NATIONAL IMPLEMENTATION MEASURES FOR THE INTERNATIONAL HEALTH REGULATIONS 2005

FACTS ABOUT THE IHR

The International Health Regulations (IHR) were adopted by the World Health Assembly, the World Health Organization's (WHO) decision-making body, on 23 May 2005. They entered into force on 15 June 2007 and are legally binding on all WHO Member States.

An epidemiologist implementing a rapid diagnostic test which was used during the Ebola response. John Saindon/ Public Health Image library (PHIL), Centers of Disease Control and Prevention

PURPOSE AND SCOPE

The IHR aim to prevent, protect against, control and provide a public health response to the **international spread of disease** (Article 2). "Disease" means an illness or medical condition that presents or could present significant harm to humans. A disease's origin or source is irrelevant in this regard (Article 1.1). The IHR's measures are commensurate with and restricted to public health risks and avoid unnecessary interference with international traffic and trade. They have to be implemented in line with human rights law (Article 3.1).

The IHR require states to report any event that may constitute a "**public health emergency of international concern**" (**PHEIC**) to the WHO (Article 6.1). A PHEIC is an extraordinary event which is determined "(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". A "public health risk" refers to the likelihood of an event adversely affecting the health of human populations, especially one that may spread internationally or present a serious and direct danger (Article 1.1).

The IHR give the **WHO** Director-General the authority to determine, on the basis of the information received, in particular from the state in which the event in question is occurring, whether an event constitutes a PHEIC (Article 12.1). The Director-General can then issue temporary recommendations to states, taking into account the view of the Emergency Committee, which consists of public health experts.

Moreover, the IHR require states to build, strengthen and maintain a **public health capacity**. This consists of a) core capacities to detect, assess, notify and respond to "events" (i.e. manifestations of disease or occurrences that creates a potential for disease) and b) core capacities to provide for public health personnel, equipment and measures at designated airports, ports and ground crossings.

IS MY STATE UNDER AN OBLIGATION TO IMPLEMENT THE IHR?

As the IHR are **legally binding** on all WHO Member States, they have to make sure that their domestic legal framework supports and implements their IHR obligations. This framework facilitates implementation of core capacities of a technical nature. During the adoption of the IHR, the World Health Assembly urged all WHO Member States to take all appropriate measures, including legal and administrative provisions, to implement the IHR.

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58th World Health Assembly adopts the IHR 2005
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Article 3.4 of the IHR provides that "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." In fact, states that are not able to adjust their domestic legislative and administrative arrangements fully with the Regulations shall make a declaration to the Director-General regarding the outstanding adjustments and achieve them (Article 59.3).

LEGISLATIVE, REGULATORY AND ADMINISTRATIVE MEASURES FOR THE IHR

The legislative, regulatory and administrative measures for implementation of the IHR in national frameworks include:

- **Definitions** of key terms such as 'disease', 'event' and 'public health emergency of international concern';
- **Designation of a National IHR Focal Point** and national authorities responsible for implementation of the IHR (Article 4), with a functional coordination mechanism. The National IHR Focal Point shall be accessible at all times for communications with WHO.
    - The National IHR Focal Point's role includes providing **notification of all events which may constitute a PHEIC within 24 hours** of assessment of public health information (Article 6.1). The National IHR Focal Point must also share information about unexpected or unusual public health events (Article 7);
- **Core capacity to detect, assess, notify and report events, and respond promptly and effectively to public health risks and a PHEIC** (Articles 5, 13 and Annex 1A). This includes surveillance; control measures to prevent the spread of diseases; support through specialised staff, sample analysis and logistical assistance; local investigation; efficient means of communication; and national public health emergency procedures;
- **Core capacity for designated airports, ports and ground crossings** (Articles 19, 20, 21, 22 and Annex 1B). This includes access to medical service, including to transport ill travellers; trained personnel for the inspection of conveyances; and the capacity to apply entry and exit controls during public health emergency of international concern;
- **Public health measures** (Articles 23-34). These include information gathering on travellers and duties of conveyance operators. Public health measures must be applied in a transparent and non-discriminatory manner (Article 42);
- **Additional health measures** (Article 43). These are optional and can be taken in response to specific public health risks or a PHEIC. They have to achieve the same or greater level of health protection than WHO recommendations. Such measures cannot 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;
- **Communication and collaboration** with WHO and other States Parties on response, technical support, financial resources and legislation (Article 44);
- **Facilitation of** the transport, entry, exit, processing and disposal of **biological substances** and diagnostic specimens, reagents and other diagnostic materials for verification and public health response (Article 46);
- **IHR health documents.** These include the Maritime Declaration of Health (Article 37 and Annex 8), Health Part of the Aircraft General Declaration (Article 38 and Annex 9), the Ship Sanitation Certificate (Article 39 and Annex 3) and the International Certificate of Vaccination and Prophylaxis (Annex 6). These health documents need to be issued in accordance with the IHR. In addition, specific yellow fever vaccination centres (Annex 7(b)) need to be designated within each state.

WHO'S ROLE

- **Designate IHR Contact Points** to communicate with National IHR Focal Points (Article 4);
- **Communicate with states parties** and request verification of information received regarding events (Articles 10 and 11);
- **Determine a PHEIC** (Articles 12, 48, 49);
- On the request of a state party, **collaborate on the response to public health risks**, providing technical guidance and assistance (Article 13);
- Issue recommendations (Articles 15 and 16). These can be **temporary recommendations** during a PHEIC or **standing recommendations** for ongoing issues of public health concern. Recommendations can be made regarding persons, baggage, cargo, containers, conveyances, goods and/or postal parcels;
- Collaborate upon request with states parties on **public health capacity**, technical cooperation and financial support for developing countries (Article 44).

WHERE SHOULD MY STATE TURN FOR ASSISTANCE?

The **WHO** has developed the following legislative assistance tools:

- IHR (2005): A brief introduction to implementation in national legislation. This document provides a brief introduction to legislative implementation of the IHR;
- Toolkit for implementation in national legislation: The National IHR Focal Point (NFP). This document provides guidance on the implementation of NFP-related IHR requirements in national legislation;
- Toolkit for implementation in national legislation: Questions and answers, legislative reference and assessment tool and examples. This document is a detailed legislative reference and includes a legislative assessment tool.

Government officials, legislators and legislative drafters can contact the WHO for legislative assistance to implement the IHR:

WHO Lyon Office (Headquarters) www.who.int/ihr/lyon/en/ E-mail: ihrinfo@who.int

VERTIC's National Implementation Measures Programme (NIM) can also be of service with regard to legislative implementation of the IHR. VERTIC has developed templates in-house to assess the comprehensiveness of existing national measures, identify gaps and propose legislative implementation measures. Our team of legal officers are in a position to carry out such legislative analyses at the request of and in cooperation with states' representatives.

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