



Republic of Namibia
Annotated Statutes

REGULATIONS

REGULATIONS MADE IN TERMS OF

Namibian Constitution

pursuant to Article 26(5) of the Namibian Constitution,
subsequent to the declaration of a State of Emergency in the whole of Namibia,
following a worldwide outbreak of the disease known as Coronavirus Disease 2019
(COVID-19), by Proclamation No. 7 of 18 March 2020 (GG 7148)

State of Emergency - COVID-19 Regulations [Stage 1]

Proclamation 9 of 2020

(GG 7159)

came into force on date of publication: 28 March 2020

as amended by

Proclamation 13 of 2020 (GG 7180)

came into force on date of publication: 17 April 2020

Note that the High Court found regulation 14 to be an unconstitutional delegation of power, and thus invalid, in *Namibian Employers' Federation and Others v President of the Republic of Namibia and Others* (HC-MD-CIV-MOT-GEN 2020/00136) [2020] NAHCMD 248 (23 June 2020).

These regulations initially covered the period from 14:00 on 28 March 2020 until 23:59 on 17 April 2020; they were amended to continue from 23:59 on 17 April 2020 to 23:59 on 4 May 2020.

(See regulation 2(1) read together with the definition of "period of lockdown" in regulation 1, read together with the successive versions of regulation 3.)

ARRANGEMENT OF REGULATIONS

1. Definitions
2. Application of regulations
[heading of regulation 2 substituted by Proc. 13 of 2020]
3. Period of lockdown
[heading of regulation 3 substituted by Proc. 13 of 2020]
4. Closure of schools and higher education institutions
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- 7. Prohibition relating to entry into Namibia
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- 14. Directives
- 15. Applicability of Act No. 1 of 2015
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[regulation 18 deleted by Proc. 13 of 2020]

ANNEXURE A - ZONES

[ANNEXURE A substituted by Proc. 13 of 2020]

ANNEXURE B - CRITICAL SERVICES

[ANNEXURE B substituted by Proc. 13 of 2020]

ANNEXURE C - ESSENTIAL GOODS

[ANNEXURE C inserted by Proc. 13 of 2020]

Definitions

1. In these regulations -

“authorised officer” means -

- (a) the Director referred to in section 32 of the Disaster Risk Management Act, 2012 (Act No. 10 of 2012);
- (b) a member of the Namibian Police as defined in section 1 of the Police Act, 1990 (Act No. 19 of 1990);
- (c) a member of the Defence Force as defined in section 1 of the Defence Act, 2002 (Act No. 1 of 2002);
- (d) a correctional officer as defined in section 1 of the Correctional Service Act, 2012 (Act No. 9 of 2012);
- (e) an immigration officer as defined in section 1 of the Immigration Control Act, 1993 (Act No. 7 of 1993);
- (f) an officer as defined in section 1 of Customs and Excise Act, 1998 (Act No. 20 of 1998); charged with the responsibility of enforcing the customs and excise legislation; and

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- (g) any other staff member designated or person appointed as an authorised officer under section 32 of the Disaster Risk Management Act, 2012 (Act No. 10 of 2012);

“COVID-19” means the coronavirus disease of 2019 which is caused by severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2);

[The definition of “COVID-19” was inserted by Proc. 13 of 2020.]

“critical services” means the services listed as critical services in Annexure B;

[The definition of “critical services” was substituted by Proc. 13 of 2020.]

“essential goods” means the goods listed as essential goods in Annexure C;

[The definition of “essential goods” was inserted by Proc. 13 of 2020.]

“head of the institution” means the administrative head of a public institution and the chief executive officer or the equivalent of a chief executive officer of a private institution;

[The definition of “head of the institution” was substituted by Proc. 13 of 2020. It initially read as follows:

“head of the institution’ means the accounting officer of a public institution and the chief executive officer or the equivalent of a chief executive office of a private institution;”.]

“higher education institution” means a higher education institution as defined in section (1) of the Higher Education Act, 2003 (Act No. 26 of 2003);

[The reference to “section (1)” should be “section 1”.]

“Immigration Control Act” means the Immigration Control Act, 1993 (Act No.7 of 1993);

“institution” means a public or private institution that is engaged in the provision, distribution, supply or sale of essential goods or critical services;

[The definition of “institution” was substituted by Proc. 13 of 2020. It initially read as follows: “institution’ means a public or private institution that is engaged in the distribution, supply or sale of essential goods or services;”.]

“liquor” means -

- (a) any spirituous liquor or any wine or beer containing three per cent or more by volume of alcohol, excluding methylated spirit;
- (b) tombo or any other fermented, distilled, spirituous or malted drink, traditional or non-traditional, which contains three per cent or more by volume of alcohol; or
- (c) any drink or concoction which the Minister, under section 1 of the Liquor Act, 1998 (Act No. 6 of 1998), has by notice in the *Gazette* declared to be liquor,

excluding any preparation which is intended or manufactured for medical purposes;

[The definition of “liquor” was inserted by Proc. 13 of 2020.]

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“lockdown” means the prohibition or restriction on the movement of persons or goods or services or on the conducting of certain social, economic or other activities during the period of lockdown;

[The definition of “lockdown” was substituted by Proc. 13 of 2020. It initially read as follows: “lockdown’ means the restriction of movement of persons during the period specified in regulation 3(3).”]

“period of lockdown” means the period referred to in regulation 3;

[The definition of “period of lockdown” was inserted by Proc. 13 of 2020.]

“quarantine” means separating asymptomatic individuals potentially exposed to a disease from non-exposed individuals in such a manner as to prevent the possible spread of an infection or contamination;

“school” means a school as defined in section 1 of the Education Act, 2001 (Act No. 16 of 2001);

[The definition of “school” was moved to the correct alphabetical order by Proc. 13 of 2020.]

“these regulations” include directives issued under regulation 14; [and]

[The definition of “these regulations” was inserted by Proc. 13 of 2020.]

“vehicle” means any motor vehicle, aircraft or vessel.

Application of regulations

2. (1) The provisions of these regulations apply to the whole of Namibia during the period of lockdown.

(2) If there is a conflict between the provisions of these regulations and any other law the provisions of these regulations prevail.

[Regulation 2 was substituted by Proc. 13 of 2020. It initially read as follows:

“Conflict of laws

2. If there is a conflict between a provision in a law and these regulations the provisions of these regulations prevail.”]

Period of lockdown

3. The country wide lockdown starts from 23:59 on 17 April 2020 and ends at 23:59 on 4 May 2020.

[Regulation 3 was substituted by Proc. 13 of 2020. It initially read as follows:

“Restricted areas and period of lockdown

3. (1) For the purposes of these regulations the areas specified in Annexure A are restricted areas.

(2) The President may by way of amendment to these regulations amend Annexure A, by adding an area or by removing an area.

(3) The period of lockdown starts at 14:00 on Saturday 28 March 2020 and ends at 23:59 on 17 April 2020, inclusive of the first and the last day.”]

Closure of schools and higher education institutions

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4. All schools and higher education institutions in Namibia must remain closed during the period of lockdown, but the closure of schools and higher education institutions does not prevent -

- (a) in the case of a state school, the relevant minister responsible for education; and
- (b) in any other case, the governing bodies of schools and institutions,

from employing other alternative forms of learning that do not involve the physical presence of learners or students at the schools or institutions.

[Regulation 4 was substituted by Proc. 13 of 2020. It initially read as follows:

“Closure of schools and higher education institutions

4. All schools and higher education institutions in Namibia must remain closed during the period starting 28 March 2020 and ending 17 April 2020, but the relevant minister responsible for education may at any time extend that period during the State of Emergency period.”]

Public gatherings

5. (1) For the purpose of this regulation, a “public gathering” is a gathering of more than 10 persons for a collective purpose, but does not include a situation where -

- (a) such number of persons coincidentally find themselves at a specific place at the same time; or
- (b) all persons at the gathering are members of the same household gathered at their place of residence.

[Subregulation (1) was substituted by Proc. 13 of 2020. It initially read as follows:

“(1) For the purpose of this regulation, a “public gathering” is a gathering of more than 10 persons for a collective purpose, but does not include a situation where such number of persons coincidentally find themselves at a specific place at the same time.”]

(1A) During the period of lockdown all public gatherings are prohibited, except where a gathering is for -

- (a) persons attending a funeral in which case the persons gathered may not exceed 10 persons;
- (b) meetings of a governmental institution at national, regional and local levels or the Cabinet or the Parliament, where the matter to be addressed at the meeting is so critical that it cannot be postponed or whenever a meeting is required to be held by any law; or
- (c) the purpose of conducting of, or engaging in, any activity in connection with the provision of critical services or essential goods as contemplated in any provision of these regulations.

[Subregulation (1A) was inserted by Proc. 13 of 2020.]

(1B) Persons who gather in the circumstances referred to in subregulations (1) and (1A) must at all times adhere to the measures to combat, prevent and suppress the spread of COVID-19 as specified in and under these regulations.

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[Subregulation (1B) was inserted by Proc. 13 of 2020.]

(2) An authorised officer may instruct a public gathering to disperse and may use all reasonable measures to cause a public gathering to disperse.

(3) A person who during the period of lockdown facilitates, instigates or organises a public gathering, commits an offence and is on conviction liable to a fine not exceeding N\$2 000 or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

(4) A person who fails or refuses to obey an instruction issued under subregulation (2) commits an offence and is on conviction liable to the penalties provided for in subregulation (3).

Prohibition on movement of persons and goods within zone or between zones

6. (1) For purposes of these regulations, Namibia is divided into zones specified in Annexure A.

(2) During the lockdown period, a person may not enter into or depart from one zone to another zone, except that this provision may not be construed as preventing a person from movement within the same zone in which he or she is located as long as that person complies with the requirements of these regulations relating to the movement of persons and goods.

(3) A person who contravenes or fails to comply with subregulation (2) commits an offence and is on conviction liable to a fine not exceeding N\$2 000 or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

(4) If an authorised officer finds a person under circumstances which create a reasonable suspicion that the person is likely to contravene subregulation (2), that authorised officer may instruct the person to stop the journey in question and failure to obey such an instruction is deemed to be a contravention of, or failure to comply with that subregulation, and that person is liable to the penalties provided for in subregulation (3).

(5) A person -

(a) who holds a permit referred to in subregulation (6) does not contravene subregulation (2) if he or she enters into or departs from a zone as contemplated in that subregulation; and

(b) referred to in subregulation (7) does not contravene subregulation (2) if he or she enters into or departs from a zone as contemplated in that subregulation.

(6) If a person wishes to enter into or depart from a zone for -

(a) purposes of receiving essential medical treatment;

(b) purposes of attending a funeral of a family member, an acquaintance or a dependant;

(c) purposes of assisting a family member, an acquaintance, dependant who is ill or otherwise suffers from a distressing situation;

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- (d) any other reason which an authorised officer considers sufficient to warrant the entering into or departing from the zone,

that person must obtain a permit from an authorised officer nearest to that person or at the point of entry into or exit from a zone, authorising entry into or departure from a zone or travel between zones which would otherwise have been a contravention of subregulation (2).

(7) A person is exempted from the requirement of obtaining a permit to enter or depart as contemplated in subregulation (6), if that entering or departure is necessary for purposes of -

- (a) transporting essential goods;
- (b) performing an action necessary for the enforcement of law or public order;
- (c) facilitating the distribution of food or other necessities of life;
- (d) maintaining or repairing infrastructure necessary or useful for the provision of essential goods or critical services; or
- (e) performing a critical service that cannot reasonably be postponed.

[error in lettering of paragraphs corrected here]

[Regulation 6 was substituted by Proc. 13 of 2020. It initially read as follows:

“Prohibition relating to travel and permit requirement

- 6.** (1) During the period of lockdown, a person may not -
- (a) enter into or depart from a restricted area; or
 - (b) travel from one restricted area to another restricted area.
- (2) A person who contravenes or fails to comply with subregulation (1) commits an offence and is on conviction liable to a fine not exceeding N\$2 000 or to imprisonment for a period of six months or to both such fine and such imprisonment.
- (3) If an authorised officer finds a person under circumstances which create a reasonable suspicion that the person is likely to contravene subregulation (1), that authorised officer may instruct the person to stop the journey in question and failure to obey such an instruction is deemed to be a contravention of, or failure to comply with, subregulation (1), and that person is liable to the penalties provided for in subregulation (2).
- (4) A person -
- (a) who holds a permit referred to in subregulation (5) does not contravene subregulation (1) if he or she enters or departs or travels as contemplated in that subregulation; and
 - (b) referred to in subregulation (6) does not contravene subregulation (1) if he or she enters or departs or travels as contemplated in that subregulation.
- (5) If a person has to travel to a restricted area or depart from a restricted area, for -
- (a) purposes of receiving essential medical treatment;
 - (b) purposes of attending a funeral of a close family member, an acquaintance or a dependant;
 - (c) purposes of assisting a close family member, acquaintance or dependant who is ill or otherwise suffers from a distressing situation;
 - (d) any other reason which an authorised officer considers sufficient to warrant the travelling,
- that person may obtain a permit from an authorised officer nearest to that person or at the point of entry into or exit from a restricted area, authorising travel which would otherwise have been a contravention of subregulation (1).
- (6) A person is exempted from the requirement of obtaining a permit to travel as contemplated in subregulation (5), if that travel is necessary to -
- (a) transport goods during the course of business or trade;
 - (b) perform an action necessary for the enforcement of law or public order;
 - (c) perform any service necessary to provide medical or health services;
 - (d) facilitate the distribution of food or other necessities of life;
 - (e) maintain or repair infrastructure necessary or useful for the provision of water, electricity, communication or financial services; or
 - (f) to perform any other critical service that cannot reasonably be postponed.”]

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Prohibition relating to entry into Namibia

7. (1) Subject to subregulation (2) and (3), every person who -
- (a) is not a Namibian citizen;
 - (b) does not hold a permanent residence permit for Namibia;
 - (c) is not domiciled in Namibia or otherwise lawfully resident in Namibia;

[Paragraph (c) was substituted by Proc. 13 of 2020. It initially read as follows:]

“(c) is not domiciled or ordinarily resident in Namibia”.

- (d) is not part of [a] team of medical personnel that is required to provide medical services in Namibia to alleviate the COVID-19 pandemic;
- (e) is not a member of the diplomatic or consular staff of a country that is accredited to Namibia or in transit to another country; or
- (f) is not a spouse or child of a person referred to in paragraphs (a) to (e),

must, during the period of lockdown, be refused entry into Namibia under section 10 of the Immigration Control Act.

- (2) Subject to the Immigration Control Act, a person who -
- (a) is a driver of a vehicle transporting goods;
 - (b) performs any service relating to the operation of the vehicle referred to in paragraph (a); or
 - (c) performs a necessary service relating to such transport referred to in paragraph (a),

in the course of business or trade or commerce may be allowed to enter Namibia during the period of lockdown if such entry is otherwise lawful.

(3) Despite the provisions of subregulation (1), a person who does not fall under any of the categories referred to in that subregulation may be allowed to enter into Namibia if that person complies with or meets such requirements as may be determined by the Minister responsible for immigration in directives issued under these regulations or pursuant to the Immigration Control Act.

Quarantine

8. (1) Any person who enters Namibia as contemplated in regulation 7 may be admitted on condition that that person complies with such quarantine arrangements as may be agreed between that person and an authorised officer that authorises the entry of that person into Namibia.

(2) The provisions incorporated into these regulations by regulation 15, relating to the enforcement of quarantine, are applicable to a person referred to in subregulation (1).

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Restriction of movement from places of residence

9. (1) During the period of lockdown a person may not leave his or her place of residence, except for any of the following reasons -

- (a) performing a critical service;
- (b) obtaining essential goods;
- (c) seeking medical assistance;
- (d) to attend a funeral of a family member, an acquaintance or a dependant, but subject to regulation 5(1A) and (1B);
- (e) visits to pharmacies, food supply stores, courts, banks or other providers of essential goods or critical services;
- (f) for physical exercise either alone or in groups of not more than three persons; or
- (g) for any other reason that is justifiable in the circumstances;

[The semicolon at the end of paragraph (g) should be a full stop; there are no additional paragraphs in the *Government Gazette*.]

(2) An authorised officer may instruct a person to refrain from doing an act or engaging in conduct which constitutes or is likely to constitute a contravention of, or failure to comply with, any provision of subregulation (1).

(3) A person who fails or refuses to comply with an instruction issued under subregulation (2) commits an offence and is on conviction liable to a fine not exceeding N\$2 000 or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

[Regulation 9 was substituted by Proc. 13 of 2020. It initially read as follows:

“Restriction on movement of persons

9. For the period of lockdown, every person must be confined to his or her place of residence, except for any of the following reasons -

- (a) performing a critical service;
- (b) obtaining essential goods or services;
- (c) seeking medical attention;
- (d) visits to pharmacies, food supply stores, courts or banks; or
- (e) for physical exercise: Provided that the number of person does not exceed three persons.”]

Critical services

10. (1) The services listed in Annexure B are critical services.

(2) The President may by way of amendment to these regulations amend Annexure B, by adding a service as a critical service or by removing a service listed as a critical service.

(3) The head of the institution involved in the provision of a critical service or a person delegated by the head of the institution must determine -

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- (a) the critical service to be performed during the period of lockdown; and
- (b) the staff members who must perform the critical service during the period of lockdown.

[Subregulation (3) was substituted by Proc. 13 of 2020. It initially read as follows:

“(3) The head of the institution involved in the provision of a critical service or a person delegated by the head of the institution must determine -

- (a) the essential service to be performed for the period of the lockdown; and
- (b) the staff members who must perform the critical service for the period of lockdown.”]

(4) After making a determination in terms of subregulation (3), the head of the institution or a person contemplated in that subregulation must issue a document to every staff member who is to perform the critical service.

(5) The document referred to in subsection (4) -

- (a) must specify the name and surname of the staff member, the identification number of the staff member and the critical service and the name of the institution in sufficient detail; and
- (b) be signed by the head of the institution or the person.

(6) A person performing a critical service must show the document issued to him or her in terms of subregulation (5) to an authorised officer or any person in relation to whom he or she may seek to perform a function.

(7) An authorised officer may screen a person, who is performing or is required to perform a critical service, for COVID-19.

[Subregulation (7) was substituted by Proc. 13 of 2020. It initially read as follows:

“(7) A person performing a critical service and while performing such services as obtaining essential goods and services may be screened for COVID-19, by an authorised officer.”]

(8) The head of an institution must ensure that persons who perform critical services in that institution at all times adhere to the measures to combat, prevent and suppress the spread of COVID-19 as specified in or under these regulations.

[Subregulation (8) was inserted by Proc. 13 of 2020]

(9) A person who contravenes or fails to comply with subregulation (6) or who refuses to be screened as contemplated in subregulation (7) commits an offence and is on conviction liable to a fine not exceeding N\$2 000 or imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

[Subregulation (9) was inserted by Proc. 13 of 2020.]

(10) For the purposes of this regulation, provision of a critical service or performing a critical service includes the provision of essential goods or critical services to any person.

[Subregulation (10) was inserted by Proc. 13 of 2020.]

Prohibitions relating to liquor

- 11. (1) During the lockdown period, a person may not -

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- (a) sell liquor; or
- (b) purchase liquor.

(2) A person who contravenes subregulation (1) commits an offence and is on conviction liable to a fine not exceeding N\$2 000 or imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

(3) An authorised officer may, without a warrant, seize any liquor that is suspected to have being sold or has been purchased in contravention of this regulation and the seized liquor must, subject to necessary changes, be dealt with in accordance with the provisions of the Liquor Act, 1998 (Act No. 6 of 1998) as if it were liquor seized in terms of that Act.

**[Regulation 11 was substituted by Proc. 13 of 2020; the phrase “suspected to have being sold” was probably intended to read “suspected to have been sold”.
The regulation initially read as follows:**

“Prohibition relating to sale of alcohol

- 11. (1) A person may not sell alcohol during the period of lockdown.**
- (2) A person who contravenes subregulation (1) commits an offence and is on conviction liable to a fine not exceeding N\$2 000 or imprisonment for a period not exceeding six months or to both such fine and such imprisonment.”]**

Provisions relating to certain operations and closure of certain businesses

- 12. (1) During the period of lockdown -**
- (a) all businesses and other entities must cease operations, except for any business or entity involved in the manufacturing, supply or provision of essential goods or critical services, including the importation and exportation of essential goods or equipment and goods necessary for the provision of critical services;
 - (b) all shops and businesses must be closed, except for any shop or business that sells essential goods or provides critical services;
 - (c) all open markets, informal trading activities, shebeens, bars, pubs and nightclubs must be closed, except for -
 - (i) any open market where essential goods or critical services are sold; or
 - (ii) an informal trader that sells essential goods or provides a critical service;
 - (d) restaurants, cafés and coffee shops may remain open: Provided that they only provide take away services.
- (2) During the period of lockdown, any business entity, including a retail trader that is -
- (a) registered with the Business and Intellectual Property Authority established by the Business and Intellectual Property Authority Act, 2016 (Act No. 8 of 2016); and
 - (b) involved in the manufacturing, distribution, supply or provision of essential goods or critical services,

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must, in the manner and within the period set out in directives issued under regulation 14, obtain from the ministry responsible for trade, a confirmation of registration as a business that engages in the provision of essential goods or a critical service.

(3) Heads of institutions of businesses and entities which are operating during the period of lockdown must ensure that persons that access the essential goods or critical services at the business premises or places of the institutions and entities adhere to measures to combat, prevent and suppress the spread of COVID-19.

(4) A person who contravenes or fails to comply with subregulation (1) commits an offence and is on conviction liable to a fine not exceeding N\$2 000 or imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

[Regulation 12 was substituted by Proc. 13 of 2020. It initially read as follows:

“Prohibition relating to certain operations and closure of certain businesses

- 12.** (1) For the period of lockdown -
- (a) all shops and businesses must be closed, except those classified as critical services;
 - (b) all open markets, informal trading activities, shebeens, bars, pubs and nightclubs may not operate;
 - (c) restaurants, cafes and coffee shops may remain open: Provided that they only provide take away services.
- (2) A person who contravenes subregulation (1) commits an offence and is on conviction liable to a fine not exceeding N\$2 000 or imprisonment for a period not exceeding six months or to both such fine and such imprisonment.”]

Judicial proceedings

13. (1) For the purpose of combating, preventing and suppressing the spread of COVID-19, the Chief Justice may, during the period of lockdown, issue directions in respect of all courts in Namibia.

(2) Directions issued under subregulation (1) must be regarded, and have the effect, as directives issued under regulation 14.

[Regulation 13 was substituted by Proc. 13 of 2020; the missing regulation number is inserted here. The regulation initially read as follows:

“Judicial proceedings

- 13.** (1) During the period of lockdown, the Chief Justice may issue directions to -
- (a) suspend, extend or relax the procedure and time periods prescribed in the High Court Act, 1990 (Act No. 16 of 1990) and Magistrate’s Courts Act, 1944 (Act No. 32 of 1944) and the rules of High Court or a Magistrates’ Court;
 - (b) stay prescription in terms of the Prescription Act, 1969 (Act No. 68 of 1969); and
 - (c) address, prevent and combat the spread of COVID-19 in all courts in Namibia.
- (2) Directions issued under subregulation (1) must be regarded, and have the same effect, as directives issued under regulation 10.”]

Directives

~~**14.** (1) The President may authorise a minister to issue directives for the purpose of—~~

~~(a) supplementing or amplifying on any provision of these regulation[s]; or~~

~~(b) ensuring that the objectives of these regulations are attained.~~

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~~(2) — A directive issued under this regulation has the force of law and may deal with any matter that is within the ambit of any legislation or other law that is administered by the Minister concerned.~~

~~(3) — Any directive issued under this regulation must be—~~

~~(a) — referred to the Attorney General for approval; and~~

~~(b) — published in the *Gazette*;~~

~~for it to have the force of law.~~

~~(4) — A directive issued in terms of these regulations becomes effective on the date of its publication in the *Gazette*.~~

~~(5) — A directive may create offences for contraventions of, or failure to comply with, the directive and provide for penalties of a fine not exceeding N\$2 000 or imprisonment for a period not exceeding six months or to both such fine and such imprisonment.~~

[The High Court found regulation 14 to be an unconstitutional delegation of power, and thus invalid, in *Namibian Employers' Federation and Others v President of the Republic of Namibia and Others* (HC-MD-CIV-MOT-GEN 2020/00136) [2020] NAHCMD 248 (23 June 2020).]

Applicability of Act No. 1 of 2015

15. (1) Despite the provisions of section 96 of the Public and Environmental Health Act, 2015 (Act No. 1 of 2015), the provisions of Part 3 of that Act are, for purposes of these regulations, brought into operation.

[Subregulation (1) was substituted by Proc. 13 of 2020. It initially read as follows:

“(1) The provisions of Part 3 of the Public and Environmental Health Act, 2015 (Act No. 1 of 2015) are deemed to be incorporated into these regulations.”

Section 96 of the Public and Environmental Health Act 1 of 2015 provides that the Act will come into operation on a date determined by the Minister by notice in the *Gazette*. The Act has not yet been brought into operation as a whole. The provisions referred to here are reproduced at the end of these regulations for convenience.]

(1A) In order to attain the objectives of subregulation (1), any provision of the Public Health Act, 1919 (Act No. 36 of 1919) that is inconsistent with any provision of Part 3 of the Public and Environmental Health Act, 2015 (Act No. 1 of 2015) is suspended to the extent of the inconsistency during the period that this regulation is in force.

[Subregulation (1A) was inserted by Proc. 13 of 2020.]

(2) Despite the provisions of section 22(2) of the Public and Environmental Health Act, 2015 (Act No. 1 of 2015) the disease caused by the virus known as Covid-19 is deemed to be a formidable epidemic disease and it is deemed that the threatened outbreak of the said disease necessitates the measures referred to in section 29(1) of that Act.

[Section 22(2) of the Public and Environmental Health Act 1 of 2015 provides that the Minister may declare a disease to be a formidable epidemic disease for purposes of the Act by notice in the *Gazette*. The effect of this provision is to declare Covid-19 a formidable epidemic disease without such a notice.]

Offences and penalties

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16. (1) A person commits an offence if that person -
- (a) not being an authorised officer, by words, conduct or demeanour falsely represents himself or herself to be an authorised officer;
 - (b) hinders, obstructs or improperly attempts to influence an authorised officer when exercising or performing a power or function conferred or imposed by or under these regulations or another law;
 - (c) furnishes or gives false or misleading information to an authorised officer;
 - (d) does anything calculated to improperly influence an authorised officer concerning a matter connected with the functions of the authorised officer; or
 - (e) publishes, through any form of media, including social media -
 - (i) any false or misleading statement about or in connection with the COVID-19; or
 - (ii) any statement that is intended to deceive any other person about the COVID-19 status of any person or measures to combat, prevent and suppress COVID-19 as specified in and under these regulations.

[Subregulation (1) was substituted by Proc. 13 of 2020. It initially read as follows:

- “(1) A person commits an offence if that person -
- (a) not being an authorised officer, by words, conduct or demeanour falsely represents himself or herself to be an authorised officer;
 - (b) hinders, obstructs or improperly attempts to influence an authorised officer when exercising or performing a power or function conferred or imposed by or under these regulations or another law;
 - (c) furnishes or gives false or misleading information to an authorised officer;
 - (d) does anything calculated to improperly influence an authorised officer concerning a matter connected with the functions of the authorised officer.”]

(2) A person convicted of an offence in terms of subregulation (1) is liable to a fine not exceeding N\$2 000 or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

Regulations to bind State

17. These regulations bind the State.

[Regulation 18 was deleted by Proc. 13 of 2020. It read as follows:

“Application of regulations

18. These regulations apply to the whole of Namibia except where otherwise provided.”]

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**ANNEXURE A
ZONES
(Regulation 6(1))**

[ANNEXURE A was substituted by Proc. 13 of 2020. It initially read as follows:

**“ANNEXURE A
(Regulation 3(1))
RESTRICTED AREAS**

1. The Khomas region together with -
 - (a) the local authority areas of Rehoboth and Okahandja; and
 - (b) the tarred roads connecting Windhoek with Okahandja and Windhoek with Rehoboth as well as the strips of five kilometres on either side of the tarred roads.
 2. The Erongo region.”]
-
1. Zone 1 consisting of the Zambezi region.
 2. Zone 2 consisting of the Kavango East and Kavango West regions.
 3. Zone 3 consisting of the Oshana, Oshana and Oshana regions.
 4. Zones 4 consisting of the Omusati region.
 5. Zone 5 consisting of the Otjozondjupa and Omaheke regions, but excluding the area which forms part of Zone 6.
 6. Zone 6 consisting of the Khomas region together with -
 - (a) the local authority areas of Rehoboth and Okahandja; and
 - (b) the tarred road connecting Windhoek and Okahandja and the tarred road connecting Windhoek and Rehoboth, as well as the strips of five kilometers on either side of the tarred roads.
 7. Zone 7 consisting of the Erongo region.
 8. Zone 8 consisting of the !Karas region.
 9. Zone 9 consisting of the Hardap region, but excluding the area which forms part of Zone 6.
 10. Zone 10 consisting of the Kunene region.

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ANNEXURE B
CRITICAL SERVICES
(Regulation 10(1))

[ANNEXURE B was substituted by Proc. 13 of 2020. The list was substantively the same before the substitution, which merely corrected some errors of spelling and format.]

PART 1

1. Ambulance services
2. Casualties services
3. Theatre Services
4. Intensive Care Unit (ICU) services
5. Hospital Wards
6. Laboratory Services
7. Pharmaceutical services
8. Dental Services
9. Radiography services
10. Physiotherapy services
11. Mortuary services
12. Medical services including medical specialised services
13. Hospital Kitchen Services
14. Hospital laundry services
15. Emergency management services
16. Disaster management services
17. Potable water services
18. Waste water management services
19. Scientific services
20. Electricity distribution services
21. Electricity operation services
22. Electricity maintenance services
23. Electricity transmission services
24. Electricity network operation services
25. Electricity system operation services
26. Electricity system security and planning services
27. Electricity engineering services
28. Electricity energy trading services
29. Air navigation services
30. Air traffic management services
31. Communication navigation and surveillance system services
32. Search and rescue services
33. Aeronautical information services
34. Meteorological services for air navigation services

PART 2

1. Agriculture and forestry

Agricultural production and value chains (animal husbandry, agronomic and horticulture) supply related operations, including farming, veterinary and phyto-sanitary provider services, pest control services, feed and chemical and fertilizer remedies providers. Millers and logistics services.

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2. Fishing

Harvesting of fish (including artisanal fishing other than for leisure), cultivation of fish and value chain activities relating to fish, as part of food production for Namibia and for export; maintenance of fishing vessels and maintenance of fishing processing plants.

3. Mining and quarrying

Mining and related activities to maintain mining operations including critical maintenance work on plant and equipment. Normal mining operations, including value chain activities[,] will be allowed, provided that mining companies are subject to imposition of public health measures.

4. Manufacturing

Manufacturing of health related products, hygiene and sanitary related products, supplies, devices, equipment, and medicines, including complementary health products and supplements; food, non-alcoholic beverages and essential products, as well as essential inputs thereto. This includes production for exporting the same product categories. Production for disposable health and hygiene and sanitary related products, as well as for the production of packaging for essential health and food supply chains. Food, beverages and essential goods manufacturing and processing facilities, to the extent they are supporting essential or critical business continuity services to fight COVID-19.

5. Electricity, gas, steam and air conditioning supply

Public and private organisations, their staff and service providers essential to the generation, transmission and distribution of electricity, fuel, gas, steam and air conditioning will need to continue to operate. This includes local authorities and regional councils, and the suppliers of logistics, feedstock and maintenance will be required to continue to operate and provide security of electricity supply.

6. Water supply, purification, desalination, sewerage, waste management and remediation activities

Public and private organisations, their staff and service providers essential to the security of supply of bulk and potable water and sanitation must continue to operate and provide vital water and sanitation services. This includes local authorities and regional councils and those involved in the supply of materials, chemicals and related equipment.

7. Construction

Any maintenance support requirements for retailers, manufacturers producing essential goods, support to medical services; any construction that cannot be reasonably postponed; plumbing and electrical services, security installations and maintenance, water treatment and sewerage. Building of medical infrastructures and quarantine camps in support of essential goods and critical services to fight COVID-19.

8. Wholesale and retail trade, repair of motor vehicles and motorcycles

Retail, wholesale, supermarkets, the open markets and informal traders referred to in regulation 12(1)(c)(i) and (ii), home kiosks for food and essential goods. Essential hygiene goods include: toilet paper, cleaners, sanitizers and disinfectants, personal hygiene

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products, and essential supplies for those taking care of the sick and elderly and in order for people to remain healthy. All services related to the repair of motor vehicles and motorcycles to continue in as far as are providing support to the fight of COVID-19.

9. Transportation, logistics and storage

Warehousing, transport (including courier services), distribution, cold storage and logistics for essential goods, production inputs and health related goods. This includes operations at all entry points. Humanitarian and relief functions in the fight of COVID-19 will be permitted.

10. Accommodation and food service activities

To the extent that they are supporting essential or critical business continuity services to the fight of the COVID-19 subject to take away and not dining in restaurants as provided for under regulation 12(1)(d).

[The word “dining” is misspelt in the *Government Gazette*, as reproduced above.]

11. Information and communication

Communication and media services on screen, television, radio, print, broadcast and online.

12. Legal, financial, banking, social security and insurance activities

Legal, court, financial, banking and insurance services and health funders required to finance and support essential and critical business continuity and provide short term bridging finance to people and businesses during this period.

13. Professional, scientific and technical activities

Professional, scientific and technical services, to the extent that they are providing support in the COVID-19 response, essential and critical services.

14. Support service activities

Private services to the extent that they are providing support in the COVID-19 response, essential and critical business continuity services.

15. Public administration, defense, safety and security

Public Office Bearers, personnel and functionaries at national, regional and local levels to the extent that they are providing support in the COVID-19 response, essential and critical business continuity services. Safety and security services protecting people and property.

16. Human health and social work activities

All centers providing life and health services; energy, food and water supply, social, transactional, communications, law and order and international critical business continuity services. Care services relating to the sick, frail, children, or other vulnerable persons, in a home or homestead; and care facilities for children of critical service workers.

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17. Information communications technology

Data centers, fiber optic infrastructure, towers and antennae will need to operate at high efficiency to ensure connectivity remains stable.

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ANNEXURE C
ESSENTIAL GOODS
(Regulation 1)

[ANNEXURE C inserted by Proc. 13 of 2020]

1. Food:

- (a) any food product, including water and non-alcoholic beverages;
- (b) animal food; and
- (c) chemicals, packaging and ancillary products used in the production of any food product.

2. Cleaning and hygiene products:

- (a) toilet paper, sanitary pads, sanitary tampons;
- (b) hand sanitiser, disinfectants, soap, alcohol for industrial use, household cleaning products, and personal protective equipment;
- (c) chemicals, packaging and ancillary products used in the production or preservation of any of the above;
- (d) products for the care of children;
- (e) personal care including but not limited to, body and face washes, roll-ons, deodorants, toothpaste and any other products ordinarily used for hygiene purposes.

[error in lettering of paragraphs corrected here]

3. Medical:

- (a) medical and hospital supplies, equipment and personal protective equipment;
- (b) chemicals, packaging and ancillary products used in the production or preservation of any of the above; and
- (c) pharmaceutical supplies, including but not limited to prescribed medication;
- (d) contraceptives including condoms.

4. Fuel, including coal, gas.

5. Wood for cooking purposes; and

[The word "and" at the end of item 5 is superfluous; no words have been omitted from the item as it appears in the *Government Gazette*.]

6. Basic goods, including airtime and electricity;

7. Fish and fish products;

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8. Mining products;
 9. Coffins;
 10. Plumbing and electrical supplies;
 11. Educational materials; and
 12. Goods necessary for the effective provision of critical services specified in Part 2 of Annexure B.
-

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**Provisions of Part 3 of the Public and Environmental Health Act 1 of 2015
brought into force by regulation 15(1)**

Public and Environmental Health Act 1 of 2015

**PART 3
NOTIFICATION, PREVENTION AND CONTROL OF DISEASES**

Principles of notification of diseases

5. (1) The chief health officer and a local authority must prevent the spread of a notifiable infectious disease without unnecessarily restricting personal liability or privacy.

(2) A person who -

- (a) is at risk of contracting a notifiable infectious disease must take precaution to avoid contracting the disease; or
- (b) suspects that he or she may have a notifiable infectious disease must ascertain whether he or she has a disease and which precautions should be taken to prevent spreading the disease.

(3) A person who -

- (a) is at risk of contracting a notifiable infectious disease;
- (b) suspects that he or she has a notifiable infectious disease; or
- (c) has a notifiable infectious disease,

has the following rights to the extent that those rights do not infringe on the well being of others to -

- (i) be protected from unlawful discrimination;
- (ii) have his or her privacy respected;
- (iii) be given information about the medical and social consequences of the disease; and
- (iv) have access to available treatment.

Classification of diseases

6. The Minister, in respect of the notification of diseases, may classify by notice in the *Gazette* a disease to be -

- (a) an infectious disease;
- (b) a notifiable infectious disease; or
- (c) a notifiable infectious disease to be a vaccine preventable notifiable infectious disease.

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Notification and reporting of notifiable infectious diseases

7. (1) If a patient, to the knowledge of a health practitioner attending to the patient, is suffering from a notifiable infectious disease or dies from that disease, the health practitioner must forthwith in the prescribed manner, furnish the chief health officer and the local authority in whose local authority area the patient is, with a written certificate of notification containing the prescribed particulars.

(2) The -

- (a) head of health services of a local authority notified as contemplated in subsection (1) must investigate the source of the notifiable infectious disease and if necessary, take the remedial action considered necessary to hold the spread of the notifiable infectious disease; and
- (b) chief health officer must cause or direct that a notifiable infectious disease so notified be investigated by an environmental health practitioner or other health practitioner authorised by the chief health officer with regard to the source of the disease.

(3) A principal or head of a learning institution, head of a family or a household, employer, owner or occupier of land or premises, traditional leader, chief or headmen must report to a local authority the particulars of the patient and his or her symptoms, the occurrence of a case of illness or death coming to his or her notice and suspected to be due to a notifiable infectious disease, or with a history or presenting symptoms or appearances which might reasonably give grounds for the suspicion.

(4) A -

- (a) health practitioner who contravenes or fails to comply with subsection (1); or
- (b) person referred to in subsection (3) who contravenes or fails to comply with that subsection,

commits an offence and is liable to a fine not exceeding N\$100 000 or to imprisonment for a period not exceeding 10 years, or to both such fine and such imprisonment.

Inspection of premises and issuing of test orders

8. (1) A head of health services or a health practitioner authorised by the chief health officer may at a reasonable time enter and inspect a premises in which he or she has reason to believe that a person -

- (a) suffering from a notifiable infectious disease;
- (b) who has recently suffered from a notifiable infectious disease; or
- (c) who has recently been exposed to an infection of a notifiable infectious disease,

is or has recently been present.

(2) If a carrier of a notifiable infectious disease has accidentally transmitted an infection to another person, the head of health services or health practitioner may issue a test order to a

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person referred to in subsection (1)(a) to (c) for the purpose of ascertaining whether the person is suffering or has recently suffered from a notifiable infectious disease.

Medical examination of persons suspected to be suffering from notifiable infectious diseases

9. A health practitioner authorised by the chief health officer or a head of health services may at a reasonable time enter a premises contemplated in section 8 for the purpose of medical examination of a person contemplated in that section.

Provision of isolation and other facilities

10. (1) A local authority may, and, if required by the Minister after consultation with the local authority, must, provide and maintain either separately or jointly with another local authority -

- (a) suitable hospitals or places of isolation for the accommodation and treatment of persons suffering from notifiable infectious diseases;
- (b) mortuaries or places for the reception of human remains pending the carrying out of a *post-mortem* examination ordered by a lawful authority, but provision must be made for the separate storage of infectious human remains until removal for interment;
- (c) vehicles for the transport of persons suffering from a notifiable infectious disease or for the removal of a infected bedding, clothing or other articles;

[The article “a” before the term “infected bedding” is superfluous.]

- (d) disinfecting and cleansing stations, plant and equipment for the cleansing of persons and the disinfection of bedding, clothing, vehicles or other articles which have been exposed to, or are believed to be contaminated with, the infection of a notifiable infectious disease, or which are contaminated or harmful; or
- (e) other accommodation, equipment or articles required for dealing with a outbreak of a notifiable infectious disease.

[The article “a” before the term “outbreak” should be “an”.]

(2) A private hospital may, and, if required by the Minister after consultation with the private hospital, must, provide and maintain either separately or jointly with another private hospital or state hospital -

- (a) suitable places of isolation for the accommodation and treatment of persons suffering from notifiable infectious diseases;
- (b) mortuaries or places for the reception of human remains pending the carrying out of a *post-mortem* examination ordered by a lawful authority, but that provision must be made for the separate storage of infectious human remains until removal for interment;
- (c) vehicles for the transport of persons suffering from a notifiable infectious disease or for the removal of a infected bedding, clothing or other articles;

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[The article “a” before the term “infected bedding” is superfluous.]

- (d) disinfecting and cleansing stations, plant and equipment for the cleansing of persons and the disinfection of bedding, clothing, vehicles or other articles which have been exposed to, or are believed to be contaminated with, the infection of a notifiable infectious disease, or which are contaminated or harmful; or
- (e) other accommodation, equipment or articles required for dealing with an outbreak of a notifiable infectious disease.

Removal and isolation of infected persons

11. (1) If, in the opinion of a head of health services, a person certified by a medical practitioner to be suffering from a notifiable infectious disease is not accommodated or is not being treated or nursed in the manner as adequately to guard against the spread of the disease, the person may, on the order of the head of health services, be removed to a suitable hospital or place of isolation and be detained until the head of health services or a medical practitioner authorised in writing by the local authority or by the Minister, is satisfied that the person is free from infection or can be discharged.

(2) The cost of the removal of a person contemplated in subsection (1) and of his or her maintenance at the hospital or place of isolation must be borne by the local authority or State.

Infected persons transferred for treatment from other areas

12. If a patient suffering from a notifiable infectious disease is transferred from an area to another local authority or state hospital or state health service for isolation and treatment in a hospital or place of isolation maintained by the local authority or the state, the local authority, state hospital or state health service to whom the patient has been transferred may recover from the local authority or state hospital or state health service who ordered the transfer of the patient the cost of -

- (a) maintenance of the patient;
- (b) nursing and treatment of the patient; and
- (c) burial in the event of the death of the patient.

Local authority to prevent transmission of notifiable infectious diseases

13. If a person suffers from a notifiable infectious disease within the local authority area of a local authority, it is the duty of the local authority to ensure that adequate measures are taken -

- (a) for preventing the spread of the disease, including if necessary, provision for -
 - (i) the accommodation;
 - (ii) the maintenance;
 - (iii) nursing and medical treatment of the patient in a hospital or place of isolation, until the patient has recovered or is no longer a danger to the public health; or

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- (b) in the event of the death of the patient, for the removal and burial of the human remains.

Disinfection of premises or article

14. (1) If it appears from the certificate of the head of health services or a health practitioner that the cleansing or disinfection of a premises or article is necessary for -

- (a) preventing the spread or eradicating the infection of a notifiable infectious disease;
or
- (b) preventing danger to health,

the head of health services or chief health officer, must in writing notify the owner or occupier of the premises or the owner or person in charge of the article that the premises or article will be disinfected.

(2) If an article dealt with by the head of health services or the chief health officer under this section is of a nature that it cannot be disinfected, the head of health services or the chief health officer may destroy or cause to be destroyed, on the order of the chief executive officer concerned or the chief health officer, the article and no compensation is payable in respect of an article so destroyed.

(3) If an article is damaged during disinfection, no compensation is payable by the local authority or the Ministry if suitable methods of disinfection have been employed and due care and all reasonable precautions have been taken to prevent damage.

(4) Compensation is not payable in respect of the deprivation of the occupation or use of a premises or the use of an article occasioned by disinfection, if no undue delay has occurred.

Removal to cleansing stations of dirty and verminous persons

15. If a cleansing station is provided within a local authority area or within a reasonable distance therefrom, a person within that local authority area certified by the head of health services or a health practitioner to be dirty or verminous may be removed, on the order of the head of health services, together with his or her clothing and bedding, to the cleansing station and be cleansed.

Removal orders

16. (1) An order made under sections 11 and 15 may be addressed to an authorised staff member of a local authority or the Ministry of Health.

(2) A person who obstructs the execution of, or fails or refuses to comply with, an order referred to in subsection (1) commits an offence and is liable to a fine not exceeding N\$100 000 or to imprisonment for a period not exceeding 10 years, or to both such fine and such imprisonment.

Exposure of infected persons or things

17. (1) Subject to subsection (2), a person who -

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- (a) knowingly suffering from a notifiable infectious disease, or the other infectious disease as the Minister may classify by notice in the *Gazette* to be a disease for the purposes of this section, exposes himself or herself in the manner as to be likely or liable to spread the disease in a street, public place, public building, shop, accommodation establishment, church or other place used, frequented or occupied in common by persons other than the members of the family or household to which the infected person belongs;
- (b) being in charge of a person, and knowing that the person is so suffering, so exposes the sufferer;
- (c) knowingly gives, lends, sells, pawns, transmits, removes or exposes, or sends to or permits to be washed or exposed in a public wash-house or washing-place, or in a laundry or other place at which articles are washed, cleansed or dyed, without previous effective disinfection to the satisfaction of the local authority and in accordance with the regulations in force in its area, a clothing, bedding, rags or other articles or things of any kind which have been exposed to or are contaminated with the infection of the disease; or
- (d) knowingly suffering from the disease contemplated in paragraph (a), handles, conveys or otherwise comes in contact with food, dairy produce, aerated water or other articles intended for consumption, or carries on a trade or occupation in the manner likely or liable to spread the disease,

commits an offence and is liable to a fine not exceeding N\$100 000 or to imprisonment for a period not exceeding 10 years, or to both such fine and such imprisonment.

(2) Nothing in this section applies to a person transmitting with proper precautions and in accordance with the instructions of the local authority a bedding, clothing or other articles or things for the purpose of having them disinfected.

[The article “a” before the word “bedding” is superfluous.]

Transport of infected persons or thing in public transport

18. (1) A -

- (a) person who knows that he or she is suffering from a notifiable infectious disease or other infectious disease which the Minister may classify by notice in the *Gazette* to be a disease for the purpose of this section may not enter a public transport;
- (b) person in charge of -
 - (i) a person whom he or she knows to be suffering as contemplated in paragraph (a);
 - (ii) the human remains of a person who to his or her knowledge has died of a disease contemplated in paragraph (a); or
 - (iii) an article which to his or her knowledge has been exposed to or is contaminated with the infection of the disease,

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may not place in a public transport the person, human remains or an article which to his or her knowledge has been so exposed or is so contaminated (except in the case of a hearse used for the removal of human remains), without first informing the owner or driver or conductor of the transport of the fact of the infection and obtaining his or her consent but subject to subsection (2).

(2) The owner, driver or conductor of the public transport referred to in subsection (1) must as soon as possible after the transport been so used and before permitting the use by another person, cause it to be disinfected under the supervision and satisfaction of the head of health services or the chief health officer and in accordance with a regulations in force in the local authority area concerned.

[The article “a” before the term “regulations” should be omitted.]

(3) For the purposes of this section “public transport”, includes a railway coach, cab, motor car or a vehicle, a boat, other vessel, or an aircraft if the transport solicits for hire or is used by members of the public.

(4) A person who contravenes or fails or refuses to comply with subsection (1) or (2) commits an offence and is liable to a fine not exceeding N\$100 000 or to imprisonment for a period not exceeding 10 years, or to both such fine and such imprisonment.

Infected dwellings not to be evacuated or let without previous disinfection

19. (1) A person may not cease to occupy or may not let a dwelling or premises or part in which to the knowledge of the person there is or has recently been a person suffering from a notifiable infectious disease without having the dwelling, premises or part and all articles which are liable to retain infection disinfected to the satisfaction of the local authority or the chief health officer and in accordance with the regulations in force in the local authority area concerned.

(2) Subsection (1) applies to the owner or keeper of an accommodation establishment.

Removal and burial of human remains of persons who have died of notifiable infectious disease

20. (1) In every case of death from a notifiable infectious disease the occupier of the premises in which the death has occurred, must immediately make the best arrangements practical, pending the removal of the human remains and the carrying out of disinfection, for preventing the spread of the disease.

(2) The occupier of the premises who keeps human remains of the person who has died of a notifiable infectious disease -

- (a) in a room in which a person lives, sleeps or works or in which food is kept or prepared or eaten; or
- (b) for more than 24 hours in a place other than a mortuary or other place set apart for the keeping of human remains,

unless he or she has obtained the written approval of the local authority in whose local authority area the human remains occurred, commits an offence.

(3) A person who removes the human remains of a person who has died of a notifiable infectious disease from a dwelling or room, except for the purpose of burial, commits an offence.

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(4) A person who removes the human remains of a person who has died of a notifiable infectious disease from a room or dwelling, must take those human remains direct to the place of interment for burial.

(5) Nothing in this section is considered to prevent the removal by due authority of a human remains from a hospital to a mortuary.

(6) A person who has been convicted of contravening or failure to comply with subsection (1), (2) or (3) is liable to a fine not exceeding N\$100 000 or to imprisonment for a period not exceeding 10 years, or to both such fine and such imprisonment.

Post-mortem examinations of human remains of persons who have died of notifiable infectious disease

21. (1) The corpse of a person who has died of a notifiable infectious disease is not subject to a post-mortem examination, unless the cause of death need to be established, if -

[The verb “need” should be “needs” to be grammatically correct.]

- (a) the corpse is retained in a room in which -
 - (i) another person lives;
 - (ii) this same deceased person sleeps or works; or
 - (iii) in which food is kept or prepared or eaten;
- (b) the corpse is retained without the written approval of the local authority concerned for more than 24 hours elsewhere than in a mortuary or other place reserved for the keeping of corpse;
- (c) the corpse is retained in a dwelling or place in circumstances which, in the opinion of the local authority, are likely to endanger health; or
- (d) the corpse is found within a local authority area and is unclaimed, or no competent person undertakes to bury it.

(2) If any of the circumstance in subsection (1)(a) to (d) has occurred, a chairperson of a regional council, chief regional officer, magistrate, justice of the peace, head of health services or member of the Namibian police of above the rank of inspector -

- (a) may direct, on a certificate signed by a medical practitioner, that the corpse concerned be removed to a mortuary and be buried within a time to be specified in the certificate; or
- (b) if the human remains is of a person certified to have died of a notifiable infectious disease, may order that the corpse be buried immediately without removal to a mortuary.

(3) Unless the friends or relatives of the deceased referred to in subsection (2) undertake to, and do, bury the corpse so specified, the local authority may bury the corpse and the cost of so doing be defrayed by the local authority concerned and be recovered by the local authority by

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action in a court of competent jurisdiction from a person legally liable to pay the expenses of interment.

(4) A person who obstructs the execution of a directive or order given under subsection (2) commits an offence and is liable to a fine not exceeding N\$100 000 or to imprisonment for a period not exceeding 10 years, or to both such fine and such imprisonment.

Formidable epidemic diseases

22. (1) For the purposes of this Act, unless otherwise indicated plague, cholera, epidemic influenza, diarrhoea with blood (dysentery), malaria, measles, meningitis, poliomyelitis (acute flaccid paralysis), schistosomiasis, tuberculosis, viral hemorrhagic fever, yellow fever, emerging pandemic influenza disease e.g. avian flu, SARS and swine Flu (H1N1) Anthrax, smallpox, pneumonic plague, ebola, viral haemorrhagic fever, dengue fever and rift valley fever are considered to be formidable epidemic diseases.

[The words “plague” and “hemorrhagic” are misspelt
in the *Government Gazette*, as reproduced above.]

(2) The Minister may by notice in the *Gazette* declare a disease to be a formidable epidemic disease for purposes of this Act.

Notification of suspected cases of formidable epidemic diseases

23. (1) A medical practitioner, principal or head of a learning institution, head of a family or a household, employer, owner or occupier of land or premises, chief or headman must report to the nearest health facility or local authority health services, together with particulars of the patient and his or her symptoms, the occurrence of a case of illness or death coming to his or her notice and suspected to be due to a formidable epidemic disease, or with a history or presenting symptoms or post- mortem appearances which might reasonably give grounds for the suspicion.

(2) A person who, is aware of any of the diseases referred to in subsection (1), and who fails to comply with subsection (1) commits an offence and is liable to a fine not exceeding N\$100 000 or to imprisonment for a period not exceeding 10 years, or to both such fine and such imprisonment.

[The comma after the word “who” is superfluous, and the word “is”
in the phrase “is subsection (1)” should be “in”.]

Notification of sickness or mortality in animals

24. (1) A person who becomes aware of unusual sickness, behaviour or mortality among rats, mice, cats, dogs or other animals susceptible to plague or other epidemic disease, not due to poison or other obvious cause, must immediately report the fact to a chief, headmen, councillors, local authority, head of health services, state veterinarian or member of the Namibian police.

(2) A person who contravenes, refuses or fails to comply with subsection (1) commits an offence and is liable to a fine not exceeding N\$100 000 or to imprisonment for a period not exceeding 10 years, or to both such fine and such imprisonment.

Local authority to report notification of formidable epidemic diseases and execution of speedy communications

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- 25.** A local authority must -
- (a) immediately report to the chief health officer by fax, telephone, e-mail or other expeditious means particulars of every notification received by it of a case or suspected case of a formidable epidemic disease, or of unusual sickness, behaviour or mortality in animals reported under section 24; and
 - (b) do and provide all the acts, matters and things within its means as may be necessary for mitigating the disease.

Powers of Minister if local authority fails to adequately deal with formidable epidemic disease

26. (1) If, upon a report of the chief health officer it appears to the Minister that an outbreak of a formidable epidemic disease or a disease suspected of being a formidable epidemic disease -

- (a) has occurred or is threatening within the area of a local authority; and
- (b) is not being investigated or dealt with efficiently and so as adequately to safeguard public health,

despite other provision of this Act, the Minister may inform the local authority of the measures which the Minister is taking.

(2) If the local authority concerned fails or is for a reason unable to forthwith carry out the measures concerned to the satisfaction of the Minister, the Minister may authorise the chief health officer or another local authority to take all necessary steps for dealing with the outbreak.

(3) If the Minister has authorised the chief health officer or another local authority as contemplated in subsection (2), the chief health officer or the authorised local authority possesses for the purpose concerned all rights and powers of the local authority in default, including the obligations attaching to the exercise of the powers.

(4) A portion of expenditure incurred by virtue of subsection (1) which is payable by the authorised local authority may be recovered from the local authority in default in the manner provided for in section 29(3) of the National Health Act.

Requisition of buildings, equipment or other articles

27. (1) If an outbreak of a formidable epidemic disease exists or is threatening, the Minister may require from or may authorise a local authority to require from a person owning or having charge of -

- (a) a land or a building not occupied as dwellings; or
- (b) tents, 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 the land, building or to supply or make available article, subject to the payment of a reasonable amount as hire or purchase price.

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[The word “the” appears to have been omitted before the word “article”.]

(2) A person who contravenes or fails to comply with this section commits an offence and is liable to a fine not exceeding N\$100 000 or to imprisonment for a period not exceeding 10 years, or to both such fine and such imprisonment.

Declaration of public health emergency

28. (1) If the Minister is satisfied that the occurrence or threatened outbreak of a formidable epidemic disease constitutes a health emergency in Namibia which threatens the life of and well-being of the nation, the Minister may in writing advise the President to declare a public health emergency as contemplated in Article 26 of the Namibian Constitution.

(2) A declaration of public health emergency contemplated in subsection (1) must specify -

- (a) the nature of the emergency;
- (b) the affected area;
- (c) the commencement date, as well as the period during which the declaration is to remain in force; and
- (d) the conditions relating to the conduct of the response to the emergency.

(3) The President may extend, on the recommendation of the Minister, the period during which the declaration is to remain in force.

Powers of Minister regarding public health emergency or occurrence or threatened outbreak of formidable epidemic disease

29. (1) If the President has declared a public health emergency as contemplated in section 28(1) or if the occurrence or threatened outbreak of a formidable epidemic disease necessitates it, the Minister may in writing issue directives or make regulations as he or she considers to be necessary or desirable to alleviate the public health emergency, occurrence or threatened outbreak of a formidable epidemic disease, including directives or actions to be taken in relation to -

- (a) the reduction or removal of a threat to public health;
- (b) the segregation or isolation of a person in an area;
- (c) the evacuation or permission of access to an area;
- (d) the control of the movement to and from the affected area;
- (e) the imposition and enforcement of quarantine and the regulation and restriction of public traffic and of the movements of persons;
- (f) the closing of schools and the restriction of school attendance and a other learning institutions;

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[The word “a” before the phrase “other learning institutions” is superfluous. The provision may have been intended to refer to “attendance at schools and other learning institutions”.]

- (g) the closing of churches and Sunday schools and the restriction of gatherings or meetings for the purpose of public worship;
- (h) the closing of a place of public entertainment, recreation or amusement, or where intoxicating liquor is sold;
- (i) if considered necessary, the prohibition of the convening, holding or attending of entertainments, assemblies, meetings or other public gatherings;
- (j) the prevention and remedying of overcrowding or the keeping of a dwelling, other building or the contents in a dirty or in a sanitary or a verminous condition;

[The phrase “a sanitary... condition” must have been intended to refer “an unsanitary... condition”.]

- (k) the medical examination of -
 - (i) a person who is suspected of being infected with, or who may have recently been exposed to the infection of, the disease; or
 - (ii) a person about to depart from a infected area;

[The article “a” before the term “infected area” should be “an”.]

- (l) the disinfection of the baggage and personal effects of a person contemplated in paragraph (k);
- (m) the detention of persons until they have after the examination been certified to be free from a infectious disease and until their baggage and personal effects have been disinfected;

[The article “a” before the term “infectious disease” should be “an”.]

- (n) the keeping under medical observation or surveillance or the removal, detention and isolation, of persons who may have recently been exposed to the infection, and who may be in the incubation stage of the disease;
- (o) the detention and isolation of persons until released by due authority;
- (p) the use of guards and force for that purpose;
- (q) in case of absolute necessity, the use of firearms or other weapons and the arrest without warrant of a person who has escaped from the detention or isolation facilities;
- (r) the establishment of isolation facilities;
- (s) the removal and isolation of persons who are or are suspected to be suffering from a disease;

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- (t) the accommodation, classification, care and control of persons and their detention until discharged by due authority as recovered and free from infection;
- (u) the establishment, management and control of convalescent homes or similar institutions for the accommodation of persons who have recovered from the disease;
- (v) the making of enquiries into the cause of death of a person, apart from a inquiry by a competent court under a other law;

[The word “a” before the term “inquiry” should be “an”, and the word “a” before the phrase “other law” was probably intended to be “any”.]

- (w) the ordering, if considered necessary, of post-mortem examinations or of exhumations;
- (x) the prohibition in special circumstances of the burial of a human remains, except on a certificate by a medical officer appointed to grant the certificates or after compliance with a other specified conditions, including the mode of disposal, the times and places of burial of human remains and the manner of conducting removals and burials;

[The word “a” before the phrase “other specified conditions” should be “any”.]

- (y) the restriction and prohibition of the removal of merchandise or a article or thing into, out of or within a specified or defined area;

[The word “a” before the term “article” should be “an”.]

- (z) the mandatory provision of information for the purpose of investing, preventing, controlling or abating a disease;
- (aa) the instruction to a person to take action that is reasonably required to prevent control or abate a disease;
- (ab) the disinfecting of plant and equipment and the disinfection, or if disinfection is impossible, the destruction of an article or thing or the disinfection of a premises which are believed to be infected;
- (ac) the inspection of premises and articles and remedying of sanitary or other defects likely to favour the spread or render difficult the eradication of the disease;
- (ad) the evacuation, closing, alteration or, if considered necessary, the demolition or destruction of a premises the occupation or use of which is considered likely to favour the spread or render more difficult the eradication of the disease;
- (ae) the description of the circumstances under which compensation may be paid in respect of a premises so demolished or destroyed and the manner of determining compensation;
- (af) in the case of plague, the destruction of rodents and the removal or rectifying of the conditions likely to favour the harbourage or multiplication of rodents and the disposal of the carcasses of rodents or other animals believed or suspected to have died of plague;

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- (ag) the relief, during the continuance of the epidemic of acute distress including the maintenance of children whose parents or guardians are suffering from or have died of the disease;
- (ah) the manner of requisitioning accommodation, equipment or other articles under clause 27 and the manner of fixing rates of hire or purchase price and the conditions of payment; and
- (ai) the other matters as the Minister may consider necessary for preventing the occurrence of the disease or limiting or preventing the spread of the disease or for the eradication of the disease, and, generally for better carrying out and attaining the objects and purposes of this Part.

(2) The directives issued or regulations made under subsection (1) also apply to persons about to depart from Namibia or entering Namibia in the course of a journey to another state or territory.

(3) A person who contravenes or fails to comply with a directive issued or regulations made under subsection (1) commits an offence and is liable to a fine not exceeding N\$100 000 or to imprisonment for a period not exceeding 10 years, or to both such fine and such imprisonment.

Powers of authorised persons during declared public health emergency

30. (1) While a declaration of public health emergency is in force a person authorised in writing by the Minister may -

- (a) enter, using the reasonable force and assistance as is necessary, a place to -
 - (i) prevent injury to a person; or
 - (ii) rescue an endangered person;
- (b) prevent access to a place;
- (c) close pedestrian, vehicular traffic, a roadway, path or a other thoroughfare;

**[The word “a” before the phrase “other thoroughfare”
should be “any”, or else omitted.]**

- (d) in respect of a licence, permit or certificate over which an environmental health practitioner has authority under this Act, suspend or vary the license, permit or certificate concerned, without providing to the holder thereof a remedy or opportunity to dispute the suspension or variation concerned;
- (e) conduct an inspection at a time with or without a warrant, including a private dwelling; or
- (f) collect, use or disclose for purposes of this Act, information, including personal information.

(2) While a declaration of public health emergency is in force, the Minister or an authorised person contemplated in subsection (1) may in writing authorise a staff member to -

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- (a) exercise a power or perform a function in a geographic area for which the person has not been designated for; and
- (b) exercise a power or perform a function that is not normally permitted by the designation of the person.

(3) A staff member who has been authorised as contemplated in subsection (2) must act in accordance with the authorisation until the Minister or the authorised person terminates the authorisation.

(4) A person who -

- (a) hinders an authorised person or an authorised staff member in the exercise, performance or carrying out of his or her powers or functions; or
- (b) prevents the person or staff member to exercise, perform or carry out his or her powers or functions as contemplated in subsections (1) and (2),

commits an offence and is liable to a fine not exceeding N\$100 000 or to imprisonment for a period not exceeding 10 years, or to both such fine and such imprisonment.

Appointment of emergency management and response committees

31. (1) If it is considered necessary for the purpose of co-ordinating effort or otherwise for more effectively dealing with or preventing an outbreak of a formidable epidemic disease, the Minister may -

- (a) constitute, by notice in the *Gazette*, a committee to be known as an emergency management and response committee for a defined area to -
 - (i) discharge the functions in connection with the outbreaks; and
 - (ii) administer so much of this Act,

as may be specified in the notice; and
- (b) make regulations regarding -
 - (i) the appointment of members of the committees;
 - (ii) the conduct of proceedings of the committees;
 - (iii) the manner in which accounts must be kept; or
 - (iv) other matter relative to the committee.

(2) If an area defined as contemplated in subsection (1) includes wholly or partly the area or areas of one or more local authorities, the -

- (a) composition of an emergency management and response committee; and
- (b) manner of allocating and defraying expenditure incurred by the committee,

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are as may be mutually agreed in advance between the Minister and the local authority or local authorities concerned, or failing the agreement, as the Minister may, subject to this Act, determine.

(3) In the event of the occurrence or threatened outbreak of a formidable epidemic disease in a local authority area for which a chairperson of a regional council is the local authority, the Minister may constitute an advisory committee of three or more persons resident in the local authority area concerned to advise and assist the chairperson of a regional council.

[The word “advice” should be “advise”.]

Advances to local authorities

32. (1) On the terms and conditions as the Minister, in concurrence with the Minister responsible for finance, may determine, the Minister may authorise the making of advances to a local authority or emergency management and response committee for the purpose of dealing with an outbreak of an infectious disease.

(2) The Minister may enter into an agreement with a local authority concerned which regulate the repayment of the advance.

(3) In default of repayment of an advance made to a local authority, the Minister may recover the amount concerned from the local authority in the manner provided for in section 29(3) of the National Health Act.

(4) The Minister, in concurrence with the Minister responsible for finance, may determine and authorise the making of advances to a local authority to enable the local authority to pay a proportion of the capital expenditure incurred by the local authority in providing suitable hospitals or places of isolation for persons suffering from a infectious disease, and may recover, in the manner provided for in section 29(3) of the National Health Act, the advances so made.

[The word “a” before the term “infectious disease” should be “an”.]

(5) A certificate by the Minister is conclusive proof of the amount of money advanced to or expended on behalf of a local authority under this section.

Refunds to local authorities

33. The Minister may authorise -

(a) the refund of 50% of the approved net cost actually and necessarily incurred by a local authority or by two or more local authorities acting jointly, in providing and equipping an isolation hospital or other isolation accommodation for -

(i) persons suffering from a infectious disease; or

[The word “a” before the term “infectious disease” should be “an”.]

(ii) detained under medical observation because of exposure to the infection of a formidable epidemic disease,

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but the Minister must approve the strategy as a whole and the plan of actions, specifications of equipments and supplies and cost estimates before the expenditure or a liability is incurred;

[The phrase “plan of actions” was probably intended to be “plan of action”.
The word “equipments” should be “equipment”.]

- (b) the refund of 50% of the approved net cost actually and necessarily incurred by a local authority, or by two or more local authorities acting jointly, in connection with -
- (i) the management and maintenance of an isolation hospital or other isolation accommodation; or
 - (ii) the maintenance and treatment in a other hospital or place of isolation of persons suffering or suspected to be suffering from a infectious disease or of persons detained under medical observation because of exposure to the infection of an epidemic disease,

[The word “a” before the phrase “other hospital or place of isolation” was probably intended to be “any”. The word “a” before the term “infectious disease” should be “an”.]

the net costs being determined after deduction of a revenue; or

[The word “a” before “revenue” should be omitted.]

- (c) the refund of 50% of the approved net cost actually and necessarily incurred by a local authority, or by two or more local authorities acting jointly or by an emergency management and response committee, in preventing, investigating, dealing with or suppressing an outbreak of a formidable epidemic disease or an outbreak suspected on reasonable grounds to be of such disease, including, if necessary, the provision of temporary isolation hospital accommodation.
-