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[Hon A Member]

[Placeholder for Crest]

Public Health Bill

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Schedule XX

Notifiable conditions and notifiable pathogens

Part 1

Notifiable conditions

Part 2

Notifiable pathogens

Schedule 1

Amendments to Acts

Schedule 2

Amendments to regulations

An Act to protect and promote the health of all the people of the Cook Islands including by—

- (a) **reducing the incidence of diseases and ill-health; and**
- (b) **encouraging planning and community involvement to deliver better health outcomes.**

The Parliament of the Cook Islands enacts as follows—

1 Title

This Act is the Public Health Act **2022**.

2 Commencement

This Act comes into force on the date appointed by the Queen's Representative by Order in Executive Council, and 1 or more Orders may be made bringing different provisions into force on different dates and appointing different dates for different purposes.

3 Act binds the Crown

This Act binds the Crown.

Part 1

Preliminary matters

Definitions

4 Interpretation

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

aircraft has the meaning given in section 3 of the Civil Aviation Act 2002

antimicrobial—

- (a) means a medicine or other substance used to prevent or treat an infection; and
- (b) includes an antibiotic, antiviral, antifungal, or antiparasitic

antimicrobial resistance means resistance to an antimicrobial, being a situation where a bacteria, virus, fungus, or parasite that responded to a medicine or other substance has changed so that it no longer responds to the medicine or other substance

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approved form means a form approved by the Secretary

authorised officer means a person appointed to that the role under **section xx**

caused has the meaning given in **subsection (2)**.

child means a person under the age of 18 years

compliance notice means a notice issued under **section xx**

contact has the meaning given in **section xx**

contact tracing officer has the meaning given in **section xx**

Court means the High Court of the Cook Islands

crematoria—

(a) means appliances used for cremations; and

(b) includes any buildings where the appliances are located

declaration of a public health emergency means a declaration made under **section xx**

declaration of a serious incident means a declaration made under **section xx**

diagnosed person has the meaning given in **section xx**

disease includes a medical condition

Financial Secretary has the meaning given in the Ministry of Finance and Economic Management Act 1995-96

general duty means

harm includes physical or psychological harm to individuals, whether of long-term or immediate impact or effect

health equity approach means an approach that takes into account the health implications of decisions in order to improve health and health equity

health impact assessment means an assessment under **section xx**

infringement offence means an offence under this Act that is prescribed in regulations to be an infringement offence

International Health Regulations (2005) means the International Health Regulations 2005 adopted by the World Health Assembly on 26 May 2006 and includes any amendments or additions to the Regulations

Island Government means a council established under section 7 of the Island Government Act 2012-13

master, in relation to a vessel, means the person in charge or command of the vessel

material personal interest has the meaning given to it in **section xx**

Medical Officer of Health means the person appointed to that role under **section xx**

Minister means the Minister of Health

Ministry means the Ministry of Health

non-communicable disease means [definition probably unnecessary]

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notifiable communicable condition means a disease listed in **clause 1 of Part 1 of Schedule xx** and which is a notifiable condition (*see section xx*)

notifiable condition has the meaning given in **section xx**

notifiable pathogen has the meaning given in **section xx**

national immunisation schedule means the schedule approved by the Secretary under **section xx**

occupier, in relation to any building or land, means a person—

- (a) acting or apparently acting in the general management or control of the land or building; or
- (b) in physical occupation of the building or land; or
- (c) entitled to occupy the building or land

parent, in relation to a child, includes a guardian or other person responsible for the day to day care of the child

personal information has the meaning given in **section xx**

pratique means pratique granted to a vessel or aircraft under **section xx**

premises includes—

- (a) a vehicle;
- (b) a building;
- (c) any land;
- (d) a body of water

principal, of a school, means the person (however described) who is responsible for the day to day management of the school

Option A

public health means the health of an individual in the context of their wider community

[Option A is currently in the Bill]

Option B

public health means the health of—

- (a) all of the people of the Cook Islands;
- (b) a community or section of such people

[Option B is from the equivalent NZ legislation]

public health partner authority means an agency of body declared to be an public health partner authority under **section xx**

public place—

- (a) means a place that, at any material time, is open to or is being used by the public, whether—
 - (i) free or on payment of a charge, and
 - (ii) an occupier of the place is lawfully entitled to exclude or eject any person from the place; and

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- (b) includes—
 - (i) a road or footway; and a vehicle used for carrying, or available to carry, passengers for reward; and
 - (ii) a place declared in regulations to be a public place for the purposes of this Act

public swimming place means a public place used for swimming, bathing, wading, or paddling

public swimming pool means a swimming pool (including a spa pool) that is—

- (a) a public place; or
- (b) used in connection with—
 - (i) a school or hospital; or
 - (ii) tourist accommodation or another business; or
- (c) a pool to which persons may have access by reason of their membership in a club or other organisation or as employees of a business; or
- (d) declared in regulations to be a swimming pool for the purposes of this Act

registered medical practitioner means a person registered as a medical practitioner [and entitled to practise] in the Cook Islands

Review Panel means a Review Panel established under **section xx**

risk means a risk of harm

school means an institution that offers any of the following types of education (within the meaning of those terms in the Education Act 2012):

- (a) early childhood education:
- (b) primary education:
- (c) secondary education

Secretary means the Head of Ministry as that term is defined in the Ministry of Health Act 2013

unvaccinated, in relation to a child, means a child who has not received all applicable vaccinations required under this Act

vaccine preventable diseases order means an Order in Executive Council under **section xx** declaring vaccine preventable diseases

vessel has the meaning given in section 2(1) of the Maritime Transport Act 2008

waste material has the meaning given in **section xx**

whole of government initiative means an initiative to protect or promote public health that involves, or is proposed to involve, action by multiple government departments or government agencies.

- (2) In this Act, unless the context otherwise requires, a person **caused** something if the person contributed to, allowed, or permitted—
 - (a) an activity for which the person is responsible to commence or proceed; or

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a state of affairs for which the person is responsible to continue.

5 Relationship with other laws

- (1) The provisions in this Act—
 - (a) are in addition to, and do not limit, any other law of the Cook Islands; and
 - (b) are not intended to limit or exclude any civil right or remedy unless this is expressly provided for; and
- (2) Compliance with this Act does not, of itself, indicate that a common law duty of care has been satisfied.

Objects and principles

6 Objects

- The objects of this Act are—
- (a) to protect and promote the public health and wellbeing of the Cook Islands people in harmony with their culture, spiritual traditions, and environment; and
 - (b) to provide for the early detection, containment, and management of communicable diseases and other public health emergencies; and
 - (c) to protect individuals and communities, especially vulnerable communities and disadvantaged groups, from public health risks including those arising from communicable and non-communicable diseases and the environment; and
 - (d) to encourage policies and programmes designed to protect and promote public health across all areas of government and the community more generally; and
 - (e) to create and sustain a healthy environment; and
 - (f) to contribute to efforts to reduce health inequities and improve population health outcomes including for populations in the Pa Enea; and
 - (g) to implement the Cook Islands' obligations as a party to the International Health Regulations 2005; and
 - (h) to encourage public health planning and the participation of individuals and their communities in the planning process.
- (2) The Minister and other persons or bodies involved in the administration of this Act must have regard to the objects and seek to further them in their decision-making under this Act.

7 Principles

- (1) **Sections 8 to 13** set out principles that apply to persons when making decisions or taking actions under this Act (all of whom are referred to as **decision makers**).
- (2) The principles are—
 - (a) the population approach in **section xx**:
 - (b) the principle of participation in **section xx**:

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- (c) the principle of prevention in **section xx**:
- (d) the principle of sustainability in **section xx**:
- (e) the precautionary principle in **section xx**:
- (f) the principle of proportionality in **section xx**.

8 Population approach

Decision makers must focus on the health of populations, especially vulnerable populations, and the actions reasonably necessary to protect the health of—

- (a) the community generally; and
- (b) individuals within the context of the community.

9 Principle of participation

Decision makers must give individuals and communities the opportunity to take control of their own health, and to that end, to participate in decisions about how to protect and promote their health and the health of their communities.

10 Principle of prevention

Decision makers must prioritise the options that they consider will prevent and avoid public health risks.

11 Principle of sustainability

Decision makers must consider public health, social, economic, and environmental factors, with the objective of improving community wellbeing and benefitting future generations.

12 Precautionary principle

- (1) If there is good reason to believe that a risk to public health exists, a lack of full scientific certainty must not be used as a reason for postponing measures to respond to the risk.
- (2) When applying the principle in subclause (1), decision makers must be guided by—
 - (a) the need for decisions and actions under this Act to be proportionate to the degree of public health risk that exists; and
 - (b) an evaluation of the steps that need to be taken to avoid, where practicable, serious harm to public health; and
 - (c) an assessment of the risk-weighted consequences of options to address the public health risk.

13 Principle of proportionality

- (1) Decision makers must consider whether, in any case,—
 - (a) the objectives of the Act can be achieved as effectively and efficiently by less restrictive means than the means proposed; and
 - (b) their decisions and actions—
 - (i) are proportionate to the likelihood and seriousness of the public health risks being addressed; and

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- (ii) seek to minimise adverse impacts on persons affected by those decisions and actions to the greatest extent that is appropriate and consistent with the objectives of this Act.

14 Guidelines about principles

- (1) The Secretary may issue guidelines to assist persons to apply the principles to making decisions and taking actions under this Act.
- (2) Those persons must have regard to any relevant guidelines made under this section.

Part 2 Administration

Minister, Secretary, Medical Officer of Health, and authorised officers

15 Minister

- (1) The functions of the Minister are—
 - (a) to approve national strategies and plans to promote and protect the health of the Cook Islands; and
 - (b) to advance policies to protect and promote public health; and
 - (c) to report to Parliament on the performance of public health; and
 - (d) to impose standards and make codes of practice relating to public health matters; and
 - (e) to promote coordination and cooperation across sectors and levels of government to protect and promote public health; and
 - (f) to promote a health equity approach to government policy; and
 - (g) to make recommendations to Ministers in relation to matters of public health significance that are relevant to their portfolios; and
 - (h) to enter into partnerships with government and non-government entities to protect and promote public health; and
 - (i) to cooperate and coordinate with international bodies to protect and promote public health; and
 - (j) any other function required to be carried out by the Minister under this Act.
- (2) The Minister may do anything reasonably necessary, expedient, or incidental to—
 - (a) performing the Minister's functions under this Act; and
 - (b) administering this Act; and
 - (c) furthering the objects of this Act.

16 Secretary

- (1) The functions of the Secretary are—
 - (a) to initiate and develop strategies and plans to promote and protect health, for the approval of the Minister; and
 - (b) to initiate and develop guidelines, standards, and codes of practice; and

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- (c) to develop and implement policies and programmes to achieve the objects of this Act;
- (d) to oversee and monitor the implementation and enforcement of this Act; and
- (e) to implement systems to monitor and manage public health risks, including those arising from communicable and non-communicable diseases and the environment; and
- (f) to advise the Minister on matters relating to public health; and
- (g) to develop and implement systems to foster collaboration and coordination to promote public health, including across sectors and the community; and
- (h) to monitor the operation of the health equity approach; and
- (i) to support the cooperation and shared management of water resources throughout the Cook Islands including by entering into arrangements to cooperate on standards and the monitoring of water quality; and
- (j) to ensure that the Ministry carries out the role of national focal point for the purposes of the International Health Regulations (2005) (*see* section 26(2)(d) of the Ministry of Health Act 2013); and
- (k) to require information and make orders or directions reasonably necessary to protect public health in relation to—
 - (i) vessels or aircraft coming into, passing through, or travelling within, the Cook Islands; and
 - (ii) persons or things on a vessel or aircraft described in subparagraph (i); and
 - (iii) any person in contact with a person or thing on a vessel or aircraft described in subparagraph (i); and
- (l) to exercise any powers given to authorised officers in this Act; and
- (m) to carry out any other functions conferred by or under the Act.

17 Medical Officer of Health

- (1) The Minister may, in writing, appoint a person to be the Medical Officer of Health.
- (2) The Medical Officer of Health must be a registered medical practitioner, and have qualifications or experience in the field of public health.
- (3) The functions of the Medical Officer of Health are—
 - (a) to advise the Secretary on matters relating to public health; and
 - (b) to exercise any functions delegated to the Medical Officer of Health under this Act.
- (4) The Medical Officer of Health may also, at their discretion, advise or report directly to the Minister on any matter relating public health.
- (5) The Medical Officer of Health must notify the Secretary, in writing, of any advice or reporting to the Minister under **subsection (4)**.

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18 Appointment of authorised officers

- (1) The Secretary may, in writing, appoint persons to be authorised officers for the purposes of this Act or specified provisions of this Act.
- (2) An appointment must specify—
 - (a) the duties and powers of the authorised officer; and
 - (b) the date when the appointment ends.
- (3) An appointment may be subject to any conditions or restrictions that the Secretary considers appropriate.
- (4) The Secretary may vary or revoke an appointment at any time.
- (5) The Secretary must not make an appointment unless the Secretary considers that the person has the qualifications or experience necessary to properly exercise the duties specified in the appointment.
- (6) The Secretary is an authorised officer for the purposes of this Act but is not required to have an identity card under **section xx**.

19 Authorised officers must have identity cards

- (1) The Secretary must issue an identity card to each authorised officer.
- (2) The identity card must—
 - (a) state that it is issued under this Act; and
 - (b) include a photograph of the authorised officer; and
 - (c) state the date on which it expires.
- (3) An authorised officer must show their identity card at the request of a person in relation to whom the officer intends to exercise any powers under this Act.
- (4) A person must surrender their identity card to the Secretary promptly after ceasing to be an authorised officer.

Health impact assessments and public health partnerships

20 Health impact assessment

- (1) The Secretary may conduct a health impact assessment of an activity or proposed activity if the Secretary or Minister believes that the proposed activity may have a substantial adverse effect on public health.
- (2) The purpose of a health impact assessment is to enable the government to identify and assess the impact of the activity or proposed activity on public health objectives.
- (3) The Secretary may conduct a health impact assessment either on the Secretary's own initiative or if requested by the Minister.
- (4) The Minister may, in a request for a health impact assessment, specify a time period or date for completion of the assessment.
- (5) The Secretary must ensure that—
 - (a) members of the public are provided with an opportunity to participate meaningfully in the assessment, in a manner that the Secretary considers appropriate; and
 - (b) decision-making authorities are consulted, in a manner that the Secretary considers appropriate; and

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- (c) a copy of the assessment is provided to the Minister within any time period or by any date, specified by the Minister.
- (6) The Minister—
 - (a) must provide a copy of the assessment to decision-making authorities, within a reasonable period after receiving it from the Secretary; and
 - (b) may publish the assessment or a summary of its findings.

21 Public health partnerships

- (1) The Minister or the Secretary may, after consultation with a relevant entity, declare the entity to be a public health partner authority.
- (2) A declaration must be in writing and must be notified on a publicly accessible website maintained by or on behalf of the Ministry.
- (3) The Minister may enter into arrangements with an entity declared to be a public health partner authority to develop a partnership for the purposes of furthering objects of this Act.
- (4) The Secretary must monitor the operation of the arrangements and report to the Minister if requested by the Minister to do so.
- (5) The Minister may revoke the declaration after consultation with the entity that is a public health partner authority despite anything in the arrangements between the Ministry and the entity relating to the termination of those arrangements.
- (6) The effect of a revocation is that—
 - (a) the relevant entity ceases to be a public health partner authority; and
 - (b) any arrangements entered into under **subsection (3)** cease to apply to the Minister and the relevant entity.
- (7) In this section, **relevant entity** includes, without limitation, a government agency or authority, Island government, or non-government organisation.

Delegations, personal liability, and immunity from civil liability

22 Delegations

- (1) The Minister or Secretary may delegate any functions or powers given to the Minister or Secretary (as the case requires) under this Act to any specified person, class of persons, or office.
- (2) However, the role of authorised officer held by the Secretary cannot be delegated.
- (3) A delegation under this section—
 - (a) may be made generally or in relation to a specific matter; and
 - (b) may include a provision to prevent sub-delegation by a delegate unless the delegation allows for it; and
 - (c) is subject to any limitations specified in the instrument of delegation; and
 - (d) may be withdrawn at any time; and

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- (e) does not prevent the exercise or performance by the officeholder of the function or power delegated;
- (4) The following powers cannot be delegated:
 - (a) the power to make instruments including standards, codes of practice, and guidelines;
 - (b) the power of delegation under this section.

23 Personal liability

- (1) A person described in **subsection (2)** is not liable in civil or criminal proceedings for good-faith actions or omissions when carrying out or intending to carry out their responsibilities or when performing or exercising or intending to perform or exercise their functions, duties, or powers.
- (2) The persons are—
 - (a) the Minister;
 - (b) the Secretary;
 - (c) a member of a body or entity established under this Act;
 - (d) an authorised officer;
 - (e) any other person or body engaged in the administration of this Act.
- (3) This section does not affect the availability of judicial review of a decision made or action taken under this Act by any of those persons, including relating to the reasonableness of the decision or action.

24 Immunity from civil liability

An individual or entity is not liable in civil or criminal proceedings for a failure by the individual or entity—

- (a) to perform a function under this Act; or
- (b) to comply with an obligation, objective, or principle in or under this Act.

Conflicts of interest

25 Meaning of material personal interest

- (1) In this Act, a person has a **material personal interest** in a matter if the person or a close family member of the person has a direct or indirect interest in the outcome of a decision either to take, or refrain from taking, action under this Act.
- (2) A material personal interest may include (but is not limited to) an interest arising from a financial interest, a personal relationship, an employment relationship, business relationship, or other duty or responsibility.
- (3) In **subsection (1)**,—

close family member means someone with whom the person has a close family connection (directly or through marriage) and includes, but is not limited to, the following persons:

 - (a) a spouse or de facto partner of the person;
 - (b) a child of the person;

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- (c) a parent of the person;
 - (d) a sibling of the person
- direct or indirect interest** means an interest—
- (e) that is more than slight or negligible; and
 - (f) could give rise to a real or perceived conflict of interest.

26 Obligations of Secretary for dealing with conflicts of interest

- (1) This section applies if the Secretary has a material personal interest in a matter for which the Secretary is authorised or required to act under this Act (whether directly or through a delegation).
- (2) The Secretary must disclose the interest to the Minister as soon as practicable after becoming aware of the interest.
- (3) The disclosure must include the nature and extent of the interest (including any monetary value, if quantifiable).
- (4) The Secretary must not act in respect of the matter unless authorised to do so by the Minister in writing.

27 Conflicts of interest of persons other than Secretary

- (1) This section applies if a person other than the Minister or Secretary has a material personal interest in a matter for which the person is authorised or required to act under this Act (whether directly or through a delegation).
- (2) The person must disclose the material personal interest to the Secretary and must not act in respect of the matter unless authorised to do so by the Secretary.
- (3) The disclosure must include the nature and extent of the interest (including any monetary value, if quantifiable).
- (4) The Secretary must disclose the interest to the Minister as soon as practicable after becoming aware of the interest.
- (5) The person must not act in respect of the matter unless authorised to do so by the Secretary in writing.

Part 3

Public health planning

National Public Health Plan

28 National Public Health Plan

- (1) The Minister must make and maintain a National Public Health Plan in accordance with **section xx**.
- (2) The National Public Health Plan must address the following matters:
 - (a) the state of public health in the Cook Islands;
 - (b) current and future threats to public health including from communicable and non-communicable diseases and climate change;
 - (c) strategies and policies to protect and promote public health including through whole of government initiatives;

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- (d) issues arising from island public health plans to the extent that the Minister considers appropriate.
- (3) The National Public Health Plan may be included in another national plan for health, for example the national health strategic plan.

29 Review and duration of National Public Health Plan

- (1) The National Public Health Plan must be reviewed and amended as necessary to ensure that it continues to address the matters in **section xx(2)**.
- (2) The National Public Health Plan must, not later than 5 years after it comes into effect, be replaced with a new plan.

30 Preparing and amending National Public Health Plan

The Minister must, before making or amending a National Public Health Plan,—

- (a) prepare a draft of the plan or the amendment and make it publicly available; and
- (b) take reasonable steps to consult on the plan or the amendment, including inviting comments and submissions on the plan or amendment; and
- (c) have regard to comments and submissions received from consultation; and
- (d) prepare a final plan, which must be made publicly available.

Island Public Health Plan

31 Island Public Health Plan

- (1) The Minister may make an Island Public Health Plan for 1 or more Island Governments after consultation with the Island Governments concerned in accordance with **section xx**.
- (2) An Island Public Health Plan must be consistent with the National Public Health Plan and must address the following matters specific to the relevant islands:
 - (a) the state of public health on the island or islands;
 - (b) current and future threats to public health on the island or islands including from communicable and non-communicable diseases and climate change;
 - (c) strategies and policies to protect and promote public health for the island or islands.
- (3) An Island Public Health Plan for more than 1 Island Government may address matters that are specific to a particular Island Government.

32 Review and duration of Island Public Health Plan

- (1) An Island Public Health Plan must be reviewed and amended as necessary to ensure that it continues to address the matters in **section xx(2)**.
- (2) The duration of an Island Public Health Plan is 5 years.

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33 **Preparing and amending Island Public Health Plan**

Before making or amending an Island Public Health Plan, the Minister must, in consultation with the Island Governments concerned,—

- (a) prepare a draft of the plan or the amendment and make it publicly available; and
- (b) take reasonable steps to consult on the plan or the amendment, including inviting comments and submissions on the plan or amendment; and
- (c) have regard to comments and submissions received from the consultation; and
- (d) prepare a final plan, which must be made publicly available to the island communities concerned.

National Public Health Committee

34 **National Public Health Committee established**

- (1) A National Public Health Committee is established.
- (2) The chairperson of the Committee is the Secretary.
- (3) The other members of the Committee must be appointed by the Queen's Representative by Order in Executive Council and must comprise—
 - (a) the person holding the role of Director of Public Health within the Ministry, or an equivalent role determined by the Secretary; and
 - (b) the Medical Officer of Health (if one has been appointed); and
 - (c) a representative of the ministry responsible for agriculture, chosen by the Minister of Agriculture; and
 - (d) a representative of the ministry responsible for the environment, chosen by the Minister for the Environment; and
 - (e) 6 members chosen by the Minister [with 1 person from each of] the following categories:
 - (i) a representative of the House of Ariki:
 - (ii) a representative of the Religious Advisory Council:
 - (iii) a representative of the Pa Enuu:
 - (iv) a representative of the puna:
 - (v) a person representing Cook Islands youth:
 - (vi) a person representing Cook Islands non-government organisations.
- (4) A member appointed under **subsection (3)(c), (d), or (e)**—
 - (a) holds office for 2 years or any shorter period stated in the notice of appointment; and
 - (b) may be reappointed; and
 - (c) continues in office despite the expiry of the member's term of office until—
 - (i) the member is reappointed; or
 - (ii) the member's successor is appointed; or

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- (iii) the Minister informs the member by written notice (with a copy to the Committee) that the member will not be reappointed and no successor will be appointed.

35 Functions of National Public Health Committee

The National Public Health Committee has the following functions:

- (a) to advise the Minister in relation to—
 - (i) the protection and promotion of public health; and
 - (ii) the development and maintenance of a system of strategic planning for public health at the local and national levels:
- (b) to advise and make recommendations for whole of government strategies designed to improve the health and wellbeing of Cook Islanders:
- (c) to monitor new and emerging threats to public health:
- (d) to recommend strategies and initiatives to respond to and mitigate the threats to public health of climate change:
- (e) to recommend strategies and initiatives to reduce the burden of communicable and non-communicable diseases across the Cook Islands:
- (f) to advise on any matter referred to it by the Minister or determined by the Chairperson of the Committee:
- (g) to recommend programmes to promote public health research in the Cook Islands:
- (h) to report to the Minister annually on the state of public health in the Cook Islands, the administration of the Act generally, and any other matters specified from time to time by the Minister:
- (i) any other functions assigned to the Committee by this or any other Act or by the Minister.

36 Deputy chairperson

- (1) The National Public Health Committee may appoint 1 or more deputy chairpersons from the members of the Committee.
- (2) A deputy chairperson may perform all the functions, and exercise all the powers, of the chairperson during the period of the deputy chairperson's appointment.

37 Vacancies

If a vacancy occurs on the National Public Health Committee, the Minister must, as soon as is reasonably practicable, fill the vacancy by appointing another person to the Committee in accordance with **section xx**.

38 Validity of acts

The acts of a person as a member of the National Public Health Committee are valid even if the person's appointment was invalid or defective.

39 Resignation

A member of the National Public Health Committee may resign at any time by notice in writing to the Minister (with a copy to the Committee).

40 Removal from office

(1) The Minister may remove a member of the National Public Health Committee from office by written notice to the member (with a copy to the Committee) at any time for any of the following reasons proved to Minister's satisfaction:

- (a) breach of the member's duties or the Committee's collective duties under this Act; or
- (b) failure or inability to perform, or inadequate performance of, the member's duties and responsibilities as a member; or
- (c) misconduct by the member; or
- (d) any other just cause.

(2) The notice must state the reasons for the removal.

(3) A member is not entitled to any compensation or other payment or benefit relating to the member's removal from office.

41 Members ceasing to hold office

(1) A member ceases to hold office if the member resigns or is removed from office under **section 40** or ceases to hold office in accordance with any enactment.

(2) If **subsection (1)** applies, **section 34(4)(b) and (c)** does not apply.

42 Allowances and expenses

(1) A member of the National Public Health Committee is entitled to receive—

- (a) remuneration by way of fees, salary, or allowances for their services as a member:
- (b) payment of travelling allowances or expenses in respect of time spent travelling, or in connection with their functions as a member.

(2) Remuneration and other payments under **subsection (1)** are payable as prescribed in regulations.

(3) A member of the Committee who is a member of the public service is not entitled to remuneration for their services.

43 Conflicts of interest

(1) A member of the National Public Health Committee who, in performing and exercising their functions, has a conflict of interest or a potential conflict of interest in respect of a matter considered by the Committee must—

- (a) disclose the conflict of interest to the Committee; and
- (b) withdraw from deliberations and decisions of the Committee relating to the matter.

(2) The Minister must require prospective members of the Committee to disclose, before their appointment to the Committee, any involvement

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or interests they or their immediate families have with organisations or products whose regulation or control may raise a conflict of interest with matters considered by the Committee.

44 Procedure

- (1) The National Public Health Committee may regulate its procedure as it sees fit, subject to this Act and any regulations made under it.
- (2) A quorum for a meeting of the Committee is [6] members.
- (3) Every question before the Committee must be determined by the opinion of the majority of members present at the Committee meeting where the question is considered, and if the members are equally divided in their opinions, the opinion of the Chairperson prevails.
- (4) A meeting of the Committee where some or all members participate by telephone or video conference is valid and effectual.

45 Sub-committees of National Public Health Committee

- (1) The National Public Health Committee may—
 - (a) establish sub-committees to advise the Committee; and
 - (b) determine terms of reference for a sub-committee.
- (2) The Committee may co-opt up to [2 persons] from outside the committee's membership onto a sub-committee for their specialist knowledge and expertise on a matter being considered by the sub-committee for the purpose of dealing with that matter.

Part 4

General duty

General duty

46 General duty

- (1) A person must take all reasonable and practicable steps to prevent or minimise any harm to public health that might foreseeably result from anything done or omitted to be done by the person.
- (2) Regulations made under the Act may specify matters or circumstances that amount to—
 - (a) a breach of the general duty;
 - (b) compliance with the general duty.
- (3) A failure to comply with the general duty may result in a compliance notice being issued under **section xx** but does not otherwise of itself—
 - (a) give rise to any right or remedy; or
 - (b) constitute an offence.

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Compliance notices for breach of general duty

47 Compliance notice for breach of general duty

- (1) An authorised officer may issue a compliance notice under **section xx**, for a breach of a person's general duty if the officer—
 - (a) believes on reasonable grounds that the person has breached the person's general duty; and
 - (b) is satisfied of the matters in **subsection (2)**.
- (2) The authorised officer must be satisfied that—
 - (a) the action required by the notice is proportionate to the risk to be addressed; and
 - (b) issuing the notice is appropriate in the circumstances.
- (3) In determining whether the notice is appropriate in the circumstances, the authorised officer must have regard to—
 - (a) the number of persons affected, or potentially affected, by the breach of duty; and
 - (b) the degree, or potential degree, of public health risk resulting from the breach of duty; and
 - (c) any relevant environmental, cultural, spiritual, economic, or practical considerations; and
 - (d) any reasonable precautions that the person could have taken to avoid or minimise the adverse effects or potential adverse effects of the breach of duty; and
 - (e) any reasonable precautions that a person adversely affected, or potentially adversely affected, by the breach of duty (**person A**) has or has not taken to avoid or minimise the effect, or potential effect, of the breach on—
 - (i) person A's health; or
 - (ii) the health of a person for whose care, support, or education person A is responsible; and
 - (f) any relevant standard or guideline.
- (4) See **section xx** for general requirements that apply to the issuing of a compliance notice.
- (5) Compliance by a person with applicable guidelines made under **section xx** is a defence to proceedings [relating to a compliance notice] for breach of the person's general duty.

48 Guidelines

The Secretary may issue guidelines to help persons comply with their general duty.

49 Review of compliance notice

- (1) A person who has been issued with a compliance notice may apply to the Secretary for review of the notice.
- (2) An application for review must be made within 14 days after the notice is served on the person unless the Secretary, in their discretion, allows an extension of time.

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- (3) The Secretary must consider and determine an application made under this section as soon as is reasonably practicable.

50 Decision on review

- (1) The Secretary may, after considering an application for review, confirm, vary, or revoke any requirements in the compliance notice to which the review relates.
- (2) The compliance order to which the review relates remains in force during the proceedings, unless the Secretary decides otherwise.

51 Appeal of review decision

- (1) A person who is dissatisfied with a review decision may appeal to the High Court under **section xx**.
- (2) The compliance order to which the review relates remains in force during the proceedings, unless the High Court decides otherwise.

Complaints

52 Complaints

- (1) A person (**person A**) may make a complaint to an authorised officer if person A believes that another person (**person B**) has breached person B's general duty.
- (2) This section does not prevent an authorised officer commencing an investigation on the officer's own initiative.

53 Preliminary assessment and investigation of complaint

- (1) An authorised officer must investigate a complaint if, after making a preliminary assessment of it, they consider it appears that a breach of the general duty has occurred.
- (2) An investigation must be completed within a reasonable time taking into account the nature and complexity of the complaint.
- (3) After investigating a complaint, an authorised officer must decide whether it appears that, on the balance of probabilities, the person is in breach of their general duty.

54 If breach of duty found

- (1) If, after investigating a complaint, an authorised officer decides that a person is in breach of their general duty, the officer must inform the person and the complainant of the reasons for the decision and—
 - (a) issue a compliance notice in accordance with **section xx**; or
 - (b) if the authorised officer considers that the matter could be dealt with more appropriately in another manner by a government department or government agency (other than the Ministry), refer the complaint to that department or agency.
- (2) In the case of a referral under **subsection (3)(b)**, the authorised officer must inform the person and the complainant in writing of the referral and that no further action will be taken under this Act.

55 If no breach of duty found

If, after assessing or investigating a complaint, an authorised officer decides that a person does not appear to be in breach of their general duty they must—

- (a) notify the person and the complainant of the reasons for the decision; and
- (b) give the complainant advice on options for an alternative resolution of the issue (if practicable).

Part 5

Offence of causing risk to public health

56 Offence of causing material risk to public health

(1) A person commits an offence who—

- (a) intentionally or recklessly causes a material risk to public health; and
- (b) knows or ought to know that harm to public health will result from that material risk.

(2) A person who commits an offence under **subsection (1)** is liable on conviction,—

- (a) in the case of an individual, to a fine not exceeding \$[insert amount], or to imprisonment for a term not exceeding [insert length of imprisonment], or both; or
- (b) in any other case, to a fine not exceeding \$[insert amount].

(3) In this section, **material risk**—

- (a) means a risk that actual or potential harm might result to any person or persons; but
- (b) does not include a case where the actual or potential harm is trivial or negligible.

57 Offence of causing serious risk to public health

(1) A person commits an offence who—

- (a) intentionally or recklessly causes a serious risk to public health; and
- (b) knows or ought to know that harm to public health will result from that serious risk.

(2) A person who commits an offence under **subsection (1)** is liable on conviction,—

- (a) in the case of an individual, to a fine not exceeding \$[insert amount], or to imprisonment for a term not exceeding [insert length of imprisonment], or both; or
- (b) in any other case, to a fine not exceeding \$[insert amount].

(3) In this section, serious risk means a risk that harm will or may be caused to the health of the public or a section of the public and that harm is likely to—

- (a) be of long duration; or

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- (b) affect a wide geographical area; or
- (c) have a serious impact on human life.

58 Defence of due diligence

- (1) In any proceedings against a person for an offence under this Part, it is a defence if the person proves that they took all reasonable precautions and exercised all due diligence to prevent the offence being committed.
- (2) The defence in **subsection (1)** does not apply unless it is proved on the balance of probabilities that the person—
 - (a) took reasonable steps to prevent or avoid the circumstances that gave rise to the risk to public health, including by putting in place any systems or safeguards that might reasonably be expected to be provided; and
 - (b) complied with the requirements of any notice or order under this Act that related to the risk to public health; and
 - (c) as soon as becoming aware of the circumstances that gave rise to the risk to public health took all reasonable steps necessary to prevent or reduce the risk to public health.

Part 6

Water quality, waste, disease vectors, and antimicrobial resistance

Subpart 1—Water quality

59 Application of this subpart

- (1) This subpart applies to water in the Cook Islands including water from a source within the Cook Islands that has been packaged for commercial or retail sale.
- (2) This subpart does not apply to water from a source outside the Cook Islands that has been packaged for commercial use or retail sale.

60 Water intended for human consumption

- (1) This section applies if the Secretary believes on reasonable grounds that water to which this subpart applies and which is intended for human consumption presents or may present a risk to public health.
- (2) The Secretary may—
 - (a) order any action be taken that the Secretary considers is reasonably necessary to minimise the risk to public health (including closing the source of the water) (a **water quality order**):
 - (b) require or allow persons to enter onto and take any action specified in an order under **paragraph (a)** on any land without notice to any land owner.
- (3) The Secretary must consult with any person or entity responsible for testing or monitoring the water source or supply before taking any action under **subsection (2)**.

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- (4) However, the Secretary is not required to consult under **subsection (3)** if the Secretary considers that the risk to public health requires urgent action.
- (5) The Secretary must notify any person or entity responsible for testing or monitoring the water source or supply of the action taken as soon as is reasonably practicable if **subsection (4)** applies.

61 Public exposure to contaminated water at public swimming pools or swimming places, or other exposure

- (1) This section applies if the Secretary believes on reasonable grounds that there is a risk to public health arising—
 - (a) from human exposure to contaminated water in a public swimming pool or public swimming place:
 - (b) in any other circumstance where persons might be exposed to contaminated water (including by secondary exposure such as the drift of irrigation spray) on public or private property.
- (2) The Secretary may—
 - (a) order any action be taken that the Secretary considers is reasonably necessary to minimise the risk to public health (including closing the pool or place) (a **water quality order**):
 - (b) serve the water quality order on the person responsible for operating or managing the place or activity requiring specified action to be taken by them to minimise the risk:
 - (c) serve a water quality notice on that person to be displayed at the entrance to the pool or place.
- (3) A person who is served with a water quality notice must display it at the entrance to the relevant pool, place, or property.

62 Service of water quality order and water quality notice

- (1) If there is no person on whom a water quality order and water quality notice can practicably be served, the Secretary must instead display a copy of the notice at the entrance of the place which is subject to the order.
- (2) *See section xx* for requirements for service generally.

63 Non-compliance with water quality order or water quality notice

- (1) A person commits an offence who, without reasonable excuse,
 - (a) obstructs any person taking any action that the Secretary orders be taken under **section xx**:
 - (b) fails to comply with a water quality order served on them under **section xx**:
 - (c) fails to display a water quality notice served on them under **section xx**.
- (2) A person who commits an offence under **subsection (1)** is liable on conviction to—

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- (a) in the case of an individual, to a fine not exceeding \$[insert amount], or to imprisonment for a term not exceeding [insert length of imprisonment], or both; or
- (b) in any other case, to a fine not exceeding \$[insert amount].

64 Regulations about water

- (1) Regulations made under **section xx** may impose requirements and standards about discharges and contaminants with respect to—
 - (a) any source of water intended for human consumption:
 - (b) any wastewater.
- (2) Regulations under **subsection (1)** may, without limitation,—
 - (a) prohibit the discharge of any material or chemical that may present a risk to public health into, or contamination of, any water source or wastewater:
 - (b) impose offences and penalties for breach of the regulations.

65 Secretary may establish guidelines for water monitoring and testing

- (1) The Secretary may establish guidelines for monitoring and testing of drinking water or treated wastewater to ensure that the drinking water or wastewater does not present a risk to public health.
- (2) In establishing guidelines the Secretary must—
 - (a) take into account the purposes for which the drinking water or treated wastewater is being used and the likely human exposure associated with those purposes; and
 - (b) have regard to—
 - (i) the *WHO Guidelines for the Safe Use of Wastewater, Excreta and Greywater* (2006) as amended from time to time; and
 - (ii) the Food and Agriculture Organisation publication *Wastewater Treatment and Use in Agriculture* (1992) as amended from time to time; and
 - (iii) any other standard or guideline the Secretary considers relevant.

Subpart 2—Disease vectors

66 Breach of general duty in relation to disease vectors

An owner or occupier of premises who does not keep the premises free from conditions or accumulations that might promote the breeding of mosquitoes or other disease vectors is in breach of the general duty.

67 Power of entry relating to disease vectors

An authorised officer may enter any premises and take any measures that they consider are reasonably necessary to eradicate disease vectors in or near the premises.

68 Regulations about disease vectors

- (1) Regulations made under **section xx** may impose requirements and standards to protect the public against health risks from any specified disease vector.

69 Secretary may issue guidelines about disease vectors

The Secretary may issue guidelines setting out actions persons must undertake to ensure that they do not create areas favourable for the breeding of mosquitoes and other disease vectors.

Subpart 3—Antimicrobial resistance

70 Obligations on Secretary for dealing with antimicrobial resistance

The Secretary must, with respect to antimicrobial resistance,—

- (a) monitor—
- (i) the supply and use of antimicrobials across the Cook Islands; and
 - (ii) any reports of antimicrobial resistance; and
- (b) assess the potential risk to public health presented by their supply and use of antimicrobials; and
- (c) prepare and implement a plan to address antimicrobial resistance.

71 Preparing and implementing plan about antimicrobial resistance

- (1) In preparing and implementing the plan required under **section xx**, the Secretary must consider current practices and requirements relating to the following matters:

- (a) antimicrobial residue limits in food:
- (b) inspection of imported foods for possible antimicrobial residues:
- (c) commercial importation of antimicrobial medicines for human and animal use into the Cook Islands:
- (d) prescribing, supply, and use of antimicrobials for humans and animals:
- (e) primary production controls in relation to the use of antimicrobials in animal feed:
- (f) discharge of microbial residues into the environment:
- (g) infection control procedures in hospitals and health care facilities.

- (2) The Secretary must periodically review and update the plan as necessary.

- (3) The Secretary must report to the Minister about the plan and its implementation as required.

72 Regulations about antimicrobial resistance

- (1) Regulations may, on the recommendation of the Minister, impose requirements or prohibitions in respect of any of the matters in **section xx(1)**.

- (2) Before recommending the making of regulations under **subsection (1)** the Minister must be satisfied that the use or prescribing of

antimicrobials is presenting a risk to public health by promoting antimicrobial resistance and that regulations are an appropriate measure to address the risk.

Part 7 Vaccination

Vaccination requirements

73 Vaccine preventable diseases order

- (1) The Queen's Representative may, by Order in Executive Council, declare vaccine preventable diseases for the purposes of this Act.
- (2) This section is subject to **section xx** [a transitional provision for current list of vaccine preventable conditions].
- (3) In this Act, **vaccine preventable disease** includes a disease for which a vaccine, rather than preventing the disease, may—
 - (a) reduce the risk for an individual of contracting the disease:
 - (b) reduce the severity of the disease if they do contract it.

74 National immunisation schedule

- (1) The Secretary must—
 - (a) approve a national immunisation schedule for vaccine preventable diseases; and
 - (b) periodically review and update the schedule as necessary.
- (2) The schedule, and any changes to the schedule, must be published on a publicly accessible Internet site maintained by, or on behalf of, the Ministry.
- (3) Changes to the schedule must also be notified in the Cook Islands in at least 2 or more of the following ways:
 - (a) by a notice published in a reasonably widely circulated newspaper:
 - (b) by an announcement on television:
 - (c) by an announcement on the radio:
 - (d) by a notice on a reasonably widely accessible social media platform:
 - (e) by any other mechanism that is likely to reach the majority of the population either directly or indirectly.
- (4) In preparing and reviewing the schedule, the Secretary must have regard to the WHO Table *Recommended Routine Immunisations for Children*, as amended from time to time.

75 Vaccination availability

The Secretary must, so far as practicable, ensure that the vaccines listed in the national immunisation schedule are accessible and available for all residents of the Cook Islands—

- (a) subject to the requirements in this Part; and

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- (b) without charge to the residents.

76 Administration of vaccines to children

- (1) A child may only be vaccinated by a medical practitioner or other person authorised by the Minister, in writing, to give vaccinations to children.
- (2) A person who vaccinates a child must—
 - (a) provide the Secretary with any information the Secretary requires be provided about vaccinations of children; and
 - (b) provide the parent of the child with an immunisation record—
 - (i) in the form approved by the Secretary; and
 - (ii) containing the information specified by the Secretary.

77 National immunisation register

- (1) The Secretary must keep and maintain a national immunisation register.
- (2) The purpose of the register is to—
 - (a) record and monitor the vaccination status of individuals; and
 - (b) verify immunisation records; and
 - (c) monitor vaccine coverage and the effectiveness of vaccines and vaccination programmes; and
 - (d) identify risks associated with vaccination rates in an area or community; and
 - (e) facilitate research and analysis relating to vaccines and vaccine preventable diseases.
- (3) The register must include—
 - (a) the names of persons who have been vaccinated in accordance with this Part, the vaccines administered to them, and the places where they were administered; and
 - (b) any other information the Secretary considers reasonably necessary for the administration of this Act.

78 Actions if parent fails to ensure child vaccinated

- (1) This section applies if a child's parent fails to make all reasonable efforts to ensure that the child is vaccinated according to the vaccination schedule.
- (2) An authorised officer must—
 - (a) notify the child's parent that the child has not received a particular vaccination; and
 - (b) offer counselling and education to the child's parent.
- (3) If the child's parent is given a reasonable opportunity to participate in counselling or education but fails to do so, the Secretary may order the parent to participate in counselling or education about the vaccination.

79 Attendance at school

- (1) Before a child starts attending any school, the child's parent must provide to the principal of the school an up to date vaccination record relating to the child.

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- (2) The principal of a school must take reasonable steps to ensure that the parent of a child who will attend the school complies with **subsection (1)**.
- (3) In this section, **up to date vaccination record** means—
 - (a) an immunisation record issued by a medical practitioner (or other authorised person); or
 - (b) a vaccination record in a form approved by the Secretary; or
 - (c) an extract from the national immunisation register; or
 - (d) an exemption from vaccination provided by the Secretary; or
 - (e) an equivalent of any of the things in paragraphs (a) to (d) provided by an overseas government [and agreed by the Secretary].

80 Obligations of principal relating to vaccination records

- (1) The principal of a school must, for the period of a child's enrolment, keep a copy of all vaccination records provided to the principal in respect of the child.
- (2) The principal must provide the Secretary with the required details relating to any unvaccinated child that the principal is aware of.
- (3) The Secretary may request any additional information from the principal that the Secretary considers is reasonably necessary to contact the parents of children reported as being unvaccinated.

Outbreak of vaccine preventable disease

81 Secretary may declare outbreak of vaccine preventable disease

- (1) The Secretary may, in writing, declare that there is an outbreak of a vaccine preventable disease.
- (2) The Secretary may make a declaration under **subsection (1)** if the Secretary believes on reasonable grounds that there is a vaccine preventable disease present in the Cook Islands.
- (3) A declaration under this section must be published on a publicly accessible Internet site maintained, by or on behalf of, the Ministry.
- (4) The Secretary may revoke a declaration under this section if satisfied that it is no longer needed.

82 Obligations on schools when outbreak declared

- (1) This section applies if the Secretary declares that there is an outbreak of a vaccine preventable disease under **section xx**.
- (2) The principal of a school must—
 - (a) provide the Secretary with all assistance the Secretary considers is reasonably necessary to respond to the outbreak; and
 - (b) if directed by the Secretary, exclude any unvaccinated children from attending the school until a time that the Secretary specifies.
- (3) The Secretary may, in writing, order the closure of any school for a specified period.
- (4) The Secretary may make a direction or order under this section if the Secretary believes on reasonable grounds that it is necessary—

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- (a) to reduce transmission of the vaccine preventable disease and protect public health; or
- (b) to protect the health of an unvaccinated child.

Administrative matters and regulations

- 83 Arrangements between Secretary and Ministry of Education**
The Secretary may consult with and enter arrangements with the Ministry of Education in order to facilitate the measures in this Part relating to schools.
- 84 Regulations about vaccination**
Regulations made under **section xx** may impose requirements relating to—
- (a) the content and availability of the national immunisation register;
 - (b) arrangements with schools relating to vaccination requirements;
 - (c) the administration of vaccines.

Part 8 **Notifiable conditions and notifiable pathogens**

General provisions

- 85 Meaning of notifiable condition and notifiable pathogen**
In this Act, unless the context otherwise requires,—
- notifiable condition** means a disease specified as a notifiable communicable condition or other notifiable condition—
- (a) in **Part 1** of **Schedule xx** (which may be amended by Order in Executive Council under **section xx**); or
 - (b) by the Minister under **section xx**
- notifiable pathogen** means a pathogen specified as a notifiable pathogen—
- (a) in **Part 2** of **Schedule xx** (which may be amended by Order in Executive Council under **section xx**); or
 - (b) by the Minister under **section xx**.
- 86 Notifiable conditions and notifiable pathogens may be declared by order in Executive Council**
The Queen’s Representative may, by Order in Executive Council on the recommendation of the Minister, amend or replace **Schedule xx** to—
- (a) add or remove 1 or more diseases to or from the lists of notifiable communicable conditions or other notifiable conditions in Part 1 of that Schedule;
 - (b) add or remove 1 or more pathogens to or from the list of notifiable pathogens in Part 2 of that Schedule.

87 Notifiable conditions or notifiable pathogens may be declared by Minister

- (1) This section applies if the Minister considers that a new disease presents an urgent and serious risk to public health.
- (2) The Minister may declare the disease or any specified symptoms to be a notifiable condition or a notifiable pathogen.
- (3) A declaration under this section—
 - (a) must be for a period no longer than 6 months, but may be extended for 1 further period of no longer than 6 months if the Minister considers it is reasonably necessary in the circumstances; and
 - (b) prevails to the extent of any inconsistency with **Schedule xx**.
- (4) The disease must be added to **Schedule xx** as soon as reasonably practicable.

Notifiable conditions

88 Reporting of notifiable condition by responsible person

- (1) This section applies to a responsible person who has diagnosed or suspects that a person (**person A**)—
 - (a) has or may have a notifiable condition; or
 - (b) has died from or with a notifiable condition.
- (2) Despite any obligation of confidentiality, the responsible person must report person A's case to the Secretary in accordance with **section xx**—
 - (a) as soon as reasonably practicable after making the diagnosis or forming the suspicion; or
 - (b) within any other period specified by the Secretary and notified on a publicly accessible Internet site maintained by, or on behalf of, the Ministry specified period.
- (3) A responsible person to whom **subsection (1)** applies is not required to report person A's case to the Secretary if the responsible person knows that another responsible person has reported the case to the Secretary.
- (4) In this section, **responsible person** means—
 - (a) a medical practitioner treating person A or responsible for person A's care; or
 - (b) the manager of a medical laboratory that processed a test for person A; or
 - (c) a person who is—
 - (i) from any other class of persons specified by the Secretary to be subject to the notification requirements in this section and notified on a publicly accessible Internet site maintained by, or on behalf of, the Ministry; and
 - (ii) involved in the treatment or care of person A.

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Notifiable pathogens

89 Reporting of notifiable pathogen by veterinarian or other responsible person

- (1) This section applies to a responsible person who has diagnosed or suspects that an animal—
 - (a) is or may be infected with a notifiable pathogen; or
 - (b) has died from or with a notifiable pathogen.
- (2) The responsible person must report the animal's case to the Secretary in accordance with **section xx**—
 - (a) as soon as reasonably practicable after making the diagnosis or forming the suspicion; or
 - (b) within any other period by the Secretary and notified on a publicly accessible Internet site maintained by, or on behalf of, the Ministry.
- (3) A responsible person to whom **subsection (1)** applies is not required to report the case to the Secretary if the responsible person knows that another responsible person has reported the case to the Secretary.
- (4) In this section, **responsible person** means—
 - (a) a veterinarian; or
 - (b) a person who is—
 - (i) from any other class of persons specified by the Secretary to be subject to the notification requirements in this section and notified on a publicly accessible Internet site maintained by, or on behalf of, the Ministry; and
 - (ii) involved in the treatment or care of the animal.

90 Reporting of notifiable pathogen by laboratory

- (1) This section applies if a notifiable pathogen is detected or isolated at a laboratory.
- (2) The manager of the laboratory must report the case to the Secretary in accordance with **section xx** as soon as reasonably practicable or within any other specified period.
- (3) In this section, **specified period** means a period specified by the Secretary and notified on a publicly accessible Internet site maintained by, or on behalf of, the Ministry.

General provisions applying to reporting

91 Protection from liability for reporting

- (1) A person required to report a notifiable condition or notifiable pathogen under this Part is not liable for a mistaken or inaccurate report provided that it was made honestly and in compliance with the rest of this Act.
- (2) A person who provides information to the Secretary in good faith in connection with a notification requirement under this Part is not liable in civil or criminal proceedings, or to be regarded as having breached any duty of confidentiality or professional ethics, for having done so.

92 Manner and form of reports

A report of a notifiable condition or notifiable pathogen under this Part must be in the manner and form approved by the Secretary and accompanied by the information required by the Secretary (if any).

Part 9

Notifiable communicable conditions, public health emergencies, and serious incidents

Subpart 1—Principles for administering this Part

93 Principles for administering this Part

- (1) This Part must be administered according to the principles in this section in addition to the general principles in **section xx**.
- (2) The overriding principle that applies to this Part is that members of the public have a right to be protected from a person whose infectious state or whose behaviour may present a risk of the transmission of a notifiable communicable condition.
- (3) The secondary principles are—
 - (a) a person who has a notifiable communicable condition must take reasonable steps and precautions to avoid placing others at risk of infection; and
 - (b) a person must not act in a way that will place themselves or anyone else at risk of infection; and
 - (c) a person who is the subject of an order, restriction, or measure under this Part—
 - (i) must be provided with appropriate and adequate care, support, accommodation, treatment, and sustenance, and in a manner that is respectful of their dignity, without discrimination; and
 - (ii) must have their cultural and spiritual beliefs respected wherever possible; and
 - (iii) if they are detained because they have been exposed to a notifiable communicable condition, must be detained in circumstances that minimise the risk of them being further exposed to infection; and
 - (iv) must be given a reasonable opportunity wherever possible to voluntarily comply with or implement an order, restriction, or measure before another order, restriction, or measure is made or applied to them; and
 - (v) must be given—
 - (A) a reasonable opportunity wherever possible to participate in decision-making processes; and
 - (B) reasons for any decisions made in relation to their treatment or an order, restriction, or measure to which they [or their property] is subject.

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- (4) The principles in this section prevail to the extent of any inconsistency with the general principles in **section xx**.
- (5) In this section, **discrimination** means discrimination on any of the grounds provided under the Constitution.

Subpart 2—Notifiable communicable conditions: reporting obligations and other obligations of persons with condition

94 Medical practitioner must advise person

- (1) This section applies to a medical practitioner (to whom **section xx** applies) who has diagnosed or suspects that a living person has or may have a notifiable communicable condition.
- (2) the medical practitioner must—
 - (a) notify the person of the diagnosis or suspicion of a notifiable communicable condition; and
 - (b) advise the person about precautions to take to prevent transmission of the condition to others; and
 - (c) advise the person about precautions that others should take to avoid contracting the condition from the person; and
 - (d) advise the person of the person’s obligations under **section xx**; and
 - (e) advise the person on the desirability of counselling (if appropriate), and if that person agrees, make arrangements for counselling.
- (3) The medical practitioner must take those steps as soon as practicable after making the diagnosis or forming the suspicion about the notifiable communicable condition.
- (4) The requirements in this section are in addition to the requirements on the medical practitioner in **section xx**.

95 Reporting of notifiable communicable condition by person with condition

- (1) A person other than a child who knows or believes that they have or may have a notifiable communicable condition must—
 - (a) immediately report that fact to a person who has an obligation to report the condition under **section xx**; and
 - (b) seek medical help to get tested for the condition as soon as is reasonably practicable.
- (2) If a child has or may have a notifiable communicable condition, a parent of the child must comply with the requirements in **subsection (1)** for the child.

96 Person with notifiable communicable condition must avoid infecting others

- (1) Any person who has been diagnosed as having a notifiable communicable condition must take all reasonable precautions necessary to avoid infecting other persons.

- (2) A person who breaches **subsection (1)** commits an offence and is liable on conviction to [penalty].

Subpart 3—Notifiable communicable conditions: contact tracing

97 Purpose of contact tracing

The purpose of contact tracing under this subpart is to obtain information about the contacts of a person who has been diagnosed as or is suspected of having a notifiable communicable condition in order to—

- (a) identify the source of transmission of the condition; and
- (b) make contacts aware that they may be infected so that they can take necessary measures to protect themselves and others; and
- (c) limit transmission of the condition.

98 Interpretation

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

contact tracing officer means an authorised officer or other person who is authorised by the Secretary to undertake contact tracing

contact means a person who has been in contact with a person who has or may have a notifiable communicable condition

diagnosed person means a person who has been diagnosed as or is suspected of having a notifiable communicable condition.

99 Power of contact tracing officers to undertake contact tracing

- (1) A contact tracing officer may undertake contact tracing under **subsection (2)** if the officer suspects on reasonable grounds that a person —

- (a) is a diagnosed person; or
- (b) a contact.

- (2) The contact tracing officer may require a diagnosed person or contact to provide—

- (a) their name, address, and contact information; and
- (b) any information about persons they may have been in contact with; and
- (c) any other information the authorised officer considers is reasonably necessary to reduce the risk to public health through the transmission of the notifiable communicable condition.

- (3) A parent of a child must provide the information in **subsection (2)** relating to the child if required to do so by a contact tracing officer.

- (4) A person who, without reasonable excuse, fails to comply with a requirement to provide information in this section commits an offence.

- (5) A person who commits an offence under **subsection (4)** is liable on conviction to a fine not exceeding \$[insert amount], or to imprisonment for a term not exceeding [insert length of imprisonment].

100 Systems to facilitate contact tracing for notifiable communicable conditions

- (1) The Secretary may, in writing, establish 1 or more systems to collect relevant information for contact tracing.
- (2) A system may do 1 or more of the following:
 - (a) allow contact tracing officers to require any member of the public to provide relevant information on a periodic basis or as otherwise specified:
 - (b) allow contact tracing officers to request any of the following entities to provide relevant information to:
 - (i) an enforcement agency:
 - (ii) a department or agency (however described) of the government of the Cook Islands or the government of another country:
 - (iii) a body corporate or unincorporated organisation that is established for, or carries out, a public purpose under the law of the Cook Islands or another country:
 - (iv) the World Health Organization.
- (3) A system may specify the manner and form that the information must be collected and provided.
- (4) A person who is required to provide information under **subsection (2)(a)** must—
 - (a) maintain the information; and
 - (b) provide information, as required, that is accurate to the best of their knowledge and ability.
- (5) If information is provided in good faith by a person or entity in the Cook Islands to a contact tracing officer under **subsection (2)**, they are not liable in civil or criminal proceedings or to be regarded as having breached any duty of confidentiality or professional ethics for having done so.
- (6) In this section, **relevant information** means information, including personal information, that the Secretary believes is reasonably necessary to reduce a risk to public health from a notifiable communicable condition or notifiable pathogen.

101 Limitations on disclosure of contact tracing information

- (1) Personal information obtained by the Ministry or a contact tracing officer (if they are not employed by the Ministry) under **section xx or xx** or any regulation relating to contact tracing must not be disclosed outside of the Ministry except if—
 - (a) the person to whom the information relates consents to the disclosure; or
 - (b) the disclosure is necessary for the purposes of monitoring, preventing, controlling or abating a public health risk; or
 - (c) the disclosure is required for the ongoing treatment or care of the person to whom it relates; or

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- (d) a Court determines that disclosure is necessary to prevent or lessen a serious threat to the life, health or safety of a person, or a serious threat to public health and subject to any conditions the court imposes; or
 - (e) disclosure is to an enforcement agency or a court or tribunal but only in relation to the provision of false or misleading information under this subpart.
- (2) When considering whether or not to authorise disclosure of personal information for the purposes specified in **subsection (1)(d)**, the Court must have regard to the following factors:
- (a) the seriousness of the stated threat to life, health, or safety;
 - (b) the impact on public health from the release of the personal information.

Subpart 4—Notifiable communicable conditions: other powers of Secretary

102 Restrictions may only be imposed in particular circumstances

An order, restriction, or measure may be made or imposed under this subpart (whether in relation to an individual person or more generally) only if it—

- (a) is necessary to prevent a public health risk; and
- (b) is in proportion to the risk to public health; and
- (c) is the least restrictive means necessary to address the public health risk.

103 Power of Secretary to order clinical examination or test

- (1) The Secretary may make an order (a **detention order**) under this section if—
- (a) the Secretary believes on reasonable grounds that a person has or may have a notifiable communicable condition; and
 - (b) the person has refused or has not otherwise complied with a request for a clinical examination or test for the notifiable communicable condition.
- (2) The Secretary may order the person to be tested or clinically examined to determine the person's infectious state.
- (3) If a person has undertaken a test or examination as required by this section, the Secretary may order the person to remain in isolation in a place specified until the results of the test are available.
- (4) This section is subject to **section xx**. And *see* **section xx** that sets out requirements for the examination or test.

104 Power of Secretary to detain person pending test

- (1) The Secretary may make an order under this section if a person fails or refuses to undertake a clinical examination or test after being ordered to do so under **section xx**.

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- (2) The Secretary may order that the person be detained and confined to a place determined by the Secretary until the person undertakes the test or examination and the results are available.
- (3) However, a person must be released from detention if the Secretary believes that the person no longer presents a risk to public health.

105 Power of Secretary to order counselling

- (1) The Secretary may make an order under this section for a person diagnosed as or is suspected of having a notifiable communicable condition if the Secretary—
 - (a) believes, on reasonable grounds, that counselling is necessary to reduce the spread of the notifiable communicable condition and protect public health; and
 - (b) is satisfied that the person has been given a reasonable opportunity to voluntarily undertake counselling but the person has failed to do so;
- (2) The Secretary may order the person to undergo counselling about the condition and the risks the person may present to others.

106 Power of Secretary to make other orders

- (1) The Secretary may make an order under this section in relation to a person diagnosed as or is suspected of having a notifiable communicable condition if—
 - (a) the person has refused to comply with an order to undertake counselling under **section xx**; or
 - (b) the person has undertaken counselling but the Secretary believes that the person continues to present an unacceptable risk of infecting others; or
 - (c) the Secretary believes that an order to undertake counselling under **section xx** is inappropriate in the circumstances; or
 - (d) the Secretary believes that urgent action is required to prevent the spread of a notifiable communicable condition.
- (2) The Secretary may make any of the following orders that the Secretary believes are reasonably necessary in the circumstances to protect public health:
 - (a) that the person be made subject to specified public health surveillance;
 - (b) that the person must undertake a specified programme of testing or treatment;
 - (c) that the person must refrain from specified activities, employment, or conduct that might constitute a risk to public health;
 - (d) that the person's movements be restricted in a specified way (not amounting to isolation);
 - (e) that the person's contact with other persons be restricted or subject to conditions (not amounting to isolation);
 - (f) an order under **section xx** (which relates to the seizure of items or belongings):

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- (g) that any other restrictions or requirements that the Secretary considers are reasonably necessary to protect public health be imposed on the person.
- (3) **Subsection (2)(b)** is subject to **section xx** and **subsection (2)(f)** is subject to **section xx**

107 Power of Secretary to order isolation

- (1) The Secretary may make an order (an **isolation order**) under this section for a person diagnosed as or suspected of having a notifiable communicable condition if—
 - (a) the person has refused to comply, or not fully complied, with an order made under **section xx**; and
 - (b) the Secretary believes that an order under **section xx** is inappropriate in the circumstances; and
 - (c) that urgent action is required to prevent the spread of a notifiable communicable condition.
- (2) The Secretary may order that the person must be isolated in a place, and be subject to any conditions, specified by the Secretary in the order.
- (3) If the person fails to comply with an order made under **subsection (2)** or if, in the Secretary's opinion, isolation will present an unacceptable risk to public health, the Secretary may order that the person be apprehended and detained in a hospital or other place specified by the Secretary.
- (4) A person subject to an order made under this section must comply with the order for the period specified in the order or until the Secretary otherwise determines, subject to **subsection (5)**.
- (5) An order under this section must be in force for only so long as the Secretary considers that the person presents a risk to public health.
- (6) The Secretary must notify the person in writing as soon as reasonably practicable if the Secretary considers that the person no longer presents a risk to public health and the order ceases to apply to the person when the notification is made.

108 Carrying out of clinical examination or test under order

- (1) This section applies if the Secretary orders a clinical examination or test under **section xx**.
- (2) The examination or test must be carried out by a medical practitioner or a person who is qualified to carry out the examination or test and who is approved by the Secretary in writing.
- (3) The results of the examination or test must be provided to—
 - (a) the Secretary; and
 - (b) the person on whom the test or examination was conducted, or in the case of a child, the child's parent.

109 Power of Secretary to order seizure of items or belongings

- (1) The Secretary may make an order under this section if the Secretary reasonably believes that items or belongings may constitute a risk for the spread of a notifiable communicable condition.

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- (2) The Secretary may, without limitation, order that—
 - (a) any specified items or belongings or types of items or belongings must be seized;
 - (b) any seized items or belongings must be destroyed if the Secretary believes the destruction is necessary in the interests of public health;
 - (c) any seized items or belongings must be quarantined until the items or belongings cease to present a risk to public health, when they may be returned to their owners;
 - (d) any quarantined items or belongings must not be removed from quarantine until the Secretary specifies.
- (3) An authorised officer may do anything reasonably necessary to ensure that an order made under this section is complied with.

110 Offences for non-compliance with orders

- (1) A person must comply with an order made by the Secretary with respect to the person under any of the following provisions:
 - (a) [to come]
 - (b) [to come]
- (2) A person who, without reasonable excuse, breaches **subsection (1)**—
 - (a) commits an offence; and
 - (b) may be ordered to be detained under **section xx**.
- (3) A person who commits an offence under this section is liable on conviction to a fine not exceeding \$[insert amount], or to imprisonment for a term not exceeding [insert length of imprisonment].

111 Order to be detained

- (1) The Secretary may order that a person who fails to comply with an order listed in **section xx** must be detained and confined to a hospital or other suitable place determined by the Secretary until—
 - (a) the Secretary otherwise orders; or
 - (b) the person no longer presents a risk to public health.
- (2) If a person is ordered to be detained under **subsection (1)**, the person may be detained by an authorised officer or constable.
- (3) A person who, without reasonable excuse, leaves a place where they are detained or confined under this section commits an offence.
- (4) A person who commits an offence under this section is liable on conviction to a fine not exceeding \$[insert amount], or to imprisonment for a term not exceeding [insert length of imprisonment].

112 Enforcement and service of orders

- (1) An order under this subpart—
 - (a) may be enforced by use of reasonable force;
 - (b) despite **section xx**, must be served personally on the person to whom it applies.

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- (2) An order does not take effect until it is served according to **subsection (1)(b)**, unless the Secretary believes on reasonable grounds that the person is evading service, in which case it can be served as provided for in **section xx**.
- (3) An order must be in writing and must state—
 - (a) the grounds on which it is being made; and
 - (b) the time at which it comes into force; and
 - (c) the requirements to be complied with; and
 - (d) that the order may be enforced by reasonable force; and
 - (e) the person's rights to seek review of the order; and
 - (f) that failure to comply with the order is an offence.
- (4) The Secretary must take all reasonable steps to ensure that a person to whom an order applies is informed of the information listed in **subsection (3)** in a language likely to be readily understood by the person.
- (5) If urgent action is required to protect public health and it is not practicable to make an order in writing, an order may be issued verbally but a written order must be issued as soon as reasonably practicable and no more than 48 hours after the verbal order is issued.
- (6) *See* **section xx** for requirements for service generally.
- (7) In this section, **order** means an order, or any variation or revocation of an order, made under this subpart.

113 Review of order

- (1) A person subject to an order under this subpart may apply to the Secretary for a review of the order within 5 working days after the order is served.
- (2) An application may be made by the parent of a child subject to an order.
- (3) The review must be undertaken by a Justice of the Peace.
- (4) The Justice of the Peace—
 - (a) must, as soon as reasonably practicable, hear the application and make a decision to confirm, revoke, or modify the order; and
 - (b) may determine the form of the review and proceedings are not subject to the rules of evidence, subject to **subsection (6)**.
- (5) The applicant may—
 - (a) appear personally in any proceedings, unless the Justice of the Peace decides that the proceedings will be conducted by telephone or video conference in the interests of public health; or
 - (b) be represented by another person appointed by the applicant.
- (6) The order remains in force until a decision is made to revoke the order under **subsection (4)**.
- (7) A decision made under this section may be appealed to the High Court.

Subpart 5—Border health

114 Quarantine of vessels and aircraft

- (1) A vessel or aircraft to which this section applies is quarantined at all times, in accordance with **section xx**, until pratique has been granted to the vessel or aircraft.
- (2) This section applies to a vessel or aircraft—
 - (a) entering the Cook Islands from a place outside the Cook Islands; or
 - (b) travelling from a place in the Cook Islands that has been restricted under this Act; or
 - (c) ordered by the Secretary to be quarantined under **subsection (3)**.
- (3) In this section and **section xx**, a **person in charge** of a vessel or aircraft means—
 - (a) for a vessel, the master; or
 - (b) for an aircraft, the pilot responsible for the operation and safety of the aircraft.

115 Effect of quarantine on vessel or aircraft

- (1) This section applies to a vessel or aircraft that is quarantined under **section xx**.
- (2) The person in charge of the vessel or aircraft must not cause or permit the vessel or aircraft to be brought to land anywhere in the Cook Islands except at a place—
 - (a) approved in writing by the Secretary for the inspection of quarantined vessels or quarantined aircraft (as the case may be); or
 - (b) specified by the Secretary with respect to the vessel or aircraft.
- (3) A person must not, except with the written authorisation of the Secretary,—
 - (a) disembark from the vessel or aircraft; or
 - (b) board the vessel or aircraft; or
 - (c) remove an item from the vessel or aircraft (except for personal belongings worn or carried by a person disembarking under an authorisation issued by Secretary); or
 - (d) move the vessel or aircraft from a place where the vessel or aircraft was brought to land.
- (4) The person in charge of the vessel or aircraft must—
 - (a) take all reasonable steps to ensure that no person breaches **subsection (3)** and
 - (b) comply with any other written requirements of the Secretary for the purposes of the quarantine (for example, the Secretary may require a quarantined vessel to fly a quarantine signal).
- (5) A person who breaches any of **subsections (2) to (4)** commits an offence and is liable on conviction—

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- (a) for an individual, to a term of imprisonment not exceeding [X months] or a fine not exceeding \$X; or
- (b) for a body corporate, to a fine not exceeding \$X.

116 Effect of quarantine of vessel or aircraft on persons on board

- (1) If a vessel or aircraft is quarantined under **section xx** the following persons are also quarantined:
 - (a) a person who is on board the vessel or aircraft:
 - (b) a person who was on board the vessel or aircraft at any time during the quarantine applying to that vessel or aircraft.
- (2) **Subsection (1)** does not apply to a person who boards the vessel or aircraft to exercise a function under this Act.

117 Secretary may grant pratique

- (1) The Secretary may grant pratique if satisfied that the quarantined vessel or aircraft does not present a risk to public health.
- (2) The Secretary grants pratique by giving the person in charge of the vessel or aircraft a certificate of pratique in the approved form.

118 Screening tests on arrival in Cook Islands

- (1) The Secretary may require a person arriving in the Cook Islands to undergo a screening test as a condition of entry to the Cook Islands.
- (2) If a person does not consent to undergo a screening test, the Secretary may deny the person entry to the Cook Islands or order them to be isolated for a specified period or until they no longer present a risk to public health.
- (3) In this section, **screening test**—
 - (a) means a test involving the use of any equipment, technology, or process to determine whether a person presents a risk to public health; but
 - (b) does not include an invasive procedure.

Subpart 6—Public health emergencies

Public Health Emergency Plan

119 Public Health Emergency Plan

- (1) The Secretary must prepare and maintain a Public Health Emergency Plan, review the Plan periodically, and keep it up to date so far as is practicable.
- (2) The Plan must—
 - (a) specify the mitigation strategies to be adopted to—
 - (i) reduce the risk of a public health emergency arising; and
 - (ii) for dealing with a public health emergency once it arises; and
 - (b) identify resources available for public health emergency management and how those resources are to be used.

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- (3) In preparing and maintaining the Plan, the Secretary must have regard to plans made under the Disaster Risk Management Act 2007.

Declaration of public health emergency

120 Declaration of public health emergency

- (1) The Queen's Representative may, by Order in Executive Council on the recommendation of the Minister, declare a public health emergency.
- (2) The Minister may recommend the declaration of a public health emergency only if the Minister believes on reasonable grounds that—
 - (a) there is or may be a serious threat to the health of Cook Islanders or a particular community within the Cook Islands; and
 - (b) that the exercise of powers under this subpart is necessary to contain or prevent the threat described in **paragraph (a)**; and
 - (c) in order to safeguard public health, immediate action must be taken.
- (3) A declaration of a public health emergency or an extension of a declaration under **section xx** must specify—
 - (a) the nature of the emergency; and
 - (b) the reason the emergency is declared; and
 - (c) the area to which the emergency powers apply if they do not apply to the whole of the Cook Islands; and
 - (d) the duration of the emergency, subject to **subsection xx**.
- (4) A declaration or extension under this section must be notified in the Cook Islands in at least 2 or more of the following ways:
 - (a) by a notice published in a reasonably widely circulated newspaper;
 - (b) by an announcement on television;
 - (c) by an announcement on the radio;
 - (d) by a notice on a reasonably widely accessible social media platform;
 - (e) by any other mechanism that is likely to reach the majority of the population either directly or indirectly.
- (5) See **section xx** that allows the Prime Minister to declare a public health emergency in certain circumstances.

121 Duration of public health emergency

- (1) A declaration of a public health emergency—
 - (a) must be reviewed every 28 days; and
 - (b) may be extended by the Queens Representative by Order in Executive Council on the recommendation of the Minister for further periods of not exceeding 28 days.
- (2) The Minister may recommend the extension of a declaration of public health emergency only if the Minister believes on reasonable grounds that the public health emergency is continuing.

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- (3) Any extension that makes the total duration of the public health emergency longer than 3 months must be approved by Parliament.

122 Secretary's powers during public health emergency

- (1) The Secretary may take all measures reasonably necessary to contain a public health emergency if a declaration of public health emergency is in force in respect of the emergency.
- (2) The Secretary may, by order, in writing, implement 1 or more of the following measures that the Secretary believes are reasonably necessary to protect public health and to respond to the emergency:
 - (a) order persons who have been, or may have been, exposed to a disease to be tested and re-tested as specified:
 - (b) prevent persons from entering or leaving a specified area:
 - (c) quarantine goods that might pose a risk to public health:
 - (d) prohibit or restrict, or impose conditions on, the entry to or departure from the Cook Islands of any person or persons generally:
 - (e) prohibit or restrict, or impose conditions on, any travel of persons, aircraft, or vessels within the Cook Islands:
 - (f) isolate any vessel or aircraft:
 - (g) close or control access to, or impose conditions on, any place where persons congregate:
 - (h) control, prohibit, or impose conditions on, public gatherings:
 - (i) close or impose conditions on specified businesses or commercial activities:
 - (j) close, control access to, or impose conditions on, the operation of commercial premises, shops, arcades, markets or public transport services:
 - (k) restrict or limit the sale and purchase of specified goods or services:
 - (l) require the use of personal protective equipment (as specified by the Secretary) in public places or in specified premises:
 - (m) impose public health measures including relating to physical distancing between persons:
 - (n) exercise any power in relation to human remains:
 - (o) require a person to provide proof of vaccination or require that they be vaccinated:
 - (p) require a person to provide the results of any clinical test they may have undertaken:
 - (q) acquire premises or property for any purpose related to the emergency response:
 - (r) order the destruction or decontamination of any property or item:
 - (s) close or restrict access to water sources:
 - (t) authorise persons to administer, manufacture, supply, or prescribe therapeutic products despite the provisions of any relevant other

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legislation (including the Ministry of Health (Pharmacy and Therapeutic Products) Regulations 2013):

- (u) authorise persons to practice a regulated health profession;
 - (v) exercise any other power given to the Secretary under this Act.
- (3) **Subsection (2)** does not limit the Secretary's power under **subsection (1)**,
- (4) The power to make orders under this section cannot be delegated to a constable.

123 Isolation orders

- (1) The Secretary may make an order under this section if the Secretary suspects on reasonable grounds that a person may be a carrier, or at risk of carrying and transmitting, a disease that is the subject of a public health emergency.
- (2) The Secretary may order the person to go into a place declared by the Secretary to be an isolation centre.
- (3) At the time that the Secretary orders a person into isolation the Secretary must give the person the reasons for the order and the conditions of the order.
- (4) The conditions of an order must include, but are not limited to,—
- (a) the place where the person must undertake isolation; and
 - (b) the duration of the isolation; and
 - (c) what a person can and cannot do when subject to an isolation; and
 - (d) whether or not the isolation is to be under supervision.
- (5) The conditions of an order must be given to the affected person in writing within 24 hours after the isolation begins and may be varied at any time by the Secretary by giving notice in writing to the affected person.
- (6) As an alternative to isolation in an isolation centre, the Secretary may require a person to remain in isolation in a place specified in the order.
- (7) Before allowing a person to be isolated at a place other than an isolation centre, the Secretary must be satisfied that the person is likely to remain in isolation for the required period and poses no risk to any other person during the period of isolation or to public health generally.

124 Formal requirements for orders under this subpart

- (1) An order made under this subpart—
- (a) must be in writing; and
 - (b) must state the date on which it was made; and
 - (c) must state the date and time on which it comes into force; and
 - (d) must specify all of the requirements that must be complied with and the time periods over which compliance must occur; and
 - (e) may apply to individual persons or to categories of persons as specified in the order; and
 - (f) must be notified under **section xx**; and
 - (g) must be reviewed every 28 days; and

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- (h) expires automatically if the Minister revokes the declaration of a state or emergency.
- (2) The Secretary may revoke or amend an order at any time.
- (3) Before making or amending an order or exercising any power under this subpart the Secretary must be satisfied that it is necessary to respond to the emergency.

125 Notification requirements for orders under this subpart

- (1) An order under this subpart that applies to a category of persons has no effect unless it has notified in the Cook Islands in at least 2 or more of the following ways:
 - (a) by a notice published in a reasonably widely circulated newspaper:
 - (b) by an announcement on television:
 - (c) by an announcement on the radio:
 - (d) by a notice on a reasonably widely accessible social media platform:
 - (e) by any other mechanism that is likely to reach the majority of the population either directly or indirectly.
- (2) Despite **section xx**, an order under this subpart that applies to an individual person must be served personally unless the Secretary believes on reasonable grounds that the person is evading service, in which case it can be served as otherwise provided for in **section xx**.

126 Secretary may issue guidelines

The Secretary may issue guidelines to assist compliance with orders made under this subpart and for managing the public health emergency.

127 Relationship with Disaster Risk Management Act 2007

- (1) This section applies if a state of disaster or state of emergency is declared under the Disaster Risk Management Act 2007.
- (2) The Prime Minister may declare a public health emergency under this subpart—
 - (a) if the Prime Minister is satisfied that the grounds in **section xx(2)** are met; and
 - (b) after consulting with the Minister.
- (3) The public health emergency is of the same duration as the state of disaster or emergency or for as long as is otherwise specified in the Order in Executive Council declaring the public health emergency.
- (4) If declarations under both this subpart and the Disaster Risk Management Act 2007 are in force, the Secretary must be treated as appointed to the Response Executive under section 11 of the Disaster Risk Management Act 2007.
- (5) Parts 6 and 7 of the Disaster Risk Management Act apply in addition to the provisions of this subpart but the provisions of this subpart prevail to the extent of any inconsistency.

128 Enforcement of this subpart

- (1) The Secretary, an authorised officer, or a constable may take any action reasonably necessary to ensure that the requirements of an order made under this subpart are being complied with.
- (2) Any person who, without reasonable excuse, fails to comply with, or contributes to a breach of, an order made under this subpart commits an offence.
- (3) A person who commits an offence under **subsection (2)** is liable on conviction—
 - (a) for an individual, to a term of imprisonment not exceeding 12 months or a fine not exceeding \$10,000; or
 - (b) for a body corporate, to a fine not exceeding \$200,000.
- (4) A constable may arrest any person who does not comply with an order made under this subpart and detain the person in any place that the Secretary orders for the duration of the order.
- (5) If a person exercising powers under this subpart becomes aware of a breach of an order made under this subpart, the person must notify the Secretary and the Commissioner of Police as soon as is reasonably practicable.

129 Powers in urgent situations

- (1) The Secretary may give a verbal or written direction to any person for any matter that may be the subject of a written order in accordance with **subsection (2)**.
- (2) The Secretary may give a verbal or written direction only if the Secretary—
 - (a) considers that there is insufficient time to obtain an order that complies with the requirements in **sections xx and xx**; and
 - (b) is satisfied that the direction is reasonably required to deal with the emergency.
- (3) A direction made under this section is in effect for a period of 48 hours only.
- (4) The person giving a verbal direction must, when it is practicable to do so, give the person to whom the direction applies a written copy of the direction which must include the reasons for the direction.

130 Acquisition of premises

- (1) The Secretary may, in writing, order that any specified premises are to be used as an isolation centre or an operations centre for managing a public health emergency.
- (2) The owner of, or any person who has an interest in, premises ordered to be used as an isolation centre operations centre under **subsection (1)** must be compensated for the use of those premises at a rate set by the Financial Secretary.
- (3) The rate set by the Financial Secretary must be a rate that is adequate having regard to—
 - (a) the type of premises; and

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- (b) the ordinary use of those premises; and
- (c) the loss of income or financial cost that the owner will otherwise suffer as a result of the order; and
- (d) any other relevant matters.

131 Acquisition of property (other than premises)

- (1) The Minister, the Secretary, or the Commissioner of Police may, in writing, order that any specified property (other than premises) be seized or used by officials if that property is needed to manage a public health emergency.
- (2) The owner of, or any person who has an interest in, any property seized or used under **subsection (1)** must be compensated for the seizure or use of that property at a rate set by the Financial Secretary.
- (3) The rate set by the Financial Secretary must be a rate that is adequate having regard to—
 - (a) the type of property seized or used; and
 - (b) any damage or depreciation that may occur to the property as a result of its seizure or use; and
 - (c) the loss of income or financial cost that the owner will otherwise suffer as a result of the order; and
 - (d) any other relevant matters.

132 Party may appeal compensation

- (1) A person who is dissatisfied with the rate set by the Financial Secretary under **section xx or xx** may apply to the High Court for a determination of the appropriate compensation.
- (2) A party who is dissatisfied with a determination of the Court under **subsection (1)** may appeal the determination to the Court of Appeal as if it were a civil proceeding.

Dissemination of harmful information

133 No harmful information to be disseminated during public health emergency

- (1) A person must not intentionally publish, disseminate, or otherwise communicate harmful information in relation to a public health emergency.
- (2) A person who breaches **subsection (1)** commits an offence and is liable on conviction—
 - (a) for an individual, to imprisonment not exceeding 12 months or to a fine not exceeding \$10,000; and
 - (b) for a body corporate, to a fine not exceeding \$200,000.

Subpart 7—Serious incidents

134 Meaning of serious incident

- (1) In this subpart, **serious incident**—
 - (a) means an occurrence that presents a serious risk to public health; but

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- (b) does not include an occurrence that is a disaster or emergency (within the meaning of the Disaster Risk Management Act 2007).
- (2) Without limiting **subsection (1)**, examples of occurrences that may be a serious incident are—
 - (a) a spill of a toxic substance:
 - (b) radiological contamination:
 - (c) a storm causing damage to water supplies or sewage systems: or
 - (d) an incident that presents a serious risk to public health in a confined way, for example, by its effects on a local area or local community.

135 Declaration of serious incident

- (1) The Secretary may make a declaration under this section if, in the Secretary's opinion, a serious incident has occurred.
- (2) The declaration must specify—
 - (a) the nature of the serious incident; and
 - (b) the area covered by the declaration; and
 - (c) the action the Secretary proposes to take in order to eliminate or mitigate the risk to public health; and
 - (d) the duration of the declaration (if known).
- (3) The Secretary must notify the Minister about the declaration before, or as soon as reasonably practicable after, making the declaration.
- (4) A declaration expires on the close of the earlier of—
 - (a) the date specified in the declaration; or
 - (b) the day that is 14 days after the day the declaration comes into force.
- (5) The Secretary may, with the approval of the Minister, extend the declaration for a further 14 days and the declaration may be extended under this subsection more than once.
- (6) A declaration and any extension of a declaration made under this section must be published on a publicly accessible Internet site maintained by, or on behalf of, the Ministry.

136 Secretary's powers

- (1) This section applies if the Secretary has made a declaration of a serious incident.
- (2) The Secretary may, by order in writing, implement 1 or more of the following measures that the Secretary believes are reasonably necessary to respond to the incident including an order to—
 - (a) prevent persons from entering or leaving a specified area:
 - (b) restrict activities normally undertaken in a specified area:
 - (c) provide assistance to persons affected by the incident:
 - (d) allow an authorised officer to enter land or premises and to seize or destroy property as is necessary:
 - (e) require a person to provide information or answer questions:

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- (f) require premises to be cleaned or decontaminated:
- (g) direct any person or group of persons who present or may present a risk to public health to—
 - (i) remain isolated from other persons for a specified period:
 - (ii) undergo medical observation, medical examination, or medical treatment.
- (3) An order under this section—
 - (a) must be in writing; and
 - (b) must state the date on which it is made; and
 - (c) must state the date on which it comes into force; and
 - (d) must specify the requirements that must be complied with, the periods during which compliance must occur, and any powers the Secretary proposes to exercise; and
 - (e) may apply to individual persons or to categories of persons as specified in the order; and
 - (f) must—
 - (i) be served on the person or group of persons subject to the order; or
 - (ii) if the order relates to land or premises, be displayed prominently at the place or places to which the order applies.
- (4) If the Secretary considers that implementing measures is urgent, the order may be issued orally but an order complying with **subsection (3)** must be made and served according to that subsection as soon as reasonably practicable after the oral order is issued.
- (5) An order under this section must be revoked if the Secretary considers that there is no longer a risk to public health.
- (6) The Secretary must notify any person subject to an order under this section as soon as reasonably practicable if the Secretary considers that there is no longer a risk to public health and the order ceases to apply to the person when the notification is made.

Subpart 8—General provisions relating to Part 9

137 Order may apply individually or to class or persons

An order under this Part may apply to—

- (a) an individual person or persons; or
- (b) to a class or classes of persons as specified in the order, and in that in case every person who is a member of the specified class is a person for the purposes of this section.

138 Person may be subject to multiple orders

A person may be subject to 1 or more orders under this Part at the same time.

139 Orders in relation to children

- (1) This section applies if an order under this Part relates to a child.

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- (2) The child's parent must ensure that the order is complied with and is liable for any offence arising out of the noncompliance with the order.
- (3) In this section, **child** means a person under 15 years of age.

140 Orders in relation to other persons

- (1) This section applies if an order under this Part relates to a person who is unlikely to understand or comply with the requirements of the order (other than a child within the meaning of **section xx**).
- (2) The person's guardian or the person's day to day carer (if any) shall be responsible for ensuring the order is complied with and is liable for any offence arising out of the person's noncompliance.

141 Secretary may issue guidelines

The Secretary may issue guidelines for the care and treatment of persons detained or subject to isolation under this Part.

142 Immunity

A person who does or omits to do any act in connection with the performance or exercise of any duty, function, or power conferred by or under this Part is not liable in civil or criminal proceedings unless the act or omission was done in bad faith or without reasonable care.

143 Habeas corpus

- (1) An isolation order under **section xx, xx, or xx** or a detention order under **section xx** must be treated as a detention for the purposes of the writ of habeas corpus under Article 65(1)(c) of the Constitution.
- (2) **Subsection (1)** does not prevent the Court from determining that any other order made under this Act amounts to an order for detention.

Part 10

Health promotion objectives and functions

144 Objectives regarding health promotion

The Minister, Secretary, and Ministry must, so far as is reasonably practicable, seek to achieve the following objectives:

- (a) to optimise the physical and mental wellbeing of Cook Islanders;
- (b) to promote health equitably across the Cook Islands population (taking into account vulnerable populations and communities);
- (c) to create an environment that supports and promotes healthy behaviours and makes it easier for people to make healthy choices.

145 Secretary's functions regarding health promotion

In seeking to achieve the objectives in **section xx**, the Secretary must—

- (a) prepare plans and strategies to inform evidence-based practices; and
- (b) coordinate responses to identified health priorities across government and the community; and

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- (c) work with local communities to develop and implement local strategies to address identified health disparities in the Cook Islands; and
- (d) report to the Minister annually on progress towards achieving the objectives.

146 Warning statements

- (1) This section applies if the Secretary believes on reasonable grounds that an activity or product presents a potential risk to public health.
- (2) The Secretary may issue a warning statement, which may include advice on ways to avoid the risk.
- (3) The warning statement must be issued by being notified in the Cook Islands in at least 2 or more of the following ways:
 - (a) by a notice published in a reasonably widely circulated newspaper;
 - (b) by an announcement on television;
 - (c) by an announcement on the radio;
 - (d) by a notice on a reasonably widely accessible social media platform;
 - (e) by any other mechanism that is likely to reach the majority of the population either directly or indirectly.
- (4) The Secretary must inform the Minister before issuing a warning statement.
- (5) The Secretary is not liable in any action or proceedings arising from a warning statement that is made honestly and for the purpose of this Act.
- (6) A person who publishes or broadcasts a warning statement is not liable in any action or proceedings arising from the warning statement provided the publication or broadcast is made honestly and in good faith.

147 Threat declarations

- (1) The Minister may declare that a disease is a threat to health and wellbeing.
- (2) The Minister may make a declaration under **subsection (1)** if the Minister believes on reasonable grounds that the disease is a threat to the health and wellbeing of Cook Island residents.
- (3) The Minister may then issue a code of practice to help prevent or reduce the incidence of the disease specified in the declaration.
- (4) A code of practice may—
 - (a) apply to 1 or more of the following:
 - (i) a particular industry or occupation;
 - (ii) a section or part of the community;
 - (iii) an activity, undertaking or circumstance; and
 - (b) relate to 1 or more of the following:
 - (i) the advertising, sponsorship, promotion, or marketing of specific goods or services;

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- (ii) the provision of information about specified goods or services:
 - (iii) the manufacturing, distribution, sale, or supply of specific goods including their ingredients, packaging, or design.
- (5) The Minister may publish a report on the extent of compliance with a code of practice.
- (6) A code of practice made under this section does not confer any enforceable rights or obligations but a breach of a code may be used as evidence of failure to comply with the general duty.

Part 11 Personal information

148 Meaning of personal information and application of Part

- (1) In this Act, **personal information** means any information that may, or is likely to, identify a person (whether the person is living or dead).
- (2) This Part applies to personal information [collected and] held by the Ministry and its staff, if the information is obtained when—
 - (a) administering this Act; or
 - (b) exercising duties or performing functions under this Act.

149 Confidentiality of personal information

- (1) The Secretary must take all reasonable steps to ensure that the information is stored securely and is protected from loss, misuse, and interference.
- (2) The Secretary may prepare guidelines regarding the management of information collected [and held] under the Act.
- (3) The Ministry and any staff member must not disclose personal information held by the Ministry unless that disclosure is authorised under this Act or any other law.

150 Disclosure of personal information

- (1) A person may disclose personal information—
 - (a) for the necessary administration of this Act, or any other Act specified by the Minister; or
 - (b) if required to do so by a court; or
 - (c) with the consent of the person to whom the information relates; or
 - (d) with the consent of the person's guardian, or if the person is a child, the child's parent; or
 - (e) if the disclosure is required for the ongoing treatment or care of the person to whom it relates; or
 - (f) for the management and operation of a hospital or health care facility or a system for the sharing of health care records that has been approved by the Secretary; or
 - (g) if the Secretary reasonably considers that the release is necessary in the interests of public health surveillance or the administration of this Act; or

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- (h) if the disclosure is necessary to comply with the Cook Islands' obligations under the International Health Regulations 2005; or
 - (i) to a health or public health surveillance agency, if the Secretary considers that the release is necessary to contain the risk of infection; or
 - (j) for research purposes in accordance with **section xx**; or
 - (k) if the release is reasonably required to lessen or prevent a serious threat to the life, health, or safety of any person, or a serious threat to public health or safety; or
 - (l) if otherwise required by this Act or any other law.
- (2) In this section, **public health surveillance agency** includes—
 - (a) a public health surveillance agency;
 - (b) the World Health Organization.
 - (3) The Secretary may prepare guidelines for the release of personal information under this section.

151 Disclosure of personal information for research purposes

- (1) The Secretary may allow personal information to be disclosed for medical or social research purposes if—
 - (a) access to the information is necessary to undertake the research; and
 - (b) it is impractical under the circumstances to obtain the persons' consent; and
 - (c) the research and the disclosure have been approved by an ethics committee, subject to any conditions; and
 - (d) the Secretary is satisfied that the disclosure will not be contrary to the persons' interests.
- (2) When considering the disclosure of personal information under this section, the ethics committee must balance the potential public health or clinical benefits of the research against the principle of protecting personal information.
- (3) The Secretary may impose conditions when allowing information to be disclosed under this section.
- (4) A person to whom personal information is disclosed under this section—
 - (a) must not disclose it except for the research purpose for which the disclosure is allowed; and
 - (b) must comply with any requirements relating to the use or management of the personal information that the ethics committee or the Secretary imposes.

152 Anonymous data or information may be disclosed

Nothing in this Act prevents the disclosure of data or other information that has been anonymised.

153 No liability for disclosure of personal information in accordance with Part

A person who discloses personal information in response to a request made under this Part does not breach any law or any principle of professional ethics by disclosing the information so long as the person is acting in good faith and in compliance with this Act.

**Part 12
Powers and enforcement**

Compliance notices

154 Interpretation

In this Part, **relevant authority** means—

- (a) the Secretary; or
- (b) an Island Government, for a public health risk within its area.

155 Compliance notices

(1) An authorised officer may issue a compliance notice under this section for the purpose of securing compliance with—

- (a) the general duty;
- (b) a requirement imposed under this Act or a regulation made under this Act.

(2) Before an authorised officer issues a compliance notice,—

- (a) the officer must—
 - (i) give the person to whom the notice is proposed to be issued a reasonable opportunity to respond to the matters giving rise to the notice; and
 - (ii) have regard to any comments the person may make as to why the notice should not be imposed or should be varied; and
- (b) in the case of a notice to secure compliance with the general duty, the officer must also complete the steps set out **section xx**.

(3) The notice must state—

- (a) the names of any persons or entities responsible for complying with the order in sufficient detail so as to make them clearly identifiable and accountable; and
- (b) the reasons for the order; and
- (c) the action the person must undertake or refrain from undertaking; and
- (d) the period of time within which the person must comply with the order; and
- (e) the period for which the order remains in force (if the person is required by the notice to discontinue an activity for a specified period); and

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- (f) the name of any relevant authority that may take the action under **section xx** in relation to the notice if it is not complied with.

156 Compliance notices in urgent situations

- (1) This section applies if an authorised officer believes that a risk to public health requires urgent action.
- (2) The officer may issue a compliance notice under **section xx** verbally.
- (3) The officer must then issue a written compliance notice that complies with the requirements in **section xx** as soon as is reasonably practicable after issuing the notice verbally.

157 Person must comply with compliance notice

- (1) A person to whom a notice is issued under **section xx** must not, without reasonable excuse, fail to comply with the notice.
- (2) A person must not obstruct a person complying with a notice issued under **section xx or xx**.
- (3) A person who breaches **subsection (1) or (2)** commits an offence and is liable on conviction to—
 - (a) in the case of an individual, to a fine not exceeding \$[insert amount], or to imprisonment for a term not exceeding [insert length of imprisonment], or both; or
 - (b) in any other case, to a fine not exceeding \$[insert amount].

158 Other actions if compliance notice not complied with

- (1) A relevant authority may take action under this section if a notice issued under **section xx** is not complied with.
- (2) A relevant authority may—
 - (a) take any outstanding action required by the notice; and
 - (b) in taking action under **paragraph (a)**, enter any relevant premises at any reasonable time in order to do what is required by the notice.
- (3) Action may be taken on behalf of the relevant authority by an authorised officer, or another person authorised by the relevant authority for the purpose.

159 Action in urgent situations

- (1) An authorised officer may take action under this section if a notice under **section xx** has not been complied with and the officer believes on reasonable grounds that—
 - (a) the situation that is the subject of the notice is creating, or is likely to create, a risk to public health; and
 - (b) immediate action is necessary to respond to the risk.
- (2) The authorised officer may take any action, or cause any action to be taken, that they consider is reasonably necessary to prevent, mitigate, or eliminate the risk.
- (3) The authorised officer must give notice to any person affected by the proposed action if it is reasonably practicable to do so, taking into

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account the nature of the emergency and the urgency of the action needing to be taken.

- (4) An authorised officer's powers under this section include (without limitation) the power to—
 - (a) enter and take possession of any premises or vehicle; and
 - (b) seize, retain, move, destroy, or otherwise dispose of any substance or thing; and
 - (c) use force to enter any premises or vehicle without warrant if the authorised officer believes, on reasonable grounds, that the circumstances require that action to be taken.
- (5) Action may be taken under this section whether or not a compliance notice has been issued.

160 Recovery of costs

- (1) Reasonable costs and expenses incurred by taking action in relation to a compliance notice may be recovered by the Secretary as a debt from the person who has failed to comply with the requirements of the notice.
- (2) The Secretary may require the person to pay the debt, as directed by the Secretary, within 28 days and, if the debt is not paid within that time,—
 - (a) the debt may incur interest on the outstanding amount at the interest rate prescribed in regulations (if any); and
 - (b) [any outstanding amount is a charge on the land in favour of the relevant authority.]

Powers of authorised officers

161 Powers of authorised officers to enter and inspect premises

- (1) An authorised officer may, in the course of discharging a duty or exercising a power under this Act, at any reasonable time, enter or inspect any premises except a dwelling.
- (2) During the course of an entry or inspection under **subsection (1)**, an authorised officer may—
 - (a) ask questions of any person found in the premises or vehicle:
 - (b) inspect any article or substance found in the premises or vehicle:
 - (c) take and remove samples of any substance or other thing found in the premises or vehicle:
 - (d) require any person to produce any plans, specifications, books, papers or documents:
 - (e) examine, copy and take extracts from any plans, specifications, books, papers or documents:
 - (f) take photographs or video recordings:
 - (g) take measurements, make notes and carry out tests:
 - (h) remove any article that may constitute evidence of the commission of an offence against this Act:
 - (i) require any person to answer any question that may be relevant to the administration or enforcement of the Act.

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- (3) In determining what amounts to a reasonable time for the purposes of acting under **subsection (1)**, the urgency of the need to act must be taken into account.
- (4) A person who refuses, without reasonable excuse, to allow an authorised officer to enter or inspect any premises under this section or to do anything listed in **subsection (2)** commits an offence.
- (5) A person who commits an offence under **subsection (4)** is liable on conviction,—
 - (a) in the case of an individual, to a fine not exceeding \$[insert amount], or to imprisonment for a term not exceeding [insert length of imprisonment], or both; or
 - (b) in any other case, to a fine not exceeding \$[insert amount].

162 Authorised officer may be assisted in exercising power

- (1) An authorised officer may be accompanied and assisted by a constable or any other person in exercising a power under this Part.
- (2) A constable or other person assisting an authorised officer is entitled to exercise the powers set out in **section xx** as directed by the authorised officer.

163 Warrant may be issued to allow entry to dwelling

- (1) An authorised officer may enter premises that are a dwelling only with a warrant given under this section.
- (2) A Justice of the Peace or Judge may issue a warrant to allow entry if satisfied that—
 - (a) there are reasonable grounds to suspect that an offence against the Act has been, is being, or is about to be, committed; and
 - (b) that a warrant is required in the circumstances.
- (3) A warrant to enter a dwelling may be exercised on 1 or more occasions within the period of 14 days after it is issued, after which it expires.
- (4) A warrant may be obtained electronically or by telephone if it cannot otherwise be obtained in a reasonable period of time.
- (5) A warrant is not required for entry to a dwelling if an authorised officer believes on reasonable grounds that urgent entry is necessary.

164 Powers under authority of warrant

- A warrant issued under **section xx** authorises the person executing it—
- (a) to enter and search the premises specified in the warrant and search any item or items found in those premises at any reasonable time;
 - (b) to request any person to assist with the entry and search;
 - (c) to use force in respect of any property that is reasonable for the purposes of carrying out the search and any lawful seizure;
 - (d) to seize anything that is the subject of the search or anything else that may be lawfully seized;
 - (e) to bring onto and use in the premises any equipment, to use any equipment found in or on the premises, and to extract electricity

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from the premises to operate the equipment that it is reasonable to use in the circumstances, for the purposes of carrying out the entry and search:

- (f) to copy any document, or part of a document, that may be lawfully seized:
- (g) to use any reasonable measures to access a computer system or other data storage device located at the premises if any intangible material that is the subject of the search may be in that computer system or other device:
- (h) if any intangible material accessed under **paragraph (g)** is the subject of the search or may otherwise be lawfully seized, to copy that material:
- (i) to take photographs, sound and video recordings, and drawings of the premises searched, of anything found in or on those premises if the person exercising the power has reasonable grounds to believe that the photographs or sound or video recordings or drawings may be relevant to the purposes of the entry and search.

165 Powers in relation to eradication or control of mosquitos or disease vector

- (1) An authorised officer may enter land or premises and take any action that is reasonably necessary to eradicate or control mosquitos or a disease vector if they present a risk to public health.
- (2) If the action involves the application of a substance by spraying or other means,—
 - (a) the Secretary must be satisfied that the person carrying out the application of the substance is competent to do so safely and may impose any conditions on the application of the substance; and
 - (b) the person applying the substance must make reasonable efforts to notify the owner or any occupier of the land, at least 24 hours before commencing the application, that the application is proposed to occur; and
 - (i) the substance or chemical that is proposed to be applied; and
 - (ii) the place to which the substance or chemical is proposed to be applied; and
 - (iii) the name and address of the person to contact for further information about the application of the substance; and
 - (iv) the time and day of the application (as far as can be reasonably determined).
- (3) However, if the authorised officer believes on reasonable grounds that action described in **subsection (2)** must be done urgently, the officer need not comply with the notification requirements in **subsection (2)(b)**.

166 Validity of acts

All actions and decisions of the Secretary, or any Ministry employee acting under the authority of the Secretary under this Act is deemed to have been validly done or made despite any defect, expiry, error, or

lapse in the appointment of the person taking the action or making the decision.

Requirement to provide information

167 Requirement to provide information

- (1) This section applies to a person required to provide information under this Act.
- (2) A person is not entitled to refuse to provide the information on the basis of self-incrimination.
- (3) A person must not be held to have breached any law or any principle of professional ethics solely on the basis of providing information under this Act.
- (4) **Subsection (5)** applies if a person is asked questions under a power in this Act.
- (5) Any answers the person gives are not admissible in evidence against the person for any offence or the imposition of a penalty (except where the person is prosecuted under **section xx** for providing false or misleading information).

Offences

168 General offences

- (1) A person commits an offence who, without reasonable excuse,—
 - (a) threatens, hinders, obstructs, or misleads an authorised officer or a person assisting an authorised officer in the exercise of their functions under this Act; or
 - (b) makes a statement or gives information to a person in the exercise of their functions under this Act, knowing that the statement or information is false or misleading in a material particular; or
 - (c) withholds relevant information from a person in the exercise of their functions under this Act having been directed or required to provide the information; or
 - (d) makes a declaration or provides an answer that is false or misleading in a material particular in circumstances where the person is required or directed under this Act to make a declaration or answer a question; or
 - (e) is in charge of land, premises, or a vehicle subject to an inspection under this Act and fails to provide reasonable assistance to facilitate the inspection, having been asked to do so; or
 - (f) personates or falsely represents themselves to be an authorised officer or other person who exercises a function, power, or duty under this Act; or
 - (g) fails to comply with a direction given to that person under this Act.
- (2) A person who commits an offence under **subsection (1)** is liable on conviction—

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- (a) in the case of an individual, to a fine not exceeding \$[insert amount], or to imprisonment for a term not exceeding [insert length of imprisonment], or both; or
- (b) in any other case, to a fine not exceeding \$[insert amount].

Infringement offences

169 Penalties for infringement offences.

A person who commits an infringement offence is liable to—

- (a) an infringement fine of,—
 - (i) for an individual, \$XX, or any lesser or equal amount prescribed by regulations; or
 - (ii) for any other person, \$XX, or any lesser or equal amount prescribed by regulations; or
- (b) a fine imposed by the Court not exceeding—
 - (i) for an individual, \$XX or any lesser or equal amount prescribed by the regulations; or
 - (ii) for any other person, \$XX or any lesser or equal amount prescribed by the regulation.

170 Proceedings for infringement offences

- (1) A person who is alleged to have committed an infringement offence may—
 - (a) be served with an infringement notice issued under **section xx**; or
 - (b) be proceeded against by—
 - (i) the laying of an information under the Criminal Procedure Act 1980-81; or
 - (ii) the filing of the infringement notice in the Court and, if service has been given under **paragraph (a)**, no further service of documents on the alleged offender is required.
- (2) *See section xx* for requirements for service generally.

171 When infringement notice may be issued

- (1) An authorised officer may issue an infringement notice to a person if the officer believes on reasonable grounds that the person is committing, or has committed, an infringement offence.
- (2) An infringement notice must be issued within 12 months after the date on which the offence is alleged to have taken place.

172 How infringement notice may be served

- (1) An authorised officer may serve an infringement notice on the person alleged to have committed an infringement offence by—
 - (a) delivering it to the person or, if the person refuses to accept it, bringing it to the person's notice; or
 - (b) leaving it for the person at the person's last known place of residence with another person who appears to be of or over the age of 14 years; or

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- (c) leaving it for the person at the person's place of business or work with another person; or
 - (d) sending it to an electronic address of the person in any case where the person does not have a known place of residence or business in the Cook Islands.
- (2) Unless the contrary is shown,—
- (a) an infringement notice (or a copy of it) sent by prepaid post to a person under **subsection (1)(d)** is to be treated as having been served on that person on the fifth working day after the date on which it was posted; and
 - (b) an infringement notice sent to a valid electronic address under **subsection (1)(e)** is to be treated as having been served at the time the electronic communication first entered an information system that is outside the control of the authorised officer.
- (3) In this section, **information system** means a system for producing, sending, receiving, storing, displaying, or otherwise processing electronic communication.

173 What infringement notice must contain

- (1) An infringement notice must be in the form prescribed in regulations and must contain all of the following particulars:
- (a) details of the alleged infringement offence that fairly inform a person of the time, place, and nature of the alleged offence;
 - (b) the amount of the infringement fine payable and how payment may be made;
 - (c) a statement of the consequences if the person served with the notice does not pay the fine within 28 days;
 - (d) a statement of the person's right to object to the notice within 10 days, under **section xx**;
 - (e) any other information prescribed in the regulations.

174 Steps after infringement notice issued

A person who is served an infringement notice may—

- (a) elect to pay the fine within 28 days after the notice is issued, in which case a receipt must be issued and the person is not liable to any further prosecution of any kind in respect of the offence to which the notice relates; or
- (b) elect not to pay the fine within 28 days after the infringement notice is issued, in which case the person is liable to prosecution under **section xx**; or
- (c) apply to the Secretary for withdrawal of the notice, within 10 days under **section xx**.

175 Request for withdrawal of infringement notice

- (1) A person who has been served with an infringement notice under **section xx** may make a written request to the Secretary to withdraw the notice on either or both of the following grounds:

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- (a) that the person did not commit the offence to which the notice relates;
 - (b) that the amount of fine specified in the notice is excessive having regard to the nature of the alleged offence to which the notice relates.
- (2) A request for withdrawal of an infringement notice must—
- (a) contain the prescribed information; and
 - (b) be made within 14 days after the notice is issued.
- (3) The Secretary must—
- (a) consider a request made under this section; and
 - (b) decide whether to refuse or accept the request within 14 working days after the date on which the request is made; and
 - (c) promptly give written notice of the Secretary's decision and the reasons for it to the person who made the request.
- (4) If the Secretary refuses the request, the notice under **subsection (3)(c)** must also include—
- (a) the date by which the infringement fine may be paid (which must be no earlier than 14 days after the notice under **subsection (3)(c)** is given); and
 - (b) a statement that the person is liable to prosecution under **section xx** if the infringement fine is not paid within the 14-day period.
- (5) If the Secretary accepts the request, the notice under **subsection (3)(c)** must also include a statement that the infringement notice has been withdrawn.

176 Prosecution after infringement notice issued

- (1) A person served with an infringement notice is liable to be prosecuted for the infringement offence to which the notice relates if the person does not pay the fine—
- (a) within **28** days after the notice is served; or
 - (b) in the case of a request for withdrawal of a notice that is not accepted by the Secretary, within 14 days after notice under **section xx(3)(c)** is given.
- (2) The person is not liable to pay the fine if the infringement notice is withdrawn.

Appeals

177 Appeals

- (1) A person who is required to comply with an infringement notice [or order] and who has requested the withdrawal of the notice may appeal to the Court against—
- (a) the notice [or order] or any part of the notice [or order];
 - (b) a variation of the notice [or order];
 - (c) an extension of the notice [or order].

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- (2) An appeal must be made within [xx days] after the making or issue of the notice order (or a variation or extension as the case may be), or within any further time that the Court may allow.
- (3) On appeal, the Court may confirm, vary, or cancel the notice or order, or its extension or variation, or give any direction that the Court thinks fit.
- (4) The filing of the appeal does not excuse a person from fulfilling an obligation under a notice or order unless the Court otherwise orders.
- (5) In the case of a continuing order, an appeal may not be brought within 28 days after the Court's decision on an appeal in respect of the same matter.
- (6) No appeal is allowed against an order made in respect of a public health emergency.

Part 13 Regulations, guidelines, and service

Regulations

178 Regulations

The Queen's Representative may, by Order in Executive Council, make regulations to give effect to the provisions of this Act and in particular for all or any of the following purposes:

- (a) prescribing procedures to be followed and standards to be met by authorised officers and other persons carrying out functions under this Act:
- (b) specifying matters or circumstances that amount to a breach of the general duty or compliance with the general duty:
- (c) regulating an activity that is declared to present a risk to public health including requiring a licence or authorisation to undertake that activity and—
 - (i) prescribing circumstances in which a licence or authorisation must be issued or given, or refused:
 - (ii) prescribing procedures, criteria, or both, for the assessment, consideration, approval, and refusal of licences or authorisations:
 - (iii) providing for and regulating the transfer, amendment, suspension, revocation, cancellation, or withdrawal of licences or authorisations:
 - (iv) prescribing conditions that must be specified in licences or authorisations:
- (d) providing that a place is a public place for the purposes of this Act:
- (e) regulating water quality and requiring specified persons or classes of persons to prepare drinking water safety plans:
- (f) providing that a place is a public swimming pool for the purposes of this Act:

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- (g) regulating the treatment and disposal of sewage and wastewater:
- (h) regulating or prohibiting the discharge of specified materials or chemicals into a water source, including wastewater, (where a specified material will be specified in a standard or code called up under the regulation):
- (i) regulating the storage, use, handling, transport and disposal of any waste material (except wastewater) that may present a risk to public health:
- (j) regulating or prohibiting burials or other dealings with human remains including—
 - (i) the process of burial or other dealings with human remains;
 - (ii) the places, or areas of the sea where burials can occur; and
 - (iii) the operation of crematoria; and
 - (iv) the requirement that before places or areas of the sea are set aside for burial, the approval of a prescribed person or body must be obtained.
- (k) controlling, restricting, or prohibiting the promotion of goods or services that the Minister considers present a risk to public health:
- (l) implementing the Cook Islands' obligations as a signatory to the International Health Regulations 2005:
- (m) imposing standards and requirements to assist contact tracing:
- (n) providing for the quarantine of vessels and aircraft:
- (o) prescribing offences for the breach of any regulation made under this Act, or any direction given or requirement made under the authority of regulations made under this Act:
- (p) prescribing the penalty for an offence in a regulation and —
 - (i) if the offence is committed by an individual, the penalty must be a fine not exceeding \$xx and, if the offence is a continuing one, a further fine may be prescribed not exceeding \$xx for every day or part of a day during which the offence continues; or
 - (ii) in any other case, the penalty must be a fine not exceeding \$xx and, if the offence is a continuing one, a further fine may be prescribed not exceeding \$xx for every day or part of a day during which the offence continues:
- (q) prescribing offences to be infringement notice offences:
- (r) prescribing procedures relating to infringement notices:
- (s) prescribing forms to be used for the purposes of this Act:
- (t) prescribing matters for which fees are payable under this Act and the amounts of those fees:
- (u) prescribing grounds for an exemption from fees, in whole or in part:
- (v) prescribing transitional and savings provisions relating to the coming into force of this Act in accordance with **section xx**;

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- (w) providing for any other matters contemplated by this Act, necessary for its full administration, or necessary for giving it full effect.
- (2) A regulation may incorporate a code of practice, standard, specification or other document in whole or in part as amended from time to time.
- (3) A regulation in relation to drinking water, wastewater, or sewage must not be made unless the Minister has—
 - (a) had regard to any relevant national policies for water resource management in Cook Islands, and
 - (b) consulted with the relevant government authorities and agencies that may be affected by the regulation.

179 General provision as to regulations

- (1) A regulation made under this Act may—
 - (a) apply generally throughout the Cook Islands or within a specified part or parts of the Cook Islands:
 - (b) apply generally or with respect to different classes of persons, activities, uses, places, or things:
 - (c) apply generally or at any specified time of the year.
- (2) Any regulations made under this Act may confer power on any authorised officer to give, issue, serve, or make a direction, notice, order, or requirement, for the purposes of this Act.
- (3) Regulations made under this Act may authorise the Secretary to exempt any person, activity, use, place, or thing from any requirement of those regulations, if satisfied that, in the circumstances, the imposition of the requirement on that person, activity, use, place, or thing, is not necessary.

180 Regulations about transitional matters

- (1) The Queen's Representative may, by Order in Executive Council, make regulations—
 - (a) providing transitional, savings, and consequential provisions relating to the coming into force of this Act, which may be in addition to, or in place of, provisions in this Act:
 - (b) to facilitate the bringing into force of any regulations under this Act:
 - (c) providing that subject to any conditions that are specified in the regulations, during a specified transitional period, specified provisions of this Act (including definitions) do not apply:
 - (d) providing for any other matters necessary for facilitating or ensuring an orderly transition from any enactments replaced by this Act to the provisions of this Act.
- (2) All regulations made under this section that are still in force on the day that is 3 years after the commencement of this Act expire at the close of that day.

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Guidelines

181 Guidelines

- (1) Guidelines made by the Secretary under this Act may apply generally or to specific circumstances or activities.
- (2) Guidelines must be in writing and published on a publicly accessible Internet site maintained by, or on behalf of, the Ministry.

Service

182 Service of orders and directions

- (1) An order or direction [or notice] under this Act, unless provided otherwise in the particular case, must be served on a person in accordance with this section.
- (2) An order or direction [or notice] must be served on an individual person by 1 or more of the following means:
 - (a) delivering it to the person; or
 - (b) delivering it to the person's usual or last known place of residence or business; or
 - (c) sending it by electronic means to the person.
- (3) An order or direction [or notice] must be served on a body (whether incorporated or unincorporated) by 1 or more of the following means:
 - (a) delivering it to 1 or more officers of the body; or
 - (b) delivering it to the usual or last known place of residence or business of any officer of the body; or
 - (c) sending it by electronic means to any officer of the body; or
 - (d) delivering the notice to the registered office of the body.
- (4) An order or direction [or notice] must be served on a partnership by 1 or more of the following means—
 - (a) delivering it to 1 or more of the partners; or
 - (b) delivering it to the usual or last known place of residence or business of any partner; or
 - (c) sending it by electronic means to any partner; or
 - (d) delivering it to the usual or last known place of business of the partnership.
- (5) **Subsection (6)** applies if reasonable attempts have been made to find a person referred to in **subsections (2) to (4)** but they cannot be found.
- (6) In that case an order or direction [or notice] may be served by affixing the notice in a prominent location in or on the usual or last known place of residence or business of the person.

Part 14
Repeals, savings, consequential amendments, and transitional provisions

183 Repeals

The following enactments are repealed:

- (a) COVID-19 Act 2020:
- (b) Public Health Act 2004:
- (c) [Insert names of enactment including regulations not to be saved].

184 Savings

[Insert names of regulations to be saved].

185 Amendments to other enactments

- (1) The Acts listed in Schedule 1 are amended as set out in that schedule.
- (2) The regulations listed in Schedule 2 are amended as set out in that schedule.

186 Orders and directions under Public Health Act 2004

- (1) This section applies to any order or direction made under the Public Health Act 2004 that—
 - (a) is in effect when this Act comes into force; and
 - (b) could have been made under this Act.
- (2) The order or direction—
 - (a) must be treated as an order or direction made under this Act; and
 - (b) continues to have effect under this Act.

187 Public Health (Sewage and Wastewater Treatment and Disposal) Regulations 2014 remain in force

The Public Health (Sewage and Wastewater Treatment and Disposal) Regulations 2014 remain in force as if they were made under this Act.

188 Vaccine preventable conditions under Public Health Act 2004 treated as vaccine preventable diseases under this Act

- (1) The conditions listed in Schedule 3 of the Public Health Act 2004 (*Vaccine preventable conditions*) must be treated as vaccine preventable diseases for the purposes of this Act.
- (2) **Subsection (1)** ceases to apply when a vaccine preventable diseases order is made under **section xx**.

Schedule XX

Notifiable conditions and notifiable pathogens

Part 1

Notifiable conditions

1. **Notifiable communicable conditions**
 - Acute anterior poliomyelitis
 - AIDs (Acquired Immune Deficiency Syndrome)
 - Anthrax
 - Cerebro-spinal meningitis (meningococcal)
 - Cholera
 - Chickenpox (Varicella)
 - Conjunctivitis
 - Coronavirus Disease 2019 (COVID-19)
 - Dengue
 - Dysentery (Amoebic, Bacillary (Shigellosis), and other types)
 - Enteric fevers (Typhoid fever, Paratyphoid fever)
 - HIV (Human Immune Deficiency Virus)
 - Infantile diarrhoea
 - Infectious hepatitis
 - Influenza
 - Influenza-like illness
 - Leprosy
 - Measles (Rubella or Morbilli)
 - Mumps
 - Ringworm (Tinia Imbricata)
 - Severe Acute Respiratory Syndrome (SARS)
 - Scabies
 - Tuberculosis: pulmonary and other sites
 - Typhoid
 - Venereal disease (Candidiasis, Gonorrhoea, Syphilis., Trichomonas, Venereal Warts)
 - Viral haemorrhagic fevers (including but not limited to Ebola, Lassa Fever and Marburg virus)
 - Whooping cough (Pertussis)
 - Yellow fever

2. **Other notifiable conditions**
 - Asthma
 - Bronchitis
 - Cancer (all varieties)
 - Diabetes mellitus
 - Fish poisoning (ciguatera)
 - Food poisoning
 - Hypertension
 - Otitis media
 - Pneumonia

Rheumatic fever

Part 2
Notifiable pathogens

MRSA (methicillin resistant staphylococcus aureus)

Schedule 1 Amendments to Acts

Ministry of Health Act 2013

After section 18(5), insert:

“(5A) The following persons must be treated as appointed as an inspectors and enforcement officers under this section:

“(a) authorised officers appointed under the Public Health Act **2022:**

“(b) persons appointed as health inspectors or authorised officers, however described, under other enactments administered by the Ministry.”

[Further amendments to come]

Schedule 2

Amendments to regulations

[To come]

This Act is administered by the Ministry of Health.
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