



PUBLIC HEALTH EMERGENCY BILL 2021

(NO. 1 OF 2021)



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A

BILL

Entitled

AN ACT TO PROVIDE FOR PREVENTING, CONTROLLING, PROTECTING FROM AND RESPONDING TO LOCAL, NATIONAL AND INTERNATIONAL OUTBREAKS AND SPREAD OF DISEASE, CONTAMINATION AND OTHER OCCURRENCES THAT THREATEN PUBLIC HEALTH, AND FOR RELATED PURPOSES

ENACTED BY THE NATIONAL PARLIAMENT OF SOLOMON ISLANDS.

PUBLIC HEALTH EMERGENCY BILL 2021

Table of provisions

PART 1	PRELIMINARY MATTERS	1
1	Short title	1
2	Commencement	1
3	Interpretation	1
4	Meaning of expressions indicating threats to public health	4
5	Purpose	6
6	Effect of Act	6
7	Act binds Crown	7
PART 2	PUBLIC HEALTH EMERGENCIES.....	7
Division 1	Declaration of public health emergency.....	7
8	Making of Declaration	7
9	Duration of Declaration	7
10	Variation and revocation of Declaration	8
11	Effect of expiry and revocation of Declaration	9
Division 2	Response to public health emergency.....	9
Subdivision 1	Emergency zones.....	9
12	Declaration of emergency zone	9
Subdivision 2	Regulations and Orders.....	9
13	Meaning of Order for Subdivision	9
14	Regulations for public health emergency	10

PART 3	CIRCUMSTANCES THAT THREATEN PUBLIC HEALTH.....	10
Division 1	Introduction to Part 3.....	10
15	Definitions for Part 3	10
16	Purpose and application of Part 3	11
Division 2	Response to circumstances that threaten public health.....	11
17	Actions of authorised officer	11
18	Report and Ministerial response	13
19	Survey to ascertain extent and severity of circumstances	15
20	Is the circumstance a public health emergency?	16
21	Cessation of circumstance that threatens public health	16
PART 4	ROLES AND RESPONSIBILITIES.....	17
Division 1	National Health Emergency Council.....	17
22	Establishment of NHEC	17
23	Functions of NHEC	17
24	NHEC's report	18
25	Powers of NHEC	19
26	Membership of NHEC	19
27	Chairperson and Deputy Chairperson	20
28	Procedures of NHEC	20
29	Administrative assistance and support for NHEC	21
Division 2	Incident Controller and Deputy Incident Controllers.....	21
30	Incident Controller	21
31	Deputy Incident Controllers	22
32	NHEC appoints Incident Controller and Deputy Incident Controllers	22
Division 3	Authorised officers.....	23
33	Appointment of authorised officers	23

34	Responsibility, functions and powers of authorised officers	24
35	Evidence of identity as authorised officer	25
Division 4	National Disaster Council.....	25
36	National Disaster Council to exercise its powers while Declaration in force	25
PART 5	OFFENCES AND PENALTIES.....	25
Division 1	Offences.....	25
37	Contravention of regulation, Order or direction	25
38	No industrial action to be taken by authorised officers or persons providing essential services	26
39	Offences relating to authorised officers	27
40	Offence of disseminating rumours and false information	27
41	Offence of deception for committing fraud	28
42	Deportation of non-citizen convicted of offence	28
Division 2	Administrative penalty procedure.....	29
43	Definitions for Part 5, Division 2	29
44	Purpose of Part 5, Division 2	29
45	Offences to which administrative penalties apply	30
46	Administrative penalties	30
47	Forfeiture of property and payment of costs	30
48	Issue of Penalty Notice	31
49	Form and effect of Penalty Notice	31
50	Consent to administrative procedure	33
51	Payment of administrative penalty, etc.	33
52	Administrative penalty procedure records	34
53	Limitation of application of Part 5, Division 2	35
PART 6	MISCELLANEOUS PROVISIONS.....	36
Division 1	Subsidiary legislation.....	36
54	Regulations	36
55	Application of Orders	36
56	Duration of Orders and notices	37
57	Content of Orders and notices	37

Division 2 Other miscellaneous matters.....37

58	Consistency with Constitution	37
59	Protection of persons acting under authority of Act etc.	38
60	Official dissemination of information	38
61	Public Health Emergency Fund	39

**PART 7 SAVINGS AND TRANSITIONAL
 PROVISIONS.....40**

62	Definitions for Part 7	40
63	Savings	40
64	References to provisions of existing Regulations	41

SCHEDULE 1

SCHEDULE 2

PUBLIC HEALTH EMERGENCY BILL 2021

PART 1 PRELIMINARY MATTERS

1 Short title

This Act may be cited as the *Public Health Emergency Act 2021*.

2 Commencement

This Act commences on 24 March 2021.

3 Interpretation

(1) In this Act, unless the context otherwise requires:

“**aircraft**” means any form of transport through the air;

“**authorised officer**”:

(a) means an authorised officer appointed under section 33; and

(b) includes the Incident Controller and a Deputy Incident Controller when performing a function and exercising a power of an authorised officer or class of authorised officers;

“**contamination**” means the presence of an infectious or toxic agent or matter on a human or animal body surface, or in or on a product or other inanimate object, which poses a threat to public health and could become or lead to a public health event;

“**Deputy Incident Controller**” means a Deputy Incident Controller appointed under section 32;

“**Declaration**” means a declaration that a public health emergency exists made by the Prime Minister, and published in the Gazette, under section 8(1);

“**disease**” means an illness or medical condition, irrespective of origin or source, that presents or could present significant harm to humans or cause their death;

“emergency zone” means an emergency zone declared under section 12;

“Form” means a form so designated set out in Schedule 2;

“goods” includes baggage, containers, conveyances, facilities, parcels or documents;

“Incident Controller” means the Incident Controller appointed under section 32;

“infectious” means able to be spread by the entry and development or multiplication of an infectious agent in the body of humans or animals;

“isolation” means separation of an ill or contaminated person or goods from other persons or goods in such a manner as to prevent the spread of infection or contamination;

“measure” includes:

- (a) measures to prevent the spread of disease or contamination; and
- (b) enforcement or security measures;

“Minister for Health” means the Minister responsible for health in Solomon Islands;

“National Disaster Council” means the National Disaster Council established under section 3 of the *National Disaster Council Act* (Cap. 148);

“NHEC” means the National Health Emergency Council established under section 22;

“Order” means an Order made under this Act and published in the Gazette;

“owner”, of property, means the holder of a right or interest in the property;

“property”:

(a) means:

(i) land; or

(ii) a building or other structure, or part of a building or other structure; or

(iii) a vehicle; and

(b) includes an interest or right in property;

“public health” means the health of persons and communities in Solomon Islands or internationally;

“quarantine” means the separation from other persons (including by the restriction of activities) of a person who has been exposed, or possibly exposed, to a contamination, disease or other occurrence that could be a possible source of spread of disease or contamination or other threat to public health;

“quarantine period” means the period of days for which a person must be quarantined for establishing that the person:

(a) is not a source of the spread of disease or contamination; and

(b) does not pose a threat to the health of the persons and communities in Solomon Islands or internationally;

“quarantine station” means a property where one or more persons will be quarantined or isolated in accordance with prescribed protocols, rules, measures and procedures;

“response” means the coordinated effort made at international, national or local level to prevent or control, and manage and protect against, a public health emergency or a circumstance that threatens public health;

“regulation” means a regulation made under this Act;

“risk” means a substantial risk of serious harm that one or more individuals who are or may be contaminated, or who have or may have an infectious disease, pose to the health and safety of one or more other persons because of the transmissibility or mode of transmission of the contamination or disease;

“safety and well-being” means a collective condition of mental and physical health and social and economic well-being, and includes being protected from disease, illness, injury and harm;

“testing” includes collecting and testing of specimens;

“vehicle” includes an aircraft and a vessel;

“vessel” means any form of transportation by water or sea;

“WHO” means the United Nations agency, the World Health Organisation, which is responsible for international public health.

- (2) A reference in this Act to the period for which a circumstance that threatens public health exists is a reference to the period that:
- (a) commences on the authorised officer taking action in respect of the circumstance under section 17(1); and
 - (b) ends on cessation of the circumstance in accordance with section 21(1).
- (3) A reference in this or another Act or any other document to this Act or a part of this Act includes a reference to subsidiary legislation made under this Act or the part.

4 Meaning of expressions indicating threats to public health

- (1) In this Act, unless the context otherwise requires:

“circumstance that threatens public health” has the meaning given in section 15;

“global pandemic” means a global pandemic declared by WHO;

“public health emergency” means that there is a public health event which requires an urgent response;

“public health emergency of international concern” means a public health event determined to be a public health emergency of international concern by the Director-General of WHO under the International Health Regulations adopted by the World Health Assembly, as in force from time to time;

“public health event” means a health event that threatens public health and requires a response, and includes:

- (a) the presence of, or evidence of the presence of, contamination, disease or other threat to human health, or an occurrence that creates a potential for contamination, disease, or other threat to human health that:
 - (i) threatens to adversely affect, or to be a serious and direct threat, to the health of human populations within Solomon Islands, another country or internationally; or
 - (ii) is causing the risk of contamination or the spread of an infection or infectious disease, or has caused contamination or the spread of an infection or infectious disease, amongst persons living in Solomon Islands; and
 - (b) the presence of, or evidence of the presence of, contamination or disease or an occurrence that creates a potential for contamination or disease that may become a public health emergency, a public health emergency of international concern or a global pandemic; and
 - (c) a presentation of an occurrence that is unusual or unexpected and that may become a public health emergency or circumstance that threatens public health in Solomon Islands or another country.
- (2) A reference in this Act to a health event that threatens public health includes a reference to:
- (a) a chemical, physical or biological factor in the environment that is adversely affecting, or may adversely affect, the health of human populations, including by presenting a serious and direct threat of the spread of contamination or disease within a country or internationally; and

- (b) a public health emergency of international concern; and
- (c) a global pandemic; and
- (d) an infection;
- (e) an outbreak of disease;
- (f) an epidemic.

5 Purpose

The purpose of this Act is to:

- (a) enable a co-ordinated effort in Solomon Islands that:
 - (i) prevents, controls or protects against and provides a response to a public health emergency or a circumstance that threatens public health within Solomon Islands or internationally; and
 - (ii) mitigates or remedies the health, social and economic effects or potential health, social and economic effects of a public health emergency or circumstance that threatens public health within Solomon Islands or internationally; and
 - (iii) is coordinated, orderly and proportionate to the public health emergency or circumstance that threatens public health; and
 - (iv) has appropriate voluntary and enforceable measures for responding to the public health emergency or circumstance threatening public health; and
- (b) protect the community during the public health emergency or circumstance threatening public health by supporting public safety and well-being and minimising or avoiding disruption of activities normally undertaken by the Government and people.

6 Effect of Act

- (1) In the event of an inconsistency arising between a provision of this Act and a provision of any other law, this Act prevails.

- (2) For the avoidance of doubt, while a declaration is in force or there exists a circumstance that threatens public health, a law in force in Solomon Islands continues to apply to the extent that the law is not inconsistent with this Act.

7 Act binds Crown

This Act binds the Crown.

PART 2 PUBLIC HEALTH EMERGENCIES

Division 1 Declaration of public health emergency

8 Making of Declaration

- (1) The Prime Minister:
 - (a) may declare that a public health emergency exists in Solomon Islands or a part of Solomon Islands; and
 - (b) as soon as practicable after making the declaration, must publish the declaration in the Gazette.
- (2) The Prime Minister must not make the declaration unless the Minister for Health advises the Prime Minister that there exists a public health event that:
 - (a) poses a serious risk to public health; and
 - (b) requires an urgent response in Solomon Islands.
- (3) The declaration must specify:
 - (a) the grounds for making the declaration; and
 - (b) the area to which it applies; and
 - (c) the date it commences; and
 - (d) the period of 6 months for which the Declaration will have effect unless the declaration is extended under section 9.

9 Duration of Declaration

- (1) Subject to this section, a Declaration has effect for 6 months.

- (2) If it appears that the public health emergency will exist for more than the 6-month period specified in the Declaration, Parliament may, before the expiry of that period, pass a resolution supported by two-thirds of the Members of Parliament that the Declaration has effect for the period of two years from the date the Declaration commenced under section 8.
- (3) If Parliament does not pass a resolution under subsection (2), the Declaration ceases to have effect on the expiry of the 6-month period.
- (4) In addition, the Parliament may:
 - (a) before the expiry of the 2-year period for which the effect of the Declaration was extended under subsection (2), pass a resolution supported by two-thirds of the Members of Parliament that the Declaration has effect for an additional period of 12 months from the expiry of that 2-year period (with the effect that the Declaration has effect for 3 years from the date it commenced under section 8); and
 - (b) before the expiry of the 12-month extension under paragraph (a) or any subsequent 12-month extension, pass a resolution supported by two-thirds of the Members of Parliament that the Declaration has effect for an additional period of 12 months from the expiry of the immediately preceding 12-month extension.
- (5) On an extension under this section taking effect, the duration and effect of any Regulations and Orders, and the decisions and actions taken under this Act for the purposes of the Declaration, continue to have effect during the period of the extension.

10 Variation and revocation of Declaration

- (1) The Prime Minister may revoke a Declaration.
- (2) Parliament may, by resolution supported by a majority of the Members of Parliament:
 - (a) reduce the period for which a Declaration has effect; or
 - (b) revoke a Declaration.

11 Effect of expiry and revocation of Declaration

- (1) Revocation of a Declaration under section 10 does not affect the validity of an action taken or decision made under the Declaration while it was in force.
- (2) For the avoidance of doubt, on the expiration or revocation of a Declaration, the public health emergency the Declaration relates to ceases.

Division 2 Response to public health emergency

Subdivision 1 Emergency Zones

12 Declaration of emergency zone

- (1) The Minister for Health may, by Order, declare Solomon Islands or part of Solomon Islands to be an emergency zone if:
 - (a) a Declaration is in force; and
 - (b) the Minister is, on the recommendation of the NHEC, satisfied that doing so is necessary to respond, in Solomon Islands or part of Solomon Islands, to the public health emergency the subject of the Declaration.
- (2) The Order must specify:
 - (a) the grounds for declaring the emergency zone; and
 - (b) the area of the emergency zone; and
 - (c) the date it comes into force.
- (3) The Regulations must provide for the systems, measures and procedures to apply in an emergency zone.

Subdivision 2 Regulations and Orders

13 Meaning of Order for Subdivision

In this Division:

“**Order**” means an Order authorised by the Regulations.

14 Regulations for public health emergency

- (1) The Prime Minister may make regulations, not inconsistent with this Act, prescribing matters that are reasonably justifiable for:
 - (a) preventing, protecting against or controlling, or providing a response to, a public health emergency while a Declaration is in force; or
 - (b) supporting public safety and well-being while a Declaration is in force.
- (2) Without limiting subsection (1), the matters the Regulations may provide for include the systems, measures or procedures specified in Schedule 1.
- (3) A regulation made under this Subdivision may make provision for a matter by enabling the Prime Minister or Minister for Health to make an Order providing for the matter.
- (4) An Order referred to in subsection (3) must specify the Declaration it relates to.

PART 3 CIRCUMSTANCES THAT THREATEN PUBLIC HEALTH

Division 1 Introduction to Part 3

15 Definitions for Part 3

In this Part:

“**authorised officer**” means an authorised officer who has powers and functions for this Part;

“**circumstance that threatens public health**” means a circumstance that:

- (a) could become or lead to a public health event because there exists, or it is highly probable that there exists, the risk of contamination, an infectious disease or another occurrence that threatens to be a risk to public health; and

(b) must be managed immediately to reduce or eliminate the risk;

“notice” means a notice published in the Gazette;

“Permanent Secretary” means the Permanent Secretary of the Ministry responsible for health.

16 Purpose and application of Part 3

- (1) The purpose of this Part is to provide for the urgent management of a circumstance that threatens public health.
- (2) This Part applies if:
 - (a) an authorised officer reasonably believes that there exists, or it is highly probable that there exists, the risk of contamination, an infectious disease or another occurrence that threatens to be a risk to public health; and
 - (b) the risk must be managed immediately to decrease or eliminate the risk and avoid the circumstance that threatens public health becoming or leading to a public health emergency; and
 - (c) a Declaration is not in force.

Division 2 Response to circumstances that threaten public health

17 Actions of authorised officer

- (1) If an authorised officer believes that there exists a circumstance that threatens public health, the authorised officer may take the following actions to manage the circumstance and mitigate the threat it poses to public health:
 - (a) examine a person for symptoms relating to the presence of contamination or an infectious disease;
 - (b) test a person for the presence of contamination or an infectious disease;
 - (c) quarantine or isolate a person:

- (i) who presents with symptoms of contamination or an infectious disease; or
 - (ii) who has come into contact or probably come into contact with a person who is contaminated or infected with a disease; or
 - (iii) for whom there is otherwise a high-risk that the person is contaminated or infected with a disease;
- (d) set up temporary quarantine or isolation stations for temporarily quarantining or isolating persons:
- (i) who are identified as exhibiting symptoms of contamination or disease; or
 - (ii) have come into contact or probably come into contact with a person who is contaminated or infected with a disease; or
 - (iii) for whom there is otherwise a high-risk that the person is contaminated or infected with a disease;
- (e) identify and remove to a secure area any animals, goods or other things that are a likely source of contamination.
- (2) On taking action under subsection (1), the authorised officer must give a written report to the Minister for Health, the Permanent Secretary and the NHEC:
- (a) describing the circumstance that threatens public health; and
 - (b) specifying the action taken and continuing to be taken by the authorised officer; and
 - (c) specifying the reasons for taking the action.
- (3) The Minister for Health, the Permanent Secretary and the NHEC must receive the report within 24 hours after the authorised officer commences taking action.

18 Report and Ministerial response

- (1) The Minister for Health must, as soon as possible after receiving the report under section 17:
 - (a) advise the Prime Minister and Cabinet of the circumstance that threatens public health and the authorised officer's action; and
 - (b) in the manner the Minister considers most practical and appropriate, make a public announcement about the circumstance threatening public health and the actions, measures and procedures by which the circumstance is being managed; and
 - (c) by notice:
 - (i) specify that there exists a circumstance that threatens public health; and
 - (ii) describe the circumstance that threatens public health; and
 - (iii) authorise the actions, measures and procedures for managing the circumstance.
- (2) The actions, measures and procedures the Minister for Health may authorise in the notice include the following:
 - (a) examining a person for symptoms relating to the presence of contamination or an infectious disease;
 - (b) testing a person for the presence of contamination or an infectious disease;
 - (c) quarantining or isolating a person:
 - (i) who presents with symptoms of contamination or an infectious disease; or
 - (ii) who have come into contact or probably come into contact with a person who is contaminated or infected with a disease; or

- (iii) for whom there is otherwise a high-risk that the person is contaminated or infected with a disease;
- (d) setting up temporary quarantine or isolation stations for temporarily quarantining or isolating persons:
 - (i) who are identified as exhibiting symptoms of contamination or disease; or
 - (ii) who have come into contact or probably come into contact with a person who is contaminated or infected with a disease; or
 - (iii) for whom there is otherwise a high-risk that the person is contaminated or infected with a disease;
- (e) requiring a person to self-quarantine or conduct himself or herself in some other manner that does not expose another person to contamination or infection;
- (f) monitoring a person who is quarantined, isolated or in self-quarantine;
- (g) treating or vaccinating a person for contamination or an infectious disease;
- (h) closing, or restricting movement into or out of, a part of Solomon Islands;
- (i) providing for patrols and surveillance of the part of Solomon Islands referred to in paragraph (i) or a place or area in the part;
- (j) setting up check-points where authorised officers may perform health and safety checks or testing of persons;
- (k) restricting access to or closing a property;
- (l) entering and searching a property and inspecting, conducting tests on or removing to a secure place any movable property or goods in or on the property;
- (m) requiring the cleaning, disinsection or disinfection of a property, movable property or goods;

- (n) requiring the destruction of a property, movable property or goods.
- (3) The Minister for Health may require other authorised officers to assist in managing the circumstance that threatens public health.
- (4) There must be a notice under subsection (1)(c) in force for as long as there exists a circumstance that threatens public health.

19 Survey to ascertain extent and severity of circumstances

- (1) As soon as practicable after the Permanent Secretary receives the report under section 17, the Permanent Secretary must as expeditiously as possible, and with the assistance of authorised officers that is necessary to do so, undertake a detailed assessment to ascertain:
 - (a) the extent and severity of the circumstance threatening public health; and
 - (b) whether the circumstance is a public health emergency or is likely to lead to or become a public health emergency.
- (2) In undertaking the assessment, the Permanent Secretary or an authorised officer assisting the Permanent Secretary, may:
 - (a) examine a person for symptoms relating to the presence of contamination or an infectious disease; or
 - (b) test a person for the presence of contamination or an infectious disease; or
 - (c) enter and search a property and inspect, conduct tests on any movable property or goods in or on the property.
- (3) The Permanent Secretary must report the following to the Minister for Health and the NHEC:
 - (a) the results of the assessment; and
 - (b) his or her recommendations for actions, measures and processes for managing the circumstance.

20 Is the circumstance a public health emergency?

- (1) The Minister for Health must inform Cabinet of the Permanent Secretary's report under section 19.
- (2) Cabinet must determine whether:
 - (a) the circumstance threatening public health is not a public health emergency; or
 - (b) a public health emergency exists and Part 2 applies.
- (3) If the Cabinet makes the determination under subsection (2)(a), the Permanent Secretary and authorised officer must continue to manage the circumstance to reduce or eliminate the risk of contamination of infectious disease it poses.
- (4) The Permanent Secretary must:
 - (a) keep the nature, effect and appropriateness of the action taken, and measures and processes imposed, to manage the circumstance under review; and
 - (b) provide regular reports to the Minister for Health and the NHEC on the management of the circumstance, whether the circumstance continues to exist and the likelihood of the circumstance becoming or leading to a public health emergency.
- (5) The Minister for Health must ensure that the actions, measures and procedures by which the circumstance is managed are authorised under section 18(1)(c) and make, amend or repeal and replace notices under that paragraph accordingly.

21 Cessation of circumstance that threatens public health

- (1) A circumstance that threatens public health ceases to exist if one of the following applies:
 - (a) the risk of contamination, disease or other occurrence that threatened public health has been eliminated or reduced to such an extent that it is no longer a risk to public health;

- (b) the circumstance becomes a public health emergency (and Part 2 applies).
- (2) If the circumstance ceases to exist, the Minister for Health must as soon as practicable, by notice, specify:
 - (a) that the circumstance ceases to exist; and
 - (b) the basis on which the circumstance ceases to exist; and
 - (c) that the notice in force under section 18(1)(c) in respect of the circumstance ceases to have effect; and
 - (d) if the circumstance has become a public health emergency, that Part 2 applies.

Part 4 ROLES AND RESPONSIBILITIES

Division 1 National Health Emergency Council

22 Establishment of NHEC

- (1) There is a National Health Emergency Council.
- (2) Subject to sections 23(2) and 24(3), the National Health Emergency Council performs its functions while, and only while, a Declaration is in force.

23 Functions of NHEC

- (1) While a Declaration is in force, the NHEC has the following functions:
 - (a) to implement this Act by providing general direction, oversight and control of operations carried out under this Act;
 - (b) to ensure a sound, effective and efficient response is implemented to:
 - (i) prevent, protect against and control the public health emergency the subject of the Declaration; and
 - (ii) mitigate or remedy the health, social and economic effects or potential effects of the public health emergency; and

- (iii) provide a coordinated, orderly and proportionate response to the public health emergency; and
 - (c) to supervise the Incident Controller; and
 - (d) to keep the nature, effect, management and appropriateness of the response under review and provide regular reports to Cabinet on the status of the public health emergency, the response being undertaken, the measures being implemented and failures and successes of the response and measures; and
 - (e) to provide advice and make recommendations for the making of regulations and Orders under this Act.
- (2) Even if there is no Declaration in force, the NHEC may, by holding meetings or circulating papers of interest:
- (a) keep itself informed about public health emergencies and the manner in which to respond to them; and
 - (b) make plans for responding to public health emergencies.

24 NHEC's reporting requirements

- (1) The NHEC must make a report on the response to a public health emergency, and table the report before Parliament, in December of each year during which the Declaration relating to the public health emergency is in force.
- (2) Subsection (1) does not apply if the NHEC makes a report under subsection (3).
- (3) The NHEC must make a report to the Prime Minister on a public health emergency within 3 months after the Declaration relating to the public health emergency ceases to have effect. The report must:
 - (a) specify the action taken under this Act to respond to the public health emergency; and
 - (b) include recommendations to improve a response to a public health emergency to, and measures adopted during, a public health emergency.

- (4) The Prime Minister must table the report given to him or her under subsection (3) before Parliament as soon as practicable after receiving the report.

25 Powers of NHEC

The NHEC has the powers that are necessary for and incidental to performing its functions.

26 Membership of NHEC

- (1) The following persons are members of the NHEC:
- (a) the Secretary to Cabinet;
 - (b) the Secretary to the Prime Minister;
 - (c) Permanent Secretary of the Ministry responsible for finance;
 - (d) Permanent Secretary of the Ministry responsible for health;
 - (e) Permanent Secretary of the Ministry responsible for commerce, labour and immigration;
 - (f) Permanent Secretary of the Ministry responsible for infrastructure;
 - (g) Permanent Secretary of the Ministry responsible for national disasters;
 - (h) Permanent Secretary of the Ministry responsible for the police;
 - (i) Permanent Secretary of the Ministry responsible for agriculture and bio-security;
 - (j) the Attorney-General;
 - (k) the Commissioner of Police;
 - (l) the Director of Immigration;
 - (m) the Comptroller of Customs;
 - (n) Deputy Secretary of the Ministry responsible for health;

- (o) a medical adviser from the Ministry responsible for health, recommended by the Permanent Secretary of that Ministry.
- (2) The Prime Minister may, by Order, appoint additional members of the NHEC.
- (3) The Prime Minister may not appoint a person under subsection (2) unless the NHEC has recommended the appointment.

27 Chairperson and Deputy Chairperson

- (1) The Secretary to Cabinet is the Chairperson of the NHEC.
- (2) The Chairperson:
 - (a) convenes meetings of the NHEC; and
 - (b) presides at the meetings; and
 - (c) is responsible for the records of the NHEC.
- (3) The Permanent Secretary for the Ministry responsible for Health is the Deputy Chairperson of the NHEC.

28 Procedures of NHEC

- (1) Subject to this section, the NHEC must:
 - (a) determine its procedures; and
 - (b) keep a record of all of its proceedings.
- (2) A member may participate in a meeting, and is taken to be present at the meeting if participating, by:
 - (a) telephone; or
 - (b) exchange of emails; or
 - (c) online facilities; or
 - (d) any other means of electronic communication.

- (3) The NHEC may:
 - (a) establish sub-committees; or
 - (b) appoint a person to review a matter relating to its functions and advise and make recommendations about the matter; or
 - (c) authorise a sub-committee or a public officer to perform any of its functions.
- (4) An authority under subsection (3)(c):
 - (a) must be conferred in writing specifying:
 - (i) the function authorised to be performed; and
 - (ii) who is authorised to perform the function; and
 - (iii) the conditions to the authorisation (if any); and
 - (b) may be varied or revoked; and
 - (c) does not prevent the NHEC performing the function.
- (5) If a sub-committee or public officer performs a function under an authority conferred under subsection (3)(c), the performance of the function and the exercise of any powers or performance of any functions associated or incidental to performing the function are taken to have been exercised or performed by the NHEC.
- (6) The Regulations may prescribe other procedures of the NHEC.

29 Administrative assistance and support for NHEC

The Chairperson must arrange for the Office of the Prime Minister and Cabinet to provide the services, facilities, resources and technical and administrative assistance necessary for the NHEC to perform its functions.

Division 2 Incident Controller and Deputy Incident Controllers

30 Incident Controller

- (1) While a Declaration is in force, there is the Incident Controller.

- (2) The function of the Incident Controller is to:
 - (a) direct the response to the public health emergency; and
 - (b) perform his or her other functions and responsibilities under the Regulations or an Order.
- (3) In addition the Incident Controller may perform or exercise the functions and powers of an authorised officer or class of authorised officers prescribed under section 34.
- (4) The Incident Controller performs his or her function subject to the direction of the NHEC.

31 Deputy Incident Controllers

- (1) There must be:
 - (a) at least one Deputy Incident Controller; and
 - (b) a Deputy Incident Controller who has expertise and experience in human contamination and infectious diseases.
- (2) A Deputy Incident Controller:
 - (a) assists the Incident Controller perform his or her functions; and
 - (b) is subject to the direction of the Incident Controller; and
 - (c) may, on the direction of the Incident Controller, perform or exercise the functions and powers of an authorised officer or class of authorised officers prescribed under section 34.
- (3) A reference to the Incident Controller in this or another Act, or in any other document, includes a reference to a Deputy Incident Controller performing his or her responsibilities under subsection (2).

32 NHEC appoints Incident Controller and Deputy Incident Controllers

- (1) The NHEC appoints the Incident Controller and each Deputy Incident Controller.
- (2) If the Incident Controller is unable to perform his or her function, because he or she is absent from the office or from duty, the NHEC

must appoint a Deputy Incident Controller to act as the Incident Controller during the period of absence.

Division 3 Authorised Officers

33 Appointment of authorised officers

(1) The following persons are authorised officers:

(a) a medical officer or a medical practitioner;

Note for section 33(1)(a).

The expressions “medical officer” and “medical practitioner” have the meanings given in section 16(1) of the Interpretation and General Provisions Act (Cap. 85).

(b) a nurse as defined in section 3 of the *Nursing Council Act* (Cap. 104);

(c) a health worker as defined in section 2 of the *Health Workers Act* (Cap. 101);

(d) an immigration officer as defined in section 2 of the *Immigration Act 2012*;

(e) an officer as defined in section 2(1) of the *Customs and Excise Act* (Cap. 121);

(f) a biosecurity officer as defined in section 2(1) of the *Biosecurity Act 2013*;

(g) an officer as defined in section 3 of the *Quarantine Act* (Cap. 106);

(h) a police officer as defined in section 2 of the *Police Act 2013*;

(i) the Chairman of the National Disaster Council;

(j) each of the following officers who work at the National Disaster Management Office established under section 7 of the *National Disaster Council Act* (Cap. 148):

(i) Director of the National Disaster Management Office;

(ii) Deputy Director of the National Disaster Management Office;

- (iii) Chief of Operations of the National Disaster Management Office;
 - (iv) a chairperson of a committee of the National Disaster Management Office;
 - (k) a person prescribed by regulation.
- (2) The Prime Minister may, by Order, appoint other persons as recommended by the NHEC to be authorised officers for the effective implementation of this Act.
- (3) An Order under subsection (2) may specify conditions, limitations or qualifications to which the appointment of an authorised officer made by the Order is subject.

34 Responsibility, functions and powers of authorised officers

- (1) Authorised officers:
- (a) subject to the direction of the Incident Controller, implement the response to a public health emergency; and
 - (b) if required, assist in managing a circumstance that threatens public health;
 - (c) have the functions, powers and responsibilities prescribed by the Regulations or an Order; and
 - (d) must comply with this Act.
- (2) The Regulations must prescribe:
- (a) functions of an authorised officer or a class of authorised officers; and
 - (b) powers of an authorised officer or a class of authorised officers (including the directions or class of directions that an authorised officer may give to a person); and
 - (c) the form of an authorised officer's identification.

35 Evidence of identity as authorised officer

- (1) Every person who is an authorised officer must, when performing his or her function:
 - (a) have on his or her person evidence of the person's appointment as an authorised officer and the person's identity; and
 - (b) produce that evidence if requested to do so.
- (2) If a person ceases to be an authorised officer, the person must surrender all things and documents (including the evidence of the person's appointment and identity) given to the person for carrying out his or her responsibilities and functions as an authorised officer.

Division 4 National Disaster Council

36 National Disaster Council to exercise its powers while Declaration in force

- (1) While a Declaration is in force, the National Disaster Council:
 - (a) has the functions and powers it has under the *National Disaster Council Act* (Cap.148), and may take safety measures and execute disaster operations, as if an Order had been made and in force under section 12 of that Act; and
 - (b) must perform its functions and exercise its powers subject to the direction of the Incident Controller.
- (2) For the avoidance of doubt, while a Declaration is in force the *National Disaster Council Act* applies to the extent that it is not inconsistent with this Act.

PART 5 OFFENCES AND PENALTIES

Division 1 Offences

37 Contravention of regulation, Order or direction

- (1) This section has effect only if to the Regulations do not, or an Order does not, specify an offence for contravention of the Regulations or Order and impose a penalty for commission of the offence.

- (2) A person commits an offence if the person contravenes a regulation, an Order or a direction of an authorised officer.

Maximum penalty: 100,000 penalty units or imprisonment for 10 years, or both.

- (3) A person commits an offence if the person:

- (a) knowingly or intentionally contravenes a regulation, an Order or a direction of an authorised officer, whether acting alone or as a member of a group; and
- (b) as a result of the contravention, a person becomes contaminated or infected with disease or dies from contamination or disease.

Maximum penalty: 150,000 penalty units or imprisonment for 15 years, or both.

38 **No industrial action to be taken by authorised officers or persons providing essential services**

- (1) In this section:

“essential service”:

- (a) has the meaning of **“essential service”** given in section 2(7)(a) of the *Essential Services Act* (Cap. 12); or
- (b) means any other service the interruption of which could endanger human life, destroy property or cause serious injury to persons or property, including police, correctional services, biosecurity, national disaster and emergency;

“industrial action” includes a strike, picket-line, go slows, working to rule, overtime or callout ban and any other action taken as a protest during a workplace dispute that results in the non-performance or partial performance of functions, duties and responsibilities at the workplace.

- (2) An authorised officer, or person employed or engaged to carry out functions, duties or responsibilities in an essential service, commits an offence if the authorised officer or person takes part in industrial

action while a Declaration is in force or there exists a circumstance that threatens public health.

Maximum penalty: 15,000 penalty units or 5 years imprisonment, or both.

39 Offences relating to authorised officers

- (1) A person commits an offence if the person:
- (a) assaults, obstructs, hinders or resists an authorised officer carrying out his or her duties; or
 - (b) uses threatening, abusive or defamatory language to or about an authorised officer; or
 - (c) aids or incites another person to assault, obstruct, hinder or resist an authorised officer carrying out his or her duties; or
 - (d) fails to comply with a direction of an authorised officer; or
 - (e) if required by an authorised officer to give or produce information:
 - (i) gives or produces false information; or
 - (ii) fails to comply with the requirement.

Maximum penalty: 20,000 penalty units or imprisonment for 5 years, or both.

40 Offence of disseminating rumours and false information

A person commits an offence if, while a Declaration is in force or there exists a circumstance that threatens public health, the person:

- (a) maliciously fabricates or knowingly disseminates or publishes, whether by writing or by word of mouth, online or otherwise, any false news or report that is likely to create or foster public alarm, public anxiety or disaffection or to produce public detriment; or
- (b) acts or is acting in a manner prejudicial to the public, safety, order or security of Solomon Islands or a part of Solomon Islands; or

- (c) endeavours to disturb, or disturbs, the public, safety, order or security by inciting hatred or contempt of a class of persons.

Maximum penalty: 25,000 penalty units or imprisonment for 10 years, or both.

41 Offence of deception for committing fraud

- (1) A person commits an offence if, while a Declaration is in force or there exists a circumstance that threatens public health, the person engages in deception or other dishonest conduct with the intent to obtain money, property or other benefit from another person by giving that other person the impression that he or she would be giving the money, property or benefit for a measure for the response to the public health emergency the subject of the Declaration or the circumstance that threatens public health.

Maximum penalty: 10,000 penalty units or imprisonment for 5 years, or both.

- (2) In this section, "***deception or other dishonest conduct***" includes using an assumed name or identity.

42 Deportation of non-citizen convicted of offence

- (1) In this section:

"***citizen***" means a person who is a citizen under section 5 of the *Citizenship Act 2018*.

- (2) In addition to a penalty imposed on conviction of a person for an offence under this Act, if the person is not a citizen of Solomon Islands, the person may be deported immediately on the next available flight after the court proceedings end.
- (3) The *Immigration Act 2012* applies to the deportation of the person subject to the following modifications:
 - (a) the reference in section 23(2)(a) of that Act to a person having been convicted of a criminal offence is a reference to a person having been convicted of an offence under this Act;

- (b) the references in section 31 of that Act to the Minister are references to the Prime Minister.

Division 2 Administrative penalty procedure

43 Definitions for Part 5, Division 2

In this Part:

“administrative penalty” means the administrative penalty for an offence determined by Order made under section 46;

“administrative penalty procedure” means the administrative procedure under this Division by which:

- (a) an administrative penalty may be imposed on a person for allegedly committing an offence instead of the person being charged and prosecuted for the offence; and
- (b) the payment of the administrative penalty and costs (if any) bars the prosecution of the person for the offence;

“costs” means the amount of costs likely to be incurred by the Government referred to in section 47(1)(b);

“offence” means an alleged offence against a provision of this Act specified in an Order made under section 45;

“Penalty Notice” means a Penalty Notice referred to in section 49;

“property” means property used or involved in the alleged commission of an offence referred to in section 47(1)(a).

44 Purpose of Part 5, Division 2

The purpose of this Division is to enable a person alleged to have committed an offence to be dealt with under the administrative penalty procedure instead of:

- (a) being liable to being prosecuted for the offence and convicted; and
- (b) a penalty that may be imposed on conviction for the offence being imposed on the person.

45 Offences to which administrative penalties apply

- (1) The Prime Minister may, by Order, determine the offences for which administrative penalties may be imposed.
- (2) Administrative penalties may be imposed for those offences only.

46 Administrative penalties

- (1) The Prime Minister must, by Order, determine the administrative penalty for each offence.
- (2) An administrative penalty for an offence must:
 - (a) be proportionate to the nature of the offence; and
 - (b) not exceed the maximum monetary penalty that may be imposed on a conviction for the offence.

47 Forfeiture of property and payment of costs

- (1) In addition to payment of the monetary administrative penalty:
 - (a) property used or involved in the alleged commission of an offence may be:
 - (i) seized by the Government and held until the administrative penalty and any costs are paid; or
 - (ii) seized by the Government and sold and the sale price for the property held until the administrative penalty and any costs are paid; or
 - (iii) forfeited to the Government; and
 - (b) the person who allegedly committed the offence may be required to pay an amount for the costs that the Government is likely to incur in connection with the alleged commission of the offence.
- (2) The Prime Minister specifies, by notice under section 48, how subsection (1) applies in relation to the offence the subject of the notice.

48 Issue of Penalty Notice

- (1) If an authorised officer believes on reasonable grounds that a person has committed an offence, the authorised officer must give written notice to the Prime Minister of the alleged commission of the offence.
- (2) On receiving the authorised officer's notice, the Prime Minister must, after consulting with the Attorney-General and Director of Public Prosecutions, or the Commissioner of Police, either:
 - (a) by written notice to the authorised officer:
 - (i) instruct that the administrative penalty procedure applies to the person and require the authorised officer to give a Penalty Notice for the alleged commission of the offence to the person; and
 - (ii) instruct whether property is to be seized, held or sold or forfeited, or costs are payable, in accordance with section 47(1)(a) or (b); or
 - (b) by written notice to the Commissioner of Police, instruct the Commissioner of Police to lay a charge against the person for the offence allegedly committed.
- (3) The authorised officer or Commissioner of Police (as the case requires) must comply with the Prime Minister's instruction.

49 Form and effect of Penalty Notice

- (1) A Penalty Notice must be in accordance with Form 1, and must:
 - (a) specify the name and address of the person it is given to; and
 - (b) specify the date the penalty notice is given to the person; and
 - (c) specify a description of the offence the person is alleged to have committed; and
 - (d) specify that, if the person consents under section 50 within the 14-day period for doing so specified in the Penalty Notice, the alleged commission of the offence will be dealt with under the administrative penalty procedure; and

- (e) specify the date by which the person must consent under section 50; and
 - (f) specify the administrative penalty payable for the offence the person is alleged to have committed if the person consents under section 50; and
 - (g) specify that the administrative penalty must be paid within 28 days of the date the penalty notice is given to the person and specify the date on or before which and the manner in which the administrative penalty is payable; and
 - (h) specify whether property used or involved in the alleged commission of the offence will be seized, held or sold or forfeited; and
 - (i) specify whether the person must pay an amount of costs in connection with the alleged commission of the offence and, if so, the amount of the costs and the date on or before which the costs must be paid and manner of payment of the costs; and
 - (j) specify that, if the administrative penalty or the amount of costs is not paid as specified in the Penalty Notice, that:
 - (i) proceedings to charge and prosecute the person for the offence will be commenced against the person; and
 - (ii) if any property has been seized and held or sold, the property or proceeds of sale will be forfeited to the Government; and
 - (iii) if the person fails to pay the administrative penalty or costs by paying part only of the administrative penalty or costs, the amount paid is forfeited to the Government unless a court orders otherwise.
- (2) If a person is given a Penalty Notice, proceedings to charge and prosecute the person for the offence must not be commenced against the person unless:
- (a) the 14-day period specified in the Penalty Notice for consenting under section 50 has passed and the person fails to consent to being dealt with by the administrative penalty procedure within that period; or

- (b) the date specified in the Penalty Notice for payment of the administrative penalty for the offence has passed and the person fails to pay the administrative penalty on or before that date; or
- (c) the costs (if any) payable by the person are not paid on or before the date and in the manner for doing so specified in the Penalty Notice.

50 Consent to administrative procedure

- (1) If a person to whom a Penalty Notice is given wants the person's alleged commission of the offence specified in the Penalty Notice to be dealt with by the administrative penalty procedure, the person must give a completed and signed Consent to Administrative Penalty Procedure to the Prime Minister before the 14-day period for doing so specified in the Penalty Notice ends.
- (2) A Consent to Administrative Penalty Procedure must be in accordance with Form 2.

51 Payment of administrative penalty etc.

- (1) If a person consents under section 50, the person must pay:
 - (a) the administrative penalty specified in the Penalty Notice given to the person on or before the date for doing so specified in the Penalty Notice; and
 - (b) the amount of costs specified in the Penalty Notice, if any, on or before the date and in the manner specified in the Penalty Notice.
- (2) If the person pays the administrative penalty on or before the specified date and the costs (if any) on or before the specified date and in the specified manner:
 - (a) Prime Minister must return property seized under section 47, or pay the proceeds of the sale of the property, (if any) to the person; and
 - (b) the person may not be charged and prosecuted for the offence specified in the Penalty Notice.

- (3) If the person fails to pay the administrative penalty on or before the specified date or the costs (if any) on or before the specified date and in the specified manner:
 - (a) the Prime Minister must instruct the Commissioner of Police to lay a charge against the person for the offence specified in the Penalty Notice; and
 - (b) any property that was seized or proceeds of the sale of the property is forfeited to the Government; and
 - (c) if the person fails to pay the administrative penalty or the costs by paying a portion only of the amount of the administrative penalty or the costs on or before the specified date and in the specified manner, that amount paid is forfeited to the Government unless a court orders otherwise.

52 Administrative penalty procedure records

- (1) The Prime Minister must keep a record of each administrative penalty procedure carried out.
- (2) The record must contain the following information:
 - (a) a description of the offence alleged to have been committed;
 - (b) the name of the person who allegedly committed the offence;
 - (c) the date and details of the Penalty Notice given to the person;
 - (d) whether the person provided a Consent to Administrative Penalty Procedure and the date it was received by the Prime Minister;
 - (e) the date the person paid the administrative penalty;
 - (f) the amount of costs paid by the person (if any) and the date and manner of payment;
 - (g) a description of property seized, held or sold or forfeited (if any) and the date the property or sale price was returned to the person;

- (h) if the person paid part only of the administrative penalty or costs, the amount paid and whether the amount was forfeited to the Government.
- (3) The record must be made available for inspection by the public at the Office of the Prime Minister and Cabinet during the hours the office is open.
- (4) The Prime Minister must table a copy of the record in Parliament:
 - (a) at each meeting of Parliament held while a Declaration is in force; and
 - (b) at the meeting of Parliament held immediately after the Declaration expires or is revoked.

53 Limitation of application of Part 5, Division 2

This Division does not:

- (a) require the Prime Minister to decide that the administrative penalty procedure applies to a person who allegedly committed an offence; and
- (b) affect the liability of a person to be prosecuted for an offence if:
 - (i) a Penalty Notice is not given to the person; or
 - (ii) the person does not consent under section 50 within the 14-day period for doing so specified in the Penalty Notice; or
 - (iii) the person does not pay the administrative penalty for the offence on or before the date specified for doing so in the Penalty Notice; or
 - (iv) the person does not pay the amount of costs (if any) specified in the Penalty Notice on or before the date and in the manner specified in the Penalty Notice; and
- (c) prevent more than one Penalty Notice being given to a person for the same offence.

PART 6 MISCELLANEOUS PROVISIONS

Division 1 Subsidiary legislation

54 Regulations

- (1) The Prime Minister may make regulations, not inconsistent with this Act, to prescribe matters that are necessary or expedient for carrying out or giving effect to this Act.
- (2) The Regulations may:
 - (a) apply to the whole or a part of Solomon Islands;
 - (b) prohibit or regulate conduct or control a matter; or
 - (c) apply generally or to a person, thing or class of persons or things; or
 - (d) apply conditionally or unconditionally; or
 - (e) apply, adopt or incorporate, with or without modifications or exceptions, the whole or a part of any other document as in force or existing when the regulation takes effect; or
 - (f) if the Regulations prescribe a fee, provide for exemption from payment of the fee, waiver of the whole or a part of the fee or refund of the whole or a part of the fee; or
 - (g) create offences and impose a maximum penalty not exceeding 5,000,000 penalty units or 20 years imprisonment, or both.
- (3) If a regulation applies to only part of Solomon Islands, the regulation must specify the part to which it applies.
- (4) A regulation made under Part 2 has effect only while the Declaration it relates to is in force, but the regulation may be amended, revoked or expire although the Declaration continues in force.

55 Application of Orders

- (1) An Order may be made to apply to the whole or a part of Solomon Islands.

- (2) If an Order applies to part only of Solomon Islands, the Order must specify the part to which it applies.

56 Duration of Orders and notices under section 18(1)(c)

- (1) An Order only has effect while the Declaration to which it relates continues in force, but the Order may be amended or revoked or expire although the Declaration continues to be in force.
- (2) A notice made under section 18(1)(c) only has effect while the circumstance threatening public health to which it relates exists, but the notice may be amended or revoked and replaced while the circumstance continues to exist.

57 Content of Orders and notices

- (1) An Order or a notice made under Part 3 must not be inconsistent with this Act or the Regulations.
- (2) An Order or a notice made under Part 3 may:
 - (a) apply generally or to a person or thing or specified classes of persons or things; or
 - (b) prohibit or regulate conduct; or
 - (c) apply conditionally or unconditionally; or
 - (d) specify procedures or measures for giving effect to the Order or notice; or
 - (e) impose requirements or restrictions; or
 - (f) provide for a matter to be approved or determined by an authorised officer; or
 - (g) create offences and impose a maximum penalty of up to 5,000,000 penalty units or imprisonment for 20 years or both.

Division 2 Other miscellaneous matters

58 Consistency with Constitution

- (1) In this section, “*action or provision*” means:

- (a) an action or thing done under this Act while a Declaration is in force; or
 - (b) an action, measure or process done or authorised under Part 3
 - (b) a regulation, Order, notice made under section 18(1)(c) or other provision of a written law or other document made under or referred to in this Act and having effect while a Declaration is in force or a circumstance that threatens public health exists.
- (2) An action or provision, which is reasonably justifiable for the purpose of dealing with circumstances arising or existing during the public health emergency the Declaration relates to or the circumstance that threatens public health:
- (a) is not inconsistent with, and does not contravene, section 5, 6(2), 9, 11, 12, 13, 14 or 15 of the Constitution; and
 - (b) may not be held to be inconsistent with, or to contravene, section 5, 6(2), 9, 11, 12, 13, 14 or 15 of the Constitution.
- (3) However, an action or provision that involves or provides for the taking possession of or acquiring property must accord with section 8 of the Constitution.

59 Protection of persons acting under authority of Act etc.

An authorised officer or other person who carries out duties under this Act is not civilly or criminally liable for an act done or omission made in good faith, and without negligence, in exercising powers and performing functions or duties under this Act.

60 Official dissemination of information

- (1) The Ministry responsible for health is the official authority for disseminating and publishing information to the public on behalf of the Government about or relating to a public health event, a public health emergency or circumstance that threatens public health.
- (2) The Ministry responsible for health must daily keep the public informed of the information through media accessible by the public, including:
 - (a) radio broadcast; and

- (b) a newspaper of wide circulation in Solomon Islands; and
 - (c) a website that is current and updated daily.
- (3) Any other Government Ministry, department or agency may disseminate the information on their online media outlet or other media outlet.
- (4) Any information disseminated under subsection (3) must, prior to such dissemination, be verified with the Ministry responsible for health.
- (5) A person commits an offence if the person:
- (a) disseminates or publishes information about or relating to a public health event, a public health emergency or circumstance that threatens public health in a manner that contravenes subsection (1) or (2); or
 - (b) misrepresents information as being information that is:
 - (i) disseminated by the Ministry responsible for health under subsection (1) and (2); or
 - (ii) verified by the Ministry responsible for health under subsection (4).

Maximum penalty: 5,000 penalty units or imprisonment for 1 year.

61 Public Health Emergency Fund

- (1) There is the Public Health Emergency Fund.
- (2) The Fund is a Special Fund within the meaning of section 100(2) of the Constitution.
- (3) The purpose of the Fund is to accumulate money to pay for responses to public health emergencies and circumstances that threaten public health, and the money held in the Fund may only be expended for that purpose.

- (4) The Accountant-General, appointed under section 10 of the *Public Financial Management Act 2013*, in consultation with the Permanent Secretary of the Ministry responsible for health, is responsible for operating the Fund.
- (5) The Fund must be operated in the same manner as if it were a Special Fund referred to in section 24 of the *Financial Management Act 2013*.
- (6) The Fund is comprised of:
 - (a) money appropriated for the Fund; and
 - (b) money provided by donor and development agencies who have specified a purpose for which the money is to be applied that is consistent with the purpose of the Fund; and
 - (c) grants, donations and bequests made to the Fund; and
 - (d) earnings from the investment of the money in the Fund.

PART 7 SAVINGS AND TRANSITIONAL PROVISIONS

62 Definitions for Part 7

In this Division:

“commencement” means the commencement of this Act;

“decision or action taken under the existing Regulations” includes a decision or action taken under an Order;

“Order” means an Order made or continued in force under the existing Regulations;

“existing Regulations” means the *Emergency Powers (COVID-19)(No. 4) Regulations 2020* (Legal Notices No. 193 of 2020 and No. 23 of 2021).

63 Savings

- (1) On the commencement, the existing Regulations:
 - (a) continue in force as if they were Regulations made under this Act; and

- (b) have effect as if they were modified to the extent necessary to comply with this Act and apply in accordance with and subject to this Act.
- (2) On the commencement, an Order:
 - (a) continues in force as if it were an Order made under this Act; and
 - (b) has effect as if it were modified to the extent necessary to comply with this Act and apply in accordance with and subject to this Act.
- (3) On the commencement:
 - (a) an authorised officer holding office under the existing Regulations immediately before the commencement of this Act continues to hold office under and subject to this Act; and
 - (b) a decision or action made, taken or continued in effect under the existing Regulations:
 - (i) continues to have effect under this Act as if it has been made or taken under this Act; and
 - (ii) has effect as if it were modified to the extent necessary to comply with this Act and have effect in accordance with and subject to this Act.

64 References to provisions of existing Regulations

If a provision of this Act corresponds (with or without modification) to a provision of the existing Regulations, on the commencement a reference in a law or document to the provision of the existing Regulations is a reference to the corresponding provision of this Act.

SCHEDULE 1

(Section 14(2))

Matters Regulations may provide for

1. Movement into, within or out of Solomon Islands

The Regulations may prohibit or control movement into, within or out of Solomon Islands while a Declaration is in force by:

- (a) declaring that the international border of Solomon Islands is closed; or
- (b) imposing measures and procedures for patrols and surveillance at the international border; or
- (c) restricting travel by air or sea into and out of Solomon Islands; or
- (d) declaring ports of first entry for aircraft or vessels entering Solomon Islands; or
- (e) prohibiting the entry into Solomon Islands of:
 - (i) persons who are not citizens of Solomon Islands; or
 - (ii) things or vehicles; or
- (f) providing for detaining non-citizens or classes of non-citizens, or deporting non-citizens or classes of non-citizens from Solomon Islands, who contravene the Regulations; or
- (g) providing for exceptions to a prohibition under paragraph (e) and any procedures, measures or conditions that must be complied with for a person, thing or vehicle to be able to enter and move within Solomon Islands despite the prohibition; or
- (h) restricting the movement of persons, things or vehicles within or out of Solomon Islands and prescribing procedures or measures by which their movement is restricted; or
- (i) prescribing procedures, measures or circumstances for exempting a person, thing or vehicle from compliance with a restriction imposed under paragraph (h); or

- (j) designating areas at the ports of first entry into Solomon Islands to be:
 - (i) check-points where authorised officers may perform health and safety checks or testing of persons; or
 - (ii) temporary quarantine or isolation stations for temporarily quarantining or isolating persons:
 - (A) who are identified at check-points or other places to exhibit symptoms of contamination or disease or to have come into contact or probably come into contact with a person who is contaminated or infected with a disease; or
 - (B) for whom there is otherwise a high-risk that the person is contaminated or infected with a disease; or
- (k) providing for the following measures and procedures:
 - (i) measures and procedures for patrols and surveillance of the boundary of an emergency zone or other place or area;
 - (ii) restricting travel by air or sea to an emergency zone or other place or area;
 - (iii) declaring ports of entry for aircraft or vessels entering an emergency zone or other place or area;
 - (iv) prohibiting the entry into an emergency zone or other place or area of:
 - (A) persons who do not usually reside in the zone, place or area; or
 - (B) things or vehicles;
 - (v) providing for exceptions to the prohibition under subparagraph (iv) and any procedures, measures or conditions that must be complied with for a person, thing or vehicle to be able to enter the emergency zone, place or area;

- (vi) restricting the movement of persons, things or vehicles within or out of an emergency zone or another place or area, and prescribing procedures or measures by which their movement is restricted;
- (vii) prescribing procedures, measures and circumstances, for exempting a person, thing or vehicle from compliance with a restriction imposed under subparagraph (vi);
- (viii) closing roads, premises, places or areas in an emergency zone or other place or area or requiring them to be only open in specified circumstances or if specified measures are complied with;
- (ix) prohibiting gatherings or processions of any kind in an emergency zone or another place or area, or in specified circumstances; or
- (l) designating areas to be:
 - (i) check-points where authorised officers may perform health and safety checks or testing of persons; or
 - (ii) temporary quarantine or isolation stations for temporarily quarantining or isolating persons:
 - (a) who are identified at check points or elsewhere to exhibit symptoms of contamination or a disease or to have come into contact or have probably come into contact with a person who is contaminated or infected with a disease; or
 - (b) for whom there is otherwise a high-risk that the person is contaminated or infected with a disease.

2. Prevention, protection against and control of health events

- (1) The Regulations may prescribe measures for preventing, protecting against and controlling a public health event while a Declaration is in force by:
 - (a) prescribing the circumstances when a person or class or persons must be quarantined or isolated and requiring the person or class of persons to be quarantined or isolated accordingly; or

- (b) prescribing the quarantine period for a person or class of persons and providing for the extension of quarantine periods; or
- (c) providing for testing for the presence of contamination or disease; or
- (d) prescribing circumstances when a person must undertake treatment or vaccination; or
- (e) requiring a person or class of persons to undertake a treatment or vaccination referred to in paragraph (d); or
- (f) exempting a person complying with prescribed conditions from being quarantined or isolated; or
- (g) declaring a property to be a quarantine station or a testing facility; or
- (h) requiring removal to secure areas, and cleansing, disinsection or disinfection, of things, vehicles or places, including by prescribing the circumstances when things, vehicles or places must be cleansed, disinsected or disinfected in a specified way or specified circumstances; or
- (i) prescribing protocols, rules, measures and procedures for the following:
 - (i) quarantining persons;
 - (ii) isolating persons;
 - (iii) testing persons;
 - (iv) monitoring persons in quarantine or isolation;
 - (v) releasing persons from quarantine or isolation;
 - (vi) transporting persons who must be physically distant or isolated from other persons; or
- (j) requiring persons to refrain from taking specified actions that contribute or are likely to contribute to contamination or the outbreak of disease and its spread in Solomon Islands; or

- (k) requiring persons to take specified actions or comply with specified measures that contribute or are likely to contribute to:
 - (i) preventing contamination or the outbreak of disease and its spread in Solomon Islands; or
 - (ii) limiting and containing contamination or the outbreak and spread of disease in Solomon Islands; or
 - (l) imposing restrictions or conditions on the manner in which the body of a deceased person who was contaminated or infected with disease is handled or disposed of; or
 - (m) providing for the official distribution of medical equipment and supplies during a public health emergency; or
 - (n) making provision for meeting the Government's responsibility to care for the mental and physical well-being of persons who are quarantined or in isolation stations.
- (2) The actions or measures referred to in subparagraph (1)(j) and (k) include requiring a person to:
- (a) stay in a specified place; or
 - (b) wear personal protective clothing or equipment; or
 - (c) refrain from going to a specified place; or
 - (d) refrain from associating with specified persons or classes of persons; or
 - (e) be physically distant or isolated from persons in a specified way; or
 - (f) refrain from travelling to and from a specified area; or
 - (g) refrain from carrying out specified activities or require specified activities to be carried out in a specified way or in compliance with specified measures; or
 - (h) report for medical examination or testing in a specified way or in specified circumstances; or
 - (i) provide information necessary for the purpose of contact tracing.

3. Other matters

The additional matters the Regulations may provide for while a Declaration is in force include:

- (a) taking possession of or acquiring property; or
- (b) ordering the removal from a public place or destruction of property or movable property which:
 - (i) is unlawfully located on the public place; or
 - (ii) poses an immediate threat or risk to public health; or
 - (iii) attracts a public assembly or public procession; or
- (c) releasing funds, including a special fund referred to in section 100(2) of the Constitution, provided for under other laws of Solomon Islands for implementing a response or supporting public safety and well-being; or
- (d) authorising entry onto and search of property, or removal or detention of persons or removal, seizure or destruction of movable property; or
- (e) providing for the charging of a fee for the provision of a service or other matter to a person; or
- (f) suspending access to a media outlet that is publishing, disseminating or otherwise transmitting information or material that has the potential to:
 - (i) grossly mislead the public about contamination or a disease or the spread or outbreak of contamination or a disease; or
 - (ii) incite the spread of false news or reports relating to contamination or a disease causing public alarm, anxiety or disaffection; or
 - (iii) incite hatred or contempt of a person or class of persons arising from the outbreak or spread of contamination or disease; or

- (g) if satisfied that doing so is necessary for maintaining public safety and well-being, suspending the operation of a trade union, within the meaning of section 2(1) of the *Trade Unions Act* (Cap. 76), and providing for its immediate de-registration; or
- (h) cancelling the registration, licence, permit or other authorisation which a person who owns or operates a business is required under a law to have to be able to conduct the business in Solomon Islands if:
 - (i) in conducting the business, the person contravenes an Order made under the *Price Control Act* (Cap. 64); or
 - (ii) the person conducts the business in a place or area that is temporarily closed under a regulation referred to in paragraph 1(k)(viii); or
 - (iii) the business is conducted in a manner that otherwise contravenes this Act or any other law.

SCHEDULE 2

(Sections 49 and 50)

FORMS

Form 1

Public Health Emergency Act 2021

(Section 49)

PENALTY NOTICE

To: *(full name of person alleged to have committed an offence)*

of *(the person's address)*

Date: *(specify date person given Penalty Notice)*

You are alleged to have committed an offence under *(specify provision)* of the.

(insert particulars of offence)

Pursuant to section 50 of the *Public Health Emergency Act 2021*, you may consent to the alleged offence being dealt with under the administrative penalty procedure under Part 5, Division 2 of the Act by:

- (a) completing and signing the attached Consent to Administrative Penalty Procedure; and
- (b) delivering it to the Office of the Prime Minister and Cabinet on or before *(specify date 14 days after the date of the Penalty Notice)*.

If you consent and deliver the Consent to Administrative Penalty to the Office of the Prime Minister and Cabinet on or before that date:

- (a) the alleged offence will be dealt with under the administrative penalty procedure; and
- (b) you must pay the administrative penalty of *(specify penalty)* on or before *(specify date 28 days after the date of the Penalty Notice)*.

In addition to payment of the administrative penalty:

(If any property that was used of involved in the alleged commission of the offence is to be seized, held or sold or forfeited, describe the property and specify whether the property will be seized, held or sold or forfeited)

(If the person must pay an amount for costs likely to be incurred by the Government in connection with the person's alleged commission of the offence, specify the amount of the costs and when and how the costs are to be paid).

If you do not consent, you will be charged and prosecuted for the alleged offence.

If you do not pay the administrative penalty on or before the specified date, *and/or do not pay the costs on or before the specified day and in the specified manner:

- (a) you will be charged and prosecuted for the alleged offence; and
- (b) any property seized and held or proceeds of the sale of property seized and sold will be forfeited to the Government.

If you pay part only of the amount of the administrative penalty *and/or costs on or before the specified date and in the specified manner:

- (a) you have failed to pay the administrative penalty and costs; and
- (b) you will be charged and prosecuted for the alleged offence; and
- (c) that amount you have paid is forfeited to the Government unless a court orders otherwise.

Signed:

Name and identification of authorised officer:

Form 2
Public Health Emergency Act 2021
(Section 50)

CONSENT TO ADMINISTRATIVE PENALTY PROCEDURE

I, *(full name of person)*

of *(address)*

consent to my alleged contravention of regulation *(insert provision)* on *(date)*
by *(state particulars of alleged offence)*

being dealt with under the administrative penalty procedure under Part 5,
Division 2 of the *Public Health Emergency Act 2021* instead of being charged
and prosecuted for the alleged offence.

I understand:

- (a) the administrative penalty imposed for the alleged contravention and the date on or before which I must pay the administrative penalty; and
- (b) *that property described in the Penalty Notice will be *seized and *held/sold / *forfeited; and
- (c) *that costs of the amount of *(specify amount of costs)* are payable *(specify date on or before which and manner in which the costs are payable)*; and
- (d) that if I do not consent, I will be charged and prosecuted for the alleged offence; and
- (e) that if I do not pay the administrative penalty on or before the specified date, *or do not pay the costs on or before the specified date and in the specified manner:
 - (i) I will be charged and prosecuted for the alleged offence; and
 - (ii) *property seized and held or proceeds of the sale of property seized and sold will be forfeited to the Government; and
- (f) that if I pay part only of the amount of the administrative penalty or costs on or before the specified date and in the specified manner:
 - (i) I have failed to pay the administrative penalty and costs; and

- (ii) I will be charged and prosecuted for the alleged offence; and
- (iii) the amount I have paid is forfeited to the Government unless a court orders otherwise.

** Delete which not applicable*

Signed:

Date:

PUBLIC HEALTH EMERGENCY BILL 2021

EXPLANATORY MEMORANDUM

OBJECTS

The object of the Public Health Emergency Bill 2021 is to provide for suitable and urgent responses to public health emergencies and circumstances that threaten the health of the persons and communities of Solomon Islands.

The Bill aims to enable a range of operational capabilities and activities that will be able to quickly respond to such emergencies and circumstances and prevent, mitigate, eliminate the contamination, disease or other occurrence causing the emergencies and circumstances, and recover from them.

CONTENT

Part 1 Preliminary matters

Clause 1 provides for the short title of the Bill.

Clause 2 provides that the Bill commences on 24 March 2021.

Clauses 3 and 4 contain the definitions of expressions used in the Bill.

Clause 3 contains definitions of expressions used throughout the Bill and clause 4 sets out the meanings of expressions of “public health emergency”, “circumstance that threatens public health”, “public health event”, “global pandemic”, “public health emergency of international concern”.

Central to the operation of the Bill are the definitions of “public health emergency”, “public health event” and “circumstance that threatens public health” as they trigger a response under the Bill.

Clause 5 sets out that the purpose of the Bill is to:

- enable the prevention, control, protection against and response to public health emergencies and circumstances that threaten public health; and
- mitigate or remedy the health, social and economic effects of a public health emergency or a circumstance that threatens public health and support public safety and well-being.

Clause 6 provides that the Bill prevails if there is an inconsistency between the Bill and another law.

Clause 7 provides that the Bill binds the Crown.

Part 2 Public health emergencies

Division 1 (clauses 8 to 11) deals with making and effect of declarations of public health emergencies and **Division 2** (clauses 12 to 14) provides for the response to a public health emergency.

Clause 8 enables the Prime Minister to declare that a public health emergency exists in Solomon Islands or a part of Solomon Islands. The Prime Minister may not make the Declaration unless:

- the Director-General of WHO determines that there exists a public health emergency of international concern;
- WHO declares there is a global pandemic;
- the Minister responsible for health advises the Prime Minister that there is a public health event for Solomon Islands.

The Declaration must specify the grounds for making the Declaration, the area it applies to, the date it commences and the 6-month period it has effect for (unless extended under clause 8).

Clause 9 provides that a Declaration has effect for 6 months unless extended for 2 years from the date it took effect under clause 8 by Parliament by resolution supported by two-thirds of the Members of Parliament. On the expiry of the 2-year extension, the Declaration may be further extended by periods of 12 months by Parliament by resolution supported by two-thirds of the Members of Parliament.

Clause 10 provides that the Prime Minister or Parliament may revoke a Declaration and Parliament by resolution supported by a majority of the Members of Parliament may reduce the period for which a Declaration has effect or revoke a Declaration.

Clause 11 provides that revocation of a Declaration does not affect the validity of decisions made and actions taken under the Declaration, and clarifies that if a Declaration expires or is revoked the public health emergency it relates to ceases.

Clause 12 enables the Minister for Health to declare an emergency zone if the Minister is satisfied that doing so is necessary to respond to the public health emergency. The Regulations must prescribe the systems, measures, procedure that will apply in the emergency zone.

Clause 13 specifies that in Part 2 “Order” means an Order authorised by the Regulations. This is because Orders can be made under a provision of the Act as well as if authorised by the Regulations.

Clause 14 sets out the power to make Regulations that are reasonably justifiable for preventing, protecting against or controlling, or providing a response to a public health emergency and safeguarding public safety and well-being while a Declaration is in force. This includes making provision for a matter by enabling the Prime Minister or Minister responsible for health to make an Order providing for the matter. A list of matters that the Regulations may provide for is set out in Schedule 1 to the Bill.

Part 3 Circumstances that threaten public health

Division 1 (clauses 15 and 16) deals with the preliminary matters of definitions for Part 3 and the purpose and application of Part 3. **Division 2** (clauses 17 to 21) provides for the response to a circumstance that threatens public health.

Clause 15 contains definitions of expressions used only in Part 3.

An authorised officer for the purposes of Part 3 is an authorised officer who has powers and functions prescribed by the Regulations for Part 3.

A circumstance that threatens public health is a circumstance that could become or lead to a public health event because of the risk of contamination, outbreak of disease or other risk to public health occurring in or being introduced into Solomon Islands which must be managed immediately to reduce or eliminate the risk.

References in Part 3 to a Permanent Secretary are references to the Permanent Secretary of the Ministry responsible for health.

Clause 16 sets out the purpose of Part 3 and the circumstances in which it applies.

The purpose of Part 3 is to enable urgent management of a circumstance that threatens public health.

Part 3 applies if an authorised officer reasonably believes that there exists a circumstance that threatens public health because of the risk of an infectious disease, public health hazard, contamination or other occurrence, and that the risk must be managed immediately to prevent the risk and avoid a possible public health emergency. For Part 3 to apply, a Declaration must not be in force.

Clause 17 sets out what an authorised officer may do if the authorised officer believes there exists a circumstance that threatens public health to manage and mitigate the threat to public health it poses.

The actions the authorised officer may include to examine a person for symptoms of disease or contamination, test a person for the presence of disease of contamination or quarantine or isolate a person who is presenting symptoms of contamination or disease or who has or may have come into contact with a contaminated or infected person.

The authorised person must give a report of the circumstances and action taken to the Minister responsible for Health, the Permanent Secretary and the NHEC within 24 hours.

Clause 18 requires the Minister for Health to advise the Prime Minister and Cabinet of the circumstance and the authorised officer's action, make a public announcement about the existence of the circumstance and, by notice published in the Gazette, specify that there exists a circumstance that threatens public health, describe the circumstance and authorise the actions, measures and procedures for managing the circumstance. Subclause (2) lists the actions, measures and procedures that the Minister may include in the notice. Subclause (3) enables the Minister to require other authorised officers to assist in managing the circumstance and subclause (4) requires that a notice made under section 18 must be in force for as long as the circumstance exists.

Clause 19 requires the Permanent Secretary to, as expeditiously as possible and with the assistance of authorised officers that is necessary, carry out a detailed assessment to ascertain the extent and severity of the circumstance, and whether the circumstance is a public health emergency. The Permanent Secretary must report the results of the assessment and his or her recommendations for managing the circumstance to the Minister for Health and the NHEC.

Clause 20 requires the Minister for Health to inform Cabinet of the Permanent Secretary's report under clause 19. Cabinet must determine whether or not the circumstance is a public health emergency (and if so Part 2 of the Bill applies).

If Cabinet determines that the circumstance is not a public health emergency, the Permanent Secretary and authorised officer must manage the circumstance to reduce or eliminate the risk of contamination or infectious disease it poses. The Permanent Secretary must make regular reports to the Minister for Health on the management of the circumstance and the likelihood of it becoming or leading to a public health emergency. The Minister must ensure that all actions, measures and procedures for managing the circumstance are authorised by a notice under clause 18.

Clause 21 provides that a circumstance that threatens public health ceases to exist if the circumstance is eliminated or reduced to such an extent that it is not a threat of public health or if the circumstance becomes a public health emergency (and Part 2 applies).

Part 4 Roles and responsibilities

This Part sets out the administration of the Act.

Division 1 (clauses 22 to 29) establishes the National Health Emergency Council ("NHEC") to oversee and control a response to a public health emergency. The clauses set out the functions and powers, reporting responsibilities, membership and procedures of NHEC.

Division 2 (clauses 30 to 32) provides for the Incident Controller (who directs the response to a public health emergency) and Deputy Incident Controllers. The NHEC appoints the Incident Controller and Deputy Incident Controllers.

Division 3 (clauses 33 to 35) provides for authorised officers, who have a role in implementing the response to a public health emergency subject to the direction of the Incident Controller.

Division 4 (clause 36) sets out the role of the National Disaster Council during a public health emergency.

Part 5 Offences and penalties

Division 1 (clauses 37 to 41) set out offences and maximum penalties for:

- contravening a regulation, Order or direction made under the Bill;

- industrial action being taken by authorised officers or persons providing essential services while a Declaration is in force or there is a circumstance that threatens public health;
- for actions taken against authorised officers;
- for disseminating rumours and false information while a Declaration is in force or there is a circumstance that threatens public health;
- for fraudulently attempting to obtain money or other property or benefit for a measure for the response to a public health emergency or a circumstance that threatens public health.

Clause 42 provides for deporting a non-citizen if convicted of an offence against the Bill or subsidiary legislation made under the Bill.

Division 2 (clauses 43 to 53) sets out the procedure for imposing an administrative penalty on a person for allegedly committing an offence instead of the person being charged, prosecuted and convicted for the offence. Payment of the administrative penalty by a person bars the prosecution of a person for the offence. The Forms to be used under this Division are set out in Schedule 2 to the Bill.

Part 6 deals with miscellaneous matters.

Division 1 (clauses 54 to 57) provides for matters relating to subsidiary legislation. Clause 54 sets out the general regulation making power of the Prime Minister, and provides that regulations made under Part 2 have effect only while the Declaration they relate to is in force. Clause 55 provides for the application of Orders to the whole or a part of Solomon Islands. Clauses 56 and 57 provide for the duration, general content and manner of publication of Orders and notices.

Division 2 provides for other miscellaneous matters.

Clause 58 provides that actions or things done under the Bill while a Declaration is in force or there exists a circumstance threatening public health that are reasonably justifiable do not contravene section 5,6(2),9, 11, 12, 13, 14 or 15 of the Constitution. However, any possession or acquisition of property must be in accordance with section 8 of the Constitution.

Clause 59 provides for the protection of persons with powers and functions under the Bill against civil and criminal liability for acts done in good faith and without negligence in carrying out their duties under the Bill.

Clause 60 provides that the Ministry responsible for health is the official authority for disseminating and publishing information about a public health emergency or a circumstance that threatens public health. A person who is not the Ministry commits an offence if the person publishes and disseminates such information or misrepresents information as information that is disseminated or verified by the Ministry responsible for Health.

Clause 61 establishes the Public Health Emergency Fund. The Fund is a Special Fund within the meaning of section 100(2) of the Constitution for the purpose of paying for responses to public health emergencies and circumstances that threaten public health.

Part 7 deals with savings and transitional matters.

Clauses 62 to 64 set out the savings and transitional provisions for making the transition to the operation of the Bill from the previous system of a Proclamation of a State of Public Emergency under section 16 of the Constitution and regulations made under the *Emergency Powers Act* (Cap. 11).

The *Emergency Powers (COVID-19)(No. 4) Regulations 2020*, and Orders and decisions or actions made or taken under those Regulations, are continued in force as if they were made under the Bill, but have effect as if modified to the extent necessary to have been made under the Bill and apply subject to the Bill.

In addition, authorised officers under the Regulations are authorised officers under the Bill and references in laws and documents to provisions of the Regulations that correspond to provisions of the Bill are references to the corresponding provision of the Bill.

Schedule 1, derives from clause 14 in Part 2, Division 2 of the Bill, and sets out matters and circumstances that the Regulations for a public health emergency may provide for.

Schedule 2, derives from clauses 49 and 50 in Part 5, Division 2 and sets out the Forms for the Penalty Notice and Consent to Administrative Penalty Procedure.

HON. MANASSEH D SOGAVARE
PRIME MINISTER

HON. CULWICK TOGAMANA
MINISTER FOR HEALTH AND
MEDICAL SERVICES

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