



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)

Stage 4: State of Emergency - COVID-19 Regulations [Stage 4-second regulations]

Proclamation 33 of 2020
(GG 7270)

came into force on date of publication: 14 July 2020

as amended by

Proclamation 40 of 2020 (GG 7284)

came into force on date of publication: 24 July 2020

Proclamation 44 of 2020 (GG 7295)

came into force on date of publication: 3 August 2020

**These regulations applied to the whole of Namibia for the period from
the time of publication on 14 July 2020 to 24:00 on 17 September 2020,
with some exceptions pertaining to the Erongo Region.**

(See regulation 2(1) read together with the definition of "specified period" in regulation 1, read together
with regulation 3. The application of the regulations to the Erongo Region is discussed in Regulation 2.)

**Proclamation 33 of 2020 also repeals the "Stage 4: State of Emergency - Covid-19 Regulations"
published in Proclamation 28 of 2020. However, the regulations published in
Proclamation 33 of 2020 (prior to being amended) were virtually identical
to those published in the repealed Proclamation 28 of 2020.**

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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 municipal police service referred to in section 43C of the Police Act, 1990 (Act No. 19 of 1990);
- (d) a member of the Defence Force as defined in section 1 of the Defence Act, 2002 (Act No. 1 of 2002);
- (e) a correctional officer as defined in section 1 of the Correctional Service Act, 2012 (Act No. 9 of 2012);
- (f) an immigration officer as defined in section 1 of the Immigration Control Act;
- (g) 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
- (h) 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);

“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;

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“health regulations” means the health regulations published under Sub-Article (5) of Article 26 of the Namibian Constitution;

“higher education institution” means an institution that provides learning programmes leading to qualifications higher than grade 12 or its equivalent;

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

“liquor” means any spirits, wine, beer, cider or other beverage, including a traditional beverage which contains alcohol, and [is] intended for human consumption but excludes any substance that contains alcohol but [is] used or is intended to be used for medicinal purposes;

[Some words appear to have been omitted from this definition, as indicated in brackets above.]

“Liquor Act” means the Liquor Act, 1998 (Act No. 6 of 1998);

“mask” means a covering made of any suitable material that is worn on and around a person’s nose and mouth so as to fully cover that person’s nose and mouth for purposes of preventing the transmission of the severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2);

“Public and Environmental Health Act” means the Public and Environmental Health Act, 2015 (Act No. 1 of 2015);

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

“specified period” means the period referred to in regulation 3 and indicating Stage 4 of the State of Emergency as determined by Cabinet;

“vehicle” means a motor vehicle, a locomotive, an aircraft or a vessel; and

“vulnerable employee” means an employee who is pregnant, an employee who is a nursing mother, an employee with a pre-existing condition such as a heart disease, high blood pressure, respiratory problems, obesity, diabetes, tuberculosis or a condition which might compromise the immune system of the employee.

Application of regulations

2. (1) These regulations apply to the whole of Namibia during the specified period but they do not apply to the Erongo Region for the duration of the specified period referred to in regulation 3 of the Stage 3: State of Emergency - Covid-19 Regulations: Erongo Region published under Proclamation No. 39 of 22 July 2020.

(2) Despite subregulation (1), regulations 10, 11 and 12 apply to the Erongo Region for the duration of the specified period referred to in regulation 3 of the Stage 3: State of Emergency - Covid-19 Regulations: Erongo Region published under Proclamation No. 39 of 22 July 2020.

(3) On the expiry of the specified period referred to in regulation 3 of the Stage 3: State of Emergency - Covid-19 Regulations: Erongo Region published under Proclamation No. 39 of 22 July 2020, these regulations will apply to the Erongo Region unless the President under Sub-Article (5) of Article 26 of the Namibian Constitution determines otherwise.

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

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[Regulation 2 was substituted on 24 July 2020 by Proc. 40 of 2020, to take into account the change in the Stage 3 regulations applicable to the Erongo Region. It initially read as follows (emphasis added):

“Application of regulations

2. (1) These regulations apply to the whole of Namibia during the specified period but they do not apply to the Erongo Region for the duration of the specified period referred to in regulation 3 of the Stage 3: State of Emergency - Covid-19 Regulations: Erongo Region published under **Proclamation No. 26 of 22 June 2020, except as provided in subregulation (2).**

(2) Despite subregulation (1), regulations 10, 11 and 12 apply to the Erongo Region for the duration of the specified period referred to in regulation 3 of the Stage 3: State of Emergency - Covid-19 Regulations: Erongo Region published under **Proclamation No. 26 of 22 June 2020.**

(3) On the expiry of the specified period referred to in regulation 3 of the Stage 3: State of Emergency - Covid-19 Regulations: Erongo Region published under **Proclamation No. 26 of 22 June 2020**, these regulations will apply to the Erongo Region unless the President under Sub-Article (5) of Article 26 of the Namibian Constitution determines otherwise.

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

Specified period

3. The specified period is from the date of commencement of these regulations and ends at 24:00 on 17 September 2020.

Restrictions relating to schools, higher education institutions and other educational institutions

4. (1) As from the date of commencement of these regulations -
- (a) schools and other educational institutions providing early childhood development learning and pre-primary learning must remain closed until 31 August 2020;
 - (b) schools and other educational institutions providing primary education from the level of the first grade to the level of the seventh grade and secondary education at the level of the eighth grade and the ninth grade must remain closed until 31 August 2020;

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

- (c) schools and other educational institutions providing secondary education from the level of the tenth grade, eleventh grade and the twelfth grade may continue face to face learning; and
- (d) higher education institutions may continue face to face learning.

(2) The closure of schools, higher education institutions and other educational institutions contemplated in subregulation (1) 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 body of the school or institution in question,

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

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(3) Heads of schools, higher education institutions and other educational institutions which may resume face to face learning must ensure that the persons accessing their premises at all times adhere to the measures to combat, prevent and suppress the spread of COVID-19 as specified in these regulations, the health regulations and other applicable regulations or directives.

**[Regulation 4 was substituted on 3 August 2020
by Proc. 44 of 2020. It initially read:**

“Restrictions relating to schools, higher education institutions and other educational institutions

4. (1) Except as provided in subregulation (2), all schools, higher education institutions and other educational institutions in Namibia may resume face to face learning and training during the specified period.

(2) During the specified period -

(a) schools and educational institutions providing early childhood development learning, pre-primary learning and primary education at grade one to three levels must remain closed but may resume face to face learning on 7 July 2020;

(b) schools and educational institutions providing primary education at grade seven and nine levels must remain closed but may resume face to face learning on 20 July 2020; and

(c) schools and educational institutions providing primary education at grade four, five, six, eight and 10 levels must remain closed but may resume face to face learning on 3 August 2020.

(3) Heads of schools, higher education institutions and other educational institutions referred to in subregulation (1) and (2) must ensure that the persons accessing their premises at all times adhere to the measures to combat, prevent and suppress the spread of COVID-19 as specified in these regulations, the health regulations and other applicable regulations or directives.”]

Wearing of masks

5. (1) During the specified period every person must wear a mask whenever he or she is at or in a public place.

(2) During the specified period, wearing of a see-through face shield is permitted, provided that a mask is worn together with the face shield.

(3) An authorised officer may instruct a person who is not wearing a mask as contemplated in subregulation (1) or (2) to wear a mask or to leave the public place.

(4) A person who fails or refuses to comply with an instruction under subregulation (2) commits an offence and on conviction is 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.

**[The cross-reference here was clearly intended to refer
to subregulation (3) instead of subregulation (2).]**

Gatherings

6. (1) Persons are permitted to gather for a common purpose provided that their number does not exceed 100 persons and provided that they comply with the provisions of these regulations, the health regulations and other applicable regulations or directives.

(2) Persons are prohibited from gathering for a common purpose if their number exceeds 100 persons, but this prohibition does not apply where -

(a) persons are gathered at their workplace;

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- (b) the gathering is by a government institution at national, regional or local level or the Cabinet or the Parliament for purposes of its normal operations;
- (c) the gathering is for purposes of court or tribunal proceedings; or
- (d) a group of persons independently or coincidentally find themselves at a specific place.

(3) Persons who gather in the circumstances referred to in subregulation (1) and (2) must at all times adhere to the measures to combat, prevent and suppress the spread of COVID-19 as specified in these regulations, the health regulations and other applicable regulations or directives.

(4) An authorised officer may instruct a gathering, other than a gathering referred to in subregulation (1) and paragraphs (a), (b), (c) and (d) of subregulation 2, to disperse and may use all reasonable measures to cause the gathering to disperse.

(5) The person organising or hosting a gathering referred to in subregulation (1) or the head of the institution in respect of a gathering specified in paragraph (a), (b) or (c) of subregulation (2) must -

- (a) open and maintain a register of the persons who attend the gathering; or
- (b) ensure that the register of the persons referred to in paragraph (a) is opened and maintained,

for the purpose of recording the particulars of persons who attend the gathering.

[Amended subregulation (5) is identical in wording to the subregulation (5) which it replaced. However, the amended version appears to have accidentally formatted the closing phrase (“for the purpose of recording the particulars of persons who attend the gathering”) as if it were part of paragraph (b) (“ensure that the register of the persons referred to in paragraph (a) is opened and maintained, for the purpose of recording the particulars of persons who attend the gathering”) instead of showing it as being applicable to both paragraphs (a) and (b) as it was in the original version of subregulation (5). The comma preceding this phrase indicates that it was intended to apply to both paragraphs (a) and (b), which would be logical in light of the content of the two paragraphs. This apparent formatting error has been corrected here.]

(6) The person who is required to open and maintain a register in accordance with subregulation (5) must -

- (a) keep the register in a safe place for the duration of the State of Emergency;
- (b) on request, make the register available for inspection by an authorised officer; and
- (c) treat the information provided under this regulation as confidential, and may not disclose that information to any other person except as provided in paragraph (b) or when required to so disclose in terms of any law or by a court.

(7) The register referred to in subregulation (6) must contain the full name, identification number or passport number and telephone number or cellular phone number of each person who attended the gathering.

- (8) A person who -

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- (a) facilitates, instigates or organises a gathering;
- (b) fails or refuses to obey an instruction issued under subregulation (4);
- (c) fails or refuses to comply with subregulation (5) or (6); or
- (d) intentionally provides false information or refuses to provide the information required under this regulation,

commits an offence and is on conviction liable to a fine not exceeding N\$2 000 or to imprisonment not exceeding six months or to both such fine and imprisonment.

**[Regulation 6 was substituted on 3 August 2020
by Proc. 44 of 2020. It initially read:**

“Gatherings

6. (1) Persons are permitted to gather for a common purpose provided that their number does not exceed 250 persons and provided that they comply with the provisions of these regulations, the health regulations and other applicable regulations or directives.

(2) Persons are prohibited from gathering for a common purpose if their number exceeds 250 persons, but this prohibition does not apply where -

- (a) persons are gathered at their workplace;
- (b) the gathering is by a government institution at national, regional or local level or the Cabinet or the Parliament for purposes of its normal operations;
- (c) the gathering is for purposes of court or tribunal proceedings; or
- (d) a group of persons independently or coincidentally find themselves at a specific place.

(3) Persons who gather in the circumstances referred to in subregulation (1) and paragraphs (a), (b), (c) and (d) of subregulation (2) must at all times adhere to the measures to combat, prevent and suppress the spread of COVID-19 as specified in these regulations, the health regulations and other applicable regulations or directives.

(4) An authorised officer may instruct a gathering, other than a gathering referred to in subregulation (1) and paragraphs (a), (b), (c) and (d) of subregulation (2), to disperse and may use all reasonable measures to cause the gathering to disperse.

(5) The person organising or hosting a gathering referred to in subregulation (1) or the head of the institution in respect of a gathering specified in paragraph (a), (b) or (c) of subregulation (2) must -

- (a) open and maintain a register of the persons who attend the gathering; or
- (b) ensure that the register of the persons referred to in paragraph (a) is opened and maintained,

for the purpose of recording the particulars of persons who attend the gathering.

(6) The person who is required to open and maintain a register in accordance with subregulation (5) must -

- (a) keep the register in a safe place for the duration of the State of Emergency;
- (b) on request, make the register available for inspection by an authorised officer; and
- (c) treat the information provided under this regulation as confidential, and may not disclose that information to any other person except as provided in paragraph (b) or when required to so disclose in terms of any law or by a court.

(7) The register referred to in subregulation (6) must contain the full name, identification number or passport number and telephone number or cellular phone number of each person who attended the gathering.

(8) A person who -

- (a) facilitates, instigates or organises a gathering;
- (b) fails or refuses to obey an instruction issued under subregulation (4); or
- (c) fails or refuses to comply with subregulation (5) or (6); or
- (d) intentionally provides false information or refuses to provide the information required under this regulation,

commits an offence and is on conviction liable to a fine not exceeding N\$2 000 or to imprisonment not exceeding six months or to both such fine and imprisonment.”]

Restrictions relating to liquor

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7. (1) For the purposes of this regulation, a term defined in the Liquor Act, 1998 (Act No. 6 of 1998), except for the word “liquor”, bears that meaning.

- (2) A person may only sell liquor and a person may only purchase liquor if -
- (a) the person who sells the liquor holds a liquor licence authorising the sale of liquor, and the sale of liquor is in accordance with that licence; and
- (b) the sale and purchase of liquor is in accordance with subregulation (3) or (4).

[The verb “is” should be “are” to be grammatically correct.]

(3) During the specified period and despite any contrary condition applicable to any type of liquor licence issued under the Liquor Act, 1998 (Act No. 6 of 1998), the sale of liquor in terms of a liquor licence and the purchase of liquor may -

- (a) only take place between 09:00 and 18:00 on a week day;
- (b) only take place between 09:00 and 13:00 on a Saturday;
- (c) not take place on a Sunday and on a public holiday; and
- (d) only take place if the liquor is sold or purchased on an off-sales basis.

(4) Except that subregulation (3)(c) applies to paragraph (b), the provisions of subregulation (3) do not apply to -

- (a) a hotel, restaurant or similar business that lawfully sells food that is intended to be consumed on the premises of the seller and the liquor is sold, for onconsumption, in relation to a meal sold to be consumed on the premises; or

[The hyphen has been omitted in the word “on-consumption”.]

- (b) a night club, casino and gambling house selling liquor for on-consumption,

provided that liquor may only be sold between 12:00 and 22:00.

(5) A person who contravenes or fails to comply with subregulation (2), (3) or (4) 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.

(6) An authorised officer who is a peace officer within the meaning of the Criminal Procedure Act, 1977 (Act No. 51 of 1977), may, without a warrant, seize any liquor that is suspected to have been sold or has been purchased in contravention of this regulation and the seized liquor must, subject to changes required in the context, 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 7 was substituted on 24 July 2020 by Proc. 40 of 2020 to further restrict on-consumption liquor sales. It initially read:

“Restrictions relating to liquor

7. (1) Despite any contrary condition applicable to any type of liquor licence issued under the Liquor Act, during the specified period -

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- (a) the sale of liquor in terms of that liquor licence and the purchase of liquor may only take place -
 - (i) between the hours 09H00 and 18H00 on Mondays to Fridays; and
 - (ii) between the hours of 09H00 and 13H00 on Saturday; and
- (b) a person may not purchase or sell liquor on a Sunday or public holiday.
- (2) Subregulation (1) does not apply to the holders of on-consumption liquor licences as defined in the Liquor Act, but the holders of such licences are subject to conditions relating to the sale of liquor that apply to on-consumption liquor licences.
- (3) Holders of liquor licences issued in terms of the Liquor Act must ensure that persons accessing their premises at all times adhere to the measures to combat, prevent and suppress the spread of COVID-19 as specified in these regulations, the health regulations and other applicable regulations or directives.
- (4) A person who contravenes or fails to comply with a provision of subregulation (1), (2) or (3) 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.
- (5) An authorised officer who is a peace officer within the meaning of the Criminal Procedure Act, 1977 (Act No. 51 of 1977) may, without a warrant, seize any liquor that is suspected to have been sold or has been purchased in contravention of this regulation and the seized liquor must, subject to changes required in the context, be dealt with in accordance with the provisions of the Liquor Act as if it were liquor seized in terms of that Act.”]

Restrictions relating to certain businesses, operations and activities

8. (1) Subject to the provisions of these regulations, all businesses operations and activities are permitted during the specified period.

(1A) For the purpose of subregulation (1B) contact sports refers to sports in which players may directly or indirectly have physical contact, such as rugby, boxing, football, martial arts or wrestling.

[Subregulation 1A was inserted on 3 August 2020 by Proc. 44 of 2020.]

(1B) Contact sports are permitted on the condition that no spectators are allowed at the contact sporting events.

[Subregulation 1B was inserted on 3 August 2020 by Proc. 44 of 2020.]

- (2) The heads of the institutions of businesses, operations and activities must -
 - (a) open and maintain a register of the persons who access their premises or attend the activities; or
 - (b) ensure that the register of the persons referred to in paragraph (a) is opened and maintained,

for the purpose of recording the particulars of persons who access their premises or attend the activities.

- (3) The heads of the institutions of businesses, operations and activities must -
 - (a) keep the register in a safe place for the duration of the State of Emergency;
 - (b) on request, make the register available for inspection by an authorised officer; and
 - (c) treat the information provided under this regulation as confidential, and may not disclose that information to any other person except as provided in paragraph (b) or when required to so disclose in terms of any law or by a court.

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(4) The register referred to in subregulation (2) must contain the full name, identification number or passport number and telephone number or cellular phone number of each person accessing the premises of the businesses, operations and activities and the number of people inclusive of the organisers or its staff members may not exceed 250 people at a time.

(5) The heads of the institution of businesses, operations and activities must ensure that the persons accessing their premises at all times adhere to the measures to combat, prevent and suppress the spread of COVID-19 as specified in these regulations, the health regulations and other applicable regulations or directives.

(6) A person who contravenes or fails to comply with the provisions of subregulation (1B), (2), (3), (4) or (5) 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.

**[Subregulation 6 was substituted on 3 August 2020
by Proc. 44 of 2020. It initially read:**

“(6) A person who contravenes or fails to comply with the provisions of subregulation (2), (3), (4) or (5) 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.”]

Additional provisions relating to workplace

9. (1) Heads of the institutions are encouraged to allow vulnerable employees to work from home, subject to suitable arrangements between the employer and employee.

(2) Heads of the institutions are encouraged to provide masks to their employees.

(3) Heads of the institutions must ensure that their employees at all times adhere to the measures to combat, prevent and suppress the spread of COVID-19 as specified in these regulations, the health regulations and other applicable regulations or directives.

Prohibition relating to entry into Namibia

10. (1) Subject to the other provisions of these regulations, 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;
- (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 specified period, be refused entry into Namibia under section 10 of the Immigration Control Act.

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(2) Persons permitted to enter Namibia must, two weeks before entering Namibia, in writing inform the relevant Namibian diplomatic representative in the country of intended departure of the intention to enter Namibia.

(3) Despite subregulation (1) –

- (a) is not a Namibian citizen;
- (b) does not hold a permanent residence permit for Namibia; or
- (c) is not domiciled in Namibia or otherwise lawfully resident in Namibia;

may, for the purpose of undertaking tourism activities in Namibia, subject to the Immigration Control Act and subregulation (4), enter Namibia during the period starting on 15 July 2020 and ending on 15 August 2020.

(4) Persons permitted to enter Namibia under subregulation (3) may not enter Namibia unless such persons on entering Namibia present to an authorised officer a negative SARS-COV-2 PCR test result not older than 72 hours at the time of entering Namibia, provided that the laboratory that issued the test result is certified to issue SARS-COV-2 PCR test results.

(5) Subject to the Immigration Control Act, a person who -

- (a) is a driver of a motor vehicle, an operator of a locomotive, a pilot in command of an aircraft or a captain or master of a shipping vessel 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 the transportation of goods referred to in paragraph (a),

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

(6) Despite the provisions of subregulation (1), a person referred to in that subregulation may be allowed to enter Namibia if that person complies with or meets such requirements as may be determined by the Minister responsible for immigration issued pursuant to the Immigration Control Act.

(7) A person who contravenes or fails to comply with subregulation (1), (4) or (5) commits an offence and is on conviction liable to a fine not exceeding NS\$ 2 000 or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

Quarantine and COVID-19 testing

11. (1) Any person who enters Namibia as contemplated in regulation 10 is subject to quarantine requirements as set out in these regulations and the health regulations.

(2) All persons permitted to enter Namibia in terms of regulation 10 must on entering Namibia be tested for COVID-19 during the period of quarantine.

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(3) Except where subregulations (4) and (5) apply, all persons entering Namibia during the specified period are subject to mandatory quarantine at own cost.

(4) The following categories of Namibian citizens may be quarantined at the cost of the State:

- (a) students enrolled for and undertaking a course of study at a school or an educational institution in Namibia or in a foreign country;
- (b) State patients;
- (c) health professionals;
- (d) persons entering Namibia on humanitarian grounds;
- (e) persons entering Namibia on official government business; or
- (f) such persons as may be specified in the regulations issued under Sub-Article (5) of Article 26 of the Namibian Constitution.

(5) Namibian citizens who are unable to pay for the cost of quarantine as required by these regulations may request, in the form and manner determined under the regulations issued under Sub-Article (5) of Article 26 of the Namibian Constitution, that the State cover the cost of their quarantine.

(6) Namibian citizens who leave Namibia for private business during the specified period are, on entering Namibia during that period, subject to mandatory quarantine at own cost.

(7) A person who unreasonably refuses to be quarantined or tested as specified in subregulation (1) or (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.

Restrictions relating to transportation of goods and persons

12. (1) For the purposes of this regulation -

“vehicle” means a vehicle as defined in section 1 of the Road and Transport Act, 1999 (Act No. 22 of 1999) and includes a locomotive that is used for the transportation of passengers or goods by railway; and

“motor vehicle” means a motor vehicle as defined in section 1 of the Road and Transport Act, 1999 (Act No. 22 of 1999).

(2) A person who transports goods on a vehicle may not carry a passenger on the vehicle unless the person carried in or on the vehicle is necessary for the operation of the vehicle during the course of business or trade or commerce of the person.

(3) A person who conveys persons, whether for reward or for any other purpose, by means of a public or private motor vehicle, an animal-drawn vehicle or a pedal cycle may not transport -

- (a) more than three persons, including the driver, in a four-seater motor vehicle;

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- (b) more than four persons, including the driver, in a five-seater motor vehicle;
 - (c) more than four persons, including the driver, in a seven-seater motor vehicle;
 - (d) a number of persons, including the driver which exceeds half of the number of passengers allowed to be transported in a motor vehicle not otherwise provided for in this regulation;
 - (e) more than two persons, including the driver, in an animal-drawn vehicle; and
 - (f) any person other than the driver on a motorcycle, motor tricycle or pedal cycle.
- (4) The -
- (a) manner in which children are to be counted for purposes of subregulation (3) is as provided for in regulation 250 of the Road Traffic and Transport Regulations, published under Government Notice No. 53 of 30 March 2001; and
 - (b) number of seats of a motor vehicle is for the purposes of subregulation (3) determined in accordance with regulation 252 of the Road Traffic and Transport Regulations, published under Government Notice No. 53 of 30 March 2001.
- (5) Every owner or operator of a vehicle used for the purposes of conveying persons or goods for reward must -
- (a) ensure that the driver of a public vehicle carrying passengers in terms of an authorisation granted in terms of any law wears a mask and the driver must ensure that all passengers wear masks at all times;
 - (b) provide alcohol-based hand sanitisers for use in the vehicle; and
 - (c) regularly disinfect or cause the regular disinfection of the vehicle used for the purposes of conveying persons or goods, and before and after each conveyance.
- (6) A person who contravenes or fails to comply with subregulation (2), (3) or (5) 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 on 24 July 2020 by Proc. 40 of 2020 to provide new restrictions on passenger transport. It initially read:

“Restrictions relating to transportation of goods and persons

12. (1) Operators of vehicles transporting goods may not transport passengers unless the persons carried in or on the vehicle are necessary for the operation of the vehicle during the course of business or trade or commerce of the operator.

(2) A person who contravenes subregulations [sic] (1) 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.”]

Applicability of Act No. 1 of 2015

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13. (1) Despite the provisions of section 96 of the Public and Environmental Health Act, the provisions of Part 3 of that Act are, for purposes of these regulations, brought into operation.

(2) 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 is suspended to the extent of the inconsistency during the period that this regulation is in force.

(3) Despite the provisions of section 22(2) of the Public and Environmental Health Act, the disease caused by severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2) is deemed to be a formidable epidemic disease and it is declared that the threatened outbreak of that disease necessitates the measures referred to in section 29(1) of that Act.

Offences and penalties

14. (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; or
- (d) does anything calculated to improperly influence an authorised officer concerning a matter connected with the functions of the authorised officer.

(2) A person commits an offence if that person, through any form of media, including social media, knowingly or without having taken reasonable steps to ascertain the correctness of any information -

- (a) publishes any false or misleading statement about the COVID-19 status of any person; or
- (b) publishes any false or misleading statement, in connection with measures to combat, prevent and suppress COVID-19 as specified in in these regulations, the health regulations and other applicable regulations or directives.

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

(3) A person convicted of an offence in terms of subregulation (1) or (2) 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

15. These regulations bind the State.

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**Provisions of Part 3 of the Public and Environmental Health Act 1 of 2015
brought into force by regulation 13(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.
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