangers of passage of the increased number of tanker traffic in the Straits.

Turkey has duly informed IMO of the safety measures taken in the Straits. Besides, Traffic Separation Schemes and Reporting System, established within the framework of the Turkish Straits Regulations, were adopted by IMO together with some other rules in 1995.

Furthermore, the Maritime Safety Committee of the IMO confirmed at its 71st session on May 1999 that the routing system and the associated IMO Rules and Recommendations relating to the Turkish Straits have proven to be effective and successful and had contributed significantly to an increase in safety and a reduction of the risk of collisions.

The Turkish Straits Vessel Traffic Services which have been functioning since 31 December 2003 within the framework of the Montreux Convention, IMO Rules and the Turkish Straits Regulations, provide traffic arrangements successfully with high standard technical equipment and qualified expert personnel.

Accordingly, the arguments in the above-mentioned Note of the Permanent Mission of Greece are unfounded and the statement of Turkey registered in our Note dated 14 December 2006 (Ref. No: 520.20/2006/BMCO DT/12201) remains unchanged and valid.

**Reply dated 18 May 2007 to the Note Verbale from the Permanent Mission of Greece dated 16 April 2007**

The Permanent Mission of the Republic of Turkey to the United Nations Office at Geneva and other International Organizations in Switzerland presents its compliments to the Director-General of the World Health Organization (WHO) and with reference to the latter's Note dated 9 May 2007 (Ref. No: C.L.22.2007) and the Note enclosed therein of the Permanent Mission of Greece dated 16 April 2007 (Ref. No: 6395(3160)/22/AS 783) has the honour to inform the Director-General of the following.

The Permanent Mission of the Republic of Turkey would like to underline that the statement in this Mission's Note of December 14, 2006 (No: 520.20/BMCO DT/12201) was a factual representation of the state of affairs.

Furthermore, the Permanent Mission would like to point out that the arguments and assertions raised in the Greek Delegation's above-mentioned Note are unfounded. Turkey's position on the Maritime Traffic Regulations for the Turkish Straits is also acknowledged by the International Maritime Organization (IMO) and remains unchanged. In fact, Turkish Straits Vessel Traffic Services (TSVTS) center is effectively providing traffic information, navigational assistance and traffic organization under the existing regulations to all vessels passing through the Straits.

As to the terminology used when referring to the Montreux Convention, the Permanent Mission, with all due respect to the wording of the said Convention, would like to emphasize the fact that the Straits subject of the said Convention are the "Turkish Straits", namely, the "Strait of Istanbul" and the "Strait of Qanakkale".

**IV. DECLARATIONS UNDER ARTICLE 59, PARAGRAPH 3, OF THE IHR (2005)**

**TONGA**

Following their adoption by the World Health Assembly in May 2005, the International Health Regulations (IHR) 2005 will enter into force on 15 June 2007.

The Kingdom of Tonga supports the important contribution the IHR 2005 will make to the strengthening of national and global systems for the protection of public health from the spread of disease.

The Kingdom of Tonga understands that in order to be effective, the IHR 2005 will need to operate at various levels within each country, as well as between countries internationally and the World Health Organization. With this in mind, Tonga has, with support from regional partners including WHO, taken a number of steps to prepare for the entry into force of the new regime. However, it is not possible to confirm that all the required adjustments will be able to be achieved by 15 June 2007.

Therefore, on behalf of the Kingdom of Tonga, and in accordance with paragraph 3 of Article 59 of the IHR 2005, I declare that the following adjustments may not be completed by June 2007.

The outstanding adjustments are as follows:

1. Complete the review of the Public Health Act 1992 to ensure legislative consistency with the IHR 2005;
2. Strengthen existing systems for the regular, national reporting of notifiable diseases, including the reporting of any events of potential public health significance, irrespective of their source;
3. Various enhancements to border health protection functions, including improved reporting and response capacities for public health events at Fua'amotu Airport and surveillance and control of vector/reservoir species at Fua'amotu airport and the seaport at Nuku'alofa.

The Kingdom of Tonga is, and will remain, committed to playing its part in the collective actions that contribute to the protection of public health for all people of the world. It is my intention that the outstanding adjustments will be achieved by 31 December 2007, and certainly no later than 15 June 2008.

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The purpose and scope of the International Health Regulations (2005) are “to prevent, protect against, control and provide a public health response to the international spread of disease in ways that are commensurate with and restricted to public health risks, and which avoid unnecessary interference with international traffic and trade”. Because the IHR (2005) are not limited to specific diseases but apply to new and ever-changing public health risks, they are intended to have long-lasting relevance in the international response to the emergence and spread of disease. The IHR (2005) also provide the legal basis for important health documents applicable to international travel and transport and sanitary protections for the users of international airports, ports, and ground crossings.

This second edition contains the text of the IHR (2005), the text of World Health Assembly resolution WHA 8.3, the version of the Health Part of the Aircraft General Declaration that entered into force on 15 July 2007, appendices containing a list of States Parties and State Party reservations and other communications in connection with the IHR (2005).

SCHEDULE 2  
(section 69 (1))

**CERTIFICATE THAT A PERSON IS NOT FIT  
TO BE VACCINATED**

I, the undersigned, hereby certify that in my opinion.....is not  
now in a fit state to be vaccinated, and I hereby recommend that the vaccination be postponed for a  
period of three months from this date.

Date this.....day of....., 20.....

.....  
*Signature of Medical Practitioner*

SCHEDULE 3  
(section 70 (1))

**CERTIFICATE OF INSUSCEPTIBILITY**

I, the undersigned, hereby certify that I have three times unsuccessfully vaccinated  
.....or that.....has already had  
smallpox, as the case may be, and I am of the opinion that the said.....is  
unsusceptible of successful vaccination.

Date this.....day of....., 20.....

.....  
*Signature of Medical Practitioner or Public Vaccinator*

SCHEDULE 4  
(section 71)

INTERNATIONAL CERTIFICATE OF VACCINATION OR REVACCINATION  
AGAINST SMALLPOX

This is to certify that .....date of birth.....sex.....

whose signature follows.....has on the date indicated been vaccinated  
against smallpox.

Date	Show by “x” whether:	Signature and professional status of vaccinator	Approved stamp	
1a	Primary vaccination performed.....		0.0416666667	1b
1b	Read as successful Unsuccessful.....			
2	Revaccination.....		2	3
3	Revaccination.....			
4	Revaccination.....		4	5
5	Revaccination.....			
6	Revaccination.....			
7	Revaccination.....			

The validity of this certificate shall extend for a period of three years beginning eight days after the date of a successful primary vaccination or in the event of a revaccination, on the date of that revaccination. The approved stamp mentioned above must be a form prescribed by the Health Administration of the territory in which the vaccination is performed.

SCHEDULE 5  
(section 149 (1))

**GENERAL SCHEDULE OF IMMUNIZATION FOR CHILDREN UNDER FIVE YEARS**

Age Group	Type of Immunization Required (Vaccine)
At Birth	BCG + HBV O
At 2 months	OPV 1, Pentavalent 1 (DPT-HBV-Hib), Rotavirus 1, Pneumococcal 1.
At 3 months	OPV 2, Pentavalent 2 (DPT-HBV-Hib), Rotavirus 2, Pneumococcal 2.
At 4 months	OPV 3, Pentavalent 3 (DPT-HBV-Hib), Pneumococcal 3.
At 9 months	Measles 1
At 18 months	OPV Booster, DT Booster and Measles 2
7 years	OPV Booster, DT Booster
13 years	TT Booster

**Women of Child Bearing Age**

First Contact	TT1
1 Month after the 1st Dose	TT2
6 Months after the 2nd Dose	TT3
1 Year after the 3rd Dose	TT4
1 Year after the 4th Dose	TT5

SCHEDULE 6  
(section 149 (7))

**VITAMIN A SUPPLEMENTATION SCHEDULE FOR ALL INFANTS AND CHILDREN  
6 – 59 MONTHS OF AGE**

Target Group	Infants 6 – 11 months of age	Children 12 – 59 months of age
Dose	100,000 I.U Vitamin A (blue) capsule	200,000 I.U Vitamin A (red) capsule
Frequency	Every 6 months	Every 6 months

PASSED by the National Assembly this 28th day of March, 2013.

BARBARA N. DITHAPO,  
*Clerk of the National Assembly.*