

Examined and certified by:



Clerk of the Parliament

In the name and on behalf of His Majesty King Charles III, I hereby assent to this Act
this 20th day of May, 2024



King's Representative

Contents

1	Title	7
2	Commencement	7
Part 1		
Preliminary provisions		
3	Interpretation	7
4	Act binds the Crown	11
5	Relationship with other laws	11
Part 2		
Administration		
<i>Minister, Secretary, Medical Officer of Health, and authorised officers</i>		
6	Minister	11
7	Secretary	12
8	Medical Officer of Health	12
9	Appointment of authorised officers	13
10	Authorised officers must have identity cards	13
<i>Health impact assessments and public health partnerships</i>		
11	Health impact assessment	13
12	Public health partnerships	14
<i>Delegations, personal liability, and immunity from civil liability</i>		
13	Delegations	14
14	Immunity from personal liability	15
<i>Conflicts of interest</i>		
15	Meaning of material personal interest	15
16	Obligations if Secretary has conflict of interest	16
17	Conflicts of interest of persons other than Secretary	16
Part 3		
Public health planning		
<i>National Public Health Plan</i>		
18	National Public Health Plan	16
19	Review and duration of National Public Health Plan	17
20	Preparing and amending National Public Health Plan	17
<i>Island Public Health Plan</i>		
21	Island Public Health Plan	17
22	Review and duration of Island Public Health Plan	17
23	Preparing and amending Island Public Health Plan	17
<i>National Public Health Committee</i>		

24	National Public Health Committee established	18
25	Functions of National Public Health Committee	19
26	Deputy chairperson	19
27	Vacancies	19
28	Validity of acts	20
29	Resignation	20
30	Removal from office	20
31	Members ceasing to hold office	20
32	Allowances and expenses	20
33	Conflicts of interest	21
34	Procedure	21
35	Subcommittees of National Public Health Committee	21
	Part 4	
	General duty	
	<i>General duty</i>	
36	General duty	21
	<i>Compliance notices for breach of general duty</i>	
37	Compliance notice for breach of general duty	22
38	Guidelines	22
	<i>Complaints of breach of general duty</i>	
39	Making complaint of breach of general duty	22
40	Investigation of complaint	22
41	If breach of duty found	23
42	If no breach of duty found	23
	Part 5	
	Offences of causing risk to public health	
43	Offence of causing material risk to public health	23
44	Offence of causing serious risk to public health	24
45	Defence of due diligence	24
	Part 6	
	Water quality, disease vectors, and antimicrobial resistance	
	Subpart 1—Water quality	
46	Application of this subpart	25
47	Water intended for human consumption	25
48	Public exposure to contaminated water at public swimming pools or public swimming places, or other exposure	25
49	Service of water quality order or water quality notice	26
50	Non-compliance with water quality order or water quality notice	26
51	Secretary may issue guidelines for water monitoring and testing	26
	Subpart 2—Disease vectors	
52	Breach of general duty in relation to disease vectors	27
53	Power of entry relating to disease vectors	27
54	Regulations about disease vectors	27
55	Secretary may issue guidelines about disease vectors	27
	Subpart 3—Antimicrobial resistance	
56	Secretary to prepare and implement plan to address antimicrobial resistance	28
57	Preparing and implementing plan to address antimicrobial resistance	28
58	Regulations about antimicrobial resistance	28

Part 7
Vaccination

Vaccination requirements

59	Meaning of vaccine-preventable disease	29
60	Vaccine-preventable disease may be declared by Order in Executive Council	29
61	National immunisation schedule	29
62	Vaccination availability	29
63	Administration of vaccines to children	30
64	National immunisation register	30
65	Actions if child not vaccinated	30
66	Attendance at school	30
67	Obligations of principal relating to vaccination records	31
	<i>Outbreak of vaccine-preventable disease</i>	
68	Secretary may declare outbreak of vaccine-preventable disease	31
69	Obligations on schools when outbreak declared	31
	<i>Administrative matters and regulations</i>	
70	Arrangements between Secretary and Ministry of Education	32
71	Regulations about vaccination	32

Part 8

Notifiable conditions and notifiable pathogens

Definitions and declarations

72	Definitions of notifiable condition and notifiable pathogen	32
73	Notifiable conditions and notifiable pathogens may be declared by Order in Executive Council	32
74	Notifiable conditions and notifiable pathogens may be declared by Minister	32

Reporting

75	Reporting of notifiable condition by responsible person	33
76	Reporting of notifiable pathogen by veterinarian or other responsible person	33
77	Reporting of notifiable pathogen by laboratory	34
78	Protection from liability for reporting	34
79	Manner and form of reports	34

Secretary's powers to prevent spread of infection

80	Orders to prevent spread of notifiable condition or notifiable pathogen	34
81	Contents of orders	35
82	Service and notification requirements for orders	35
83	Oral orders in urgent situations	36
84	Enforcement of orders	36
85	Offence for non-compliance with orders	36

Part 9

Notifiable communicable conditions, public health emergencies, and serious incidents

Subpart 1—Notifiable communicable conditions

Reporting and other obligations of persons with condition

86	Medical practitioner must advise person	37
87	Reporting of notifiable communicable condition by person with condition	37

88	Person with notifiable communicable condition must avoid infecting others	37
	<i>Contact tracing</i>	
89	Purpose of contact tracing	38
90	Interpretation	38
91	Power of contact tracing officers to undertake contact tracing	38
92	Systems to facilitate contact tracing for notifiable communicable conditions	38
93	Limitations on disclosure of contact tracing information	39
	<i>Secretary's powers to make orders</i>	
94	Order for clinical examination or test	40
95	Order for detention of person pending test	40
96	Order for counselling	40
97	Other orders	41
98	Order for isolation	42
	<i>Examinations, tests, and treatment under orders</i>	
99	Carrying out of clinical examination, test, or treatment under order	42
	<i>General provisions about orders under this subpart</i>	
100	Detention for non-compliance with orders	43
101	Offence for non-compliance with orders	43
102	Review of orders	43
	Subpart 2—Public health emergencies	
	<i>Public Health Emergency Plan</i>	
103	Public Health Emergency Plan	44
	<i>Declaration and duration of public health emergency</i>	
104	Declaration of public health emergency	44
105	Duration of public health emergency	45
106	Public health emergency during state of disaster or state of emergency	45
	<i>Secretary's powers during public health emergency</i>	
107	Secretary must be satisfied that exercise of power is necessary	46
108	Secretary's powers during public health emergency	46
109	Isolation orders	47
110	Use of premises for isolation centre or operations centre	47
111	Seizure or use of property (other than premises) needed to manage public health emergency	48
112	Compensation may be challenged	48
	<i>Dissemination of harmful information</i>	
113	No harmful information to be disseminated during public health emergency	49
	<i>Guidelines and enforcement</i>	
114	Secretary may issue guidelines	49
115	Enforcement of this subpart	49
116	Offence for non-compliance with this subpart	49
	Subpart 3—Serious incidents	
117	Meaning of serious incident	50
118	Declaration of serious incident	50
119	Orders to respond to serious incident	50
120	Offence for non-compliance with orders	51
	Subpart 4—General provisions about orders under this Part	

	<i>General precondition</i>	
121	Orders must be necessary and proportionate	51
	<i>Contents, notification, etc, and revocation of orders</i>	
122	Contents of orders	51
123	Service and notification requirements for orders	52
124	Oral orders in urgent situations	52
	<i>Application, etc, of orders</i>	
125	Orders may apply to class of persons	53
126	Person may be subject to multiple orders	53
127	Orders in relation to children	53
128	Orders in relation to other persons	53
	<i>Other provisions about orders</i>	
129	Enforcement of orders	53
130	Secretary may issue guidelines about isolation	54
131	Habeas corpus	54
132	Application of this subpart to orders under sections 110 and 111	54
	Part 10	
	Travel into, out of, or within Cook Islands	
133	Quarantine of vessels and aircraft	54
134	Effect of quarantine on vessel or aircraft	55
135	Effect of quarantine of vessel or aircraft on persons on board	55
136	Powers of authorised officers in relation to quarantined vessel or aircraft	56
137	Secretary may grant pratique for quarantined vessel or aircraft	56
138	Secretary may require information from persons entering or exiting Cook Islands	56
139	Screening tests on arrival in Cook Islands	56
	Part 11	
	Human remains	
140	Human remains received in the Cook Islands	57
141	Human remains brought into the Cook Islands	58
142	Exemptions from sections 140 and 141	58
143	Land burials	59
144	Opening graves and removing human remains	59
145	Regulations about human remains	59
146	Relationship between this Part and other enactments	60
	Part 12	
	Health promotion objectives and functions	
147	Objectives regarding health promotion	60
148	Secretary's functions regarding health promotion	60
149	Warning statements	60
150	Threat declarations and codes of practice	61
	Part 13	
	Personal information	
151	Meaning of personal information and application of Part	61
152	Confidentiality of personal information	62
153	Disclosure of personal information	62
154	Disclosure of personal information for research purposes	62
155	Anonymous data or information may be disclosed	63

156	No liability for disclosure of personal information in accordance with Part	63
Part 14		
Powers and enforcement		
<i>Compliance notices</i>		
157	Interpretation	63
158	Compliance notices	64
159	Compliance notices in urgent situations	64
160	Person must comply with compliance notice	64
161	Review of compliance notice	65
162	Decision on review	65
163	Appeal against review decision	65
<i>Other actions that may be taken</i>		
164	Other actions if compliance notice not complied with	66
165	Action in urgent situations	66
166	Recovery of costs	67
<i>Powers of authorised officers</i>		
167	Power to require information	67
168	Power to enter or inspect premises	67
169	Power to enter dwellings	68
170	Search warrant may be issued to allow entry to dwelling	68
171	Powers under authority of search warrant	69
172	Duties and powers of authorised officer entering dwelling with consent	69
<i>Assistance in exercising powers</i>		
173	Authorised officer may be assisted in exercising power	70
<i>Validity of actions and decisions</i>		
174	Actions and decisions valid despite defects, etc, in appointment	70
<i>Provision and use of information</i>		
175	Limits on reasons for refusing to provide information	70
176	Answers not admissible in evidence	70
177	Use of information for assessment of public health risks	70
<i>Offences</i>		
178	General offences	71
<i>Infringement offences</i>		
179	Penalties for infringement offences	71
180	Proceedings for infringement offences	71
181	When infringement notice may be issued	72
182	How infringement notice may be served	72
183	What infringement notice must contain	72
184	Steps after infringement notice issued	73
185	Request for withdrawal of infringement notice	73
186	Prosecution after infringement notice issued	74
<i>Appeals relating to infringement notices</i>		
187	Appeals	74
Part 15		
Regulations, guidelines, and service		
<i>Regulations</i>		
188	Regulations	75
189	General provision as to regulations	76

190	Regulations about transitional matters <i>Guidelines</i>	77
191	Guidelines <i>Service</i>	77
192	Service of instruments	77
Part 16		
Repeals, savings, and consequential amendments		
193	Public Health Act 2004 repealed	78
194	Orders and directions under Public Health Act 2004 remain in force	78
195	Public Health (Sewage and Wastewater Treatment and Disposal) Regulations 2014 remain in force	78
196	Consequential amendments to other Acts	79
Schedule 1		
Vaccine-preventable diseases		
Schedule 2		
Notifiable conditions and notifiable pathogens		
Schedule 3		
Consequential amendments to other Acts		

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 2024.
- 2 Commencement**
 - (1) This Act comes into force on a date appointed by the King's Representative by Order in Executive Council.
 - (2) One or more orders may be made bringing different provisions into force on different dates and appointing different dates for different purposes (including the appointment of 1 or more dates for the purpose of commencing the repeals effected by section 193).

Part 1

Preliminary provisions

- 3 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

authorised officer means a person appointed to that role under section 9

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 158

contact has the meaning given in section 90

contact tracing officer has the meaning given in section 90

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 104 or 106

declaration of a serious incident means a declaration made under section 118

diagnosed person has the meaning given in section 90

disease includes a medical condition

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

general duty has the meaning given in section 36(1)

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

health impact assessment means an assessment under section 11

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

infringement offence means an offence under this Act that is specified as an infringement offence in regulations

International Health Regulations (2005)—

(a) means the International Health Regulations (2005) adopted by the World Health Assembly on 26 May 2006; and

(b) 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 in section 15

Medical Officer of Health means the person appointed to that role under section 8

Minister means the Minister of Health

Ministry means the Ministry of Health (Te Marae Ora)

national immunisation schedule means the schedule approved by the Secretary under section 61

notifiable communicable condition means a notifiable condition—

- (a) specified in item 1 of Part 1 of Schedule 2; or
- (b) specified as a notifiable communicable condition by declaration of the Minister under section 74

notifiable condition has the meaning given in section 72

notifiable pathogen has the meaning given in section 72

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

- (c) acting or apparently acting in the general management or control of the land or building; or
- (d) in physical occupation of the building or land; or
- (e) 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 151

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

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

public health partner authority means a body declared to be a public health partner authority under section 12

public place—

- (a) means a place that, at any material time, is open to or is being used by the public,—
 - (i) whether free or on payment of a charge; and
 - (ii) whether or not an occupier of the place is lawfully entitled to exclude or eject any person from the place; and
- (b) includes—
 - (i) a road or footway; and
 - (ii) a vehicle used for carrying, or available to carry, passengers for reward; and
 - (iii) 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

publicly notified means notified in the Cook Islands in at least 2 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 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

registered medical practitioner means a person who is registered as a medical practitioner and entitled to practise as such in the Cook Islands

regulations means regulations made under this Act

risk means a risk of harm

risk-control procedures, in relation to an activity, means procedures (including operations, processes, devices, facilities, plants, and other systems) that eliminate or adequately mitigate health hazards arising from the activity

school has the meaning given in section 4 of the Education Act 2012

search warrant means a warrant issued under section 170

Secretary means the Head of Ministry as defined in section 3 of 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 disease has the meaning given in section 59

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

whole-of-government, in relation to an initiative or a strategy, means an initiative or a strategy 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 **causes** something if the person contributes to, allows, or permits—
 - (a) an activity for which the person is responsible to commence or proceed; or

- (b) a state of affairs for which the person is responsible to continue.

4 Act binds the Crown

This Act binds the Crown.

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.
- (2) Compliance with this Act does not, of itself, indicate that a common-law duty of care has been satisfied.

Part 2 Administration

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

6 Minister

- (1) The functions of the Minister are—
 - (a) to approve national strategies and plans developed by the Secretary to promote and protect the health of the people of the Cook Islands;
 - (b) to advance policies to protect and promote public health, and to develop those policies together with the Secretary;
 - (c) to report to Parliament on the performance of public health;
 - (d) to impose standards and make codes of practice under this Act relating to public health matters;
 - (e) to promote co-ordination and co-operation across sectors and levels of government to protect and promote public health;
 - (f) to promote a health-in-all-policies approach to government policy;
 - (g) to make recommendations to Ministers in relation to matters of public health significance that are relevant to their portfolios;
 - (h) to enter into partnerships with government and non-government bodies to protect and promote public health;
 - (i) to co-operate and co-ordinate with international bodies to protect and promote public health;
 - (j) to carry out any other function that the Minister must carry out 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.

7 Secretary

The functions of the Secretary are—

- (a) to initiate and develop national strategies and plans to promote and protect the health of the people of the Cook Islands for the approval of the Minister, and to operationalise them;
- (b) to initiate and develop guidelines, standards, and codes of practice under this Act;
- (c) to develop, together with the Minister, policies to protect and promote public health, and to develop and implement programmes to achieve those policies;
- (d) to oversee and monitor the implementation and enforcement of this Act;
- (e) to implement systems to monitor and manage public health risks, including risks arising from communicable and non-communicable diseases and the environment;
- (f) to advise the Minister on matters relating to public health;
- (g) to develop and implement systems to foster collaboration and co-ordination to promote public health, including across sectors and in the community;
- (h) to monitor the operation of the health-in-all-policies approach;
- (i) to support the co-operation and shared management of water resources throughout the Cook Islands, including by entering into arrangements to co-operate on making standards and the monitoring of water quality;
- (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);
- (k) to make orders or impose requirements (including requirements to provide information) under this Act that are 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 an aircraft described in subparagraph (i); and
 - (iii) any person in contact with a person or thing on a vessel or an aircraft described in subparagraph (i);
- (l) to exercise any powers given to authorised officers in this Act;
- (m) to carry out any other function that the Secretary must carry out under this Act.

8 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;
- (b) to perform any functions delegated to the Medical Officer of Health under this Act.

9 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 on which 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 perform 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 10.

10 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

11 Health impact assessment

- (1) The Secretary may conduct a health impact assessment of an activity or a 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 and in a manner that the Secretary considers appropriate, in the assessment; and
 - (b) decision-making authorities are consulted in a manner that the Secretary considers appropriate; and
 - (c) a copy of the assessment is provided to 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.

12 Public health partnerships

- (1) The Secretary may, after consultation with a relevant body, declare it to be a public health partner authority.
- (2) A declaration must be in writing and must be notified on a publicly accessible internet site maintained by, or on behalf of, the Ministry.
- (3) The Secretary may enter into an arrangement with a public health partner authority that provides for the parties to operate as partners in connection with a matter relating to public health.
- (4) The Secretary must monitor the operation of the arrangement.
- (5) The Secretary—
- (a) may revoke the declaration after consultation with the body that is a public health partner; and
 - (b) may do so despite anything in any arrangement with the body.
- (6) The effect of a revocation is that—
- (a) the relevant body ceases to be a public health partner authority; and
 - (b) any arrangements entered into under subsection (3) cease to apply to the Secretary and the relevant body.
- (7) In this section, **relevant body** includes, but is not limited to, a government agency or authority, an Island Government, or a non-government organisation.

Delegations, personal liability, and immunity from civil liability

13 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;
 - (b) may include a provision to prevent sub-delegation by a delegate unless the delegation allows for it:

- (c) is subject to any limitations specified in the instrument of delegation:
 - (d) may be withdrawn at any time:
 - (e) does not prevent the performance or exercise by the officeholder of the function or power delegated.
- (4) The power of delegation under this section cannot be delegated.

14 Immunity from personal liability

- (1) A person described in subsection (2) is not liable in civil or criminal proceedings for good-faith actions or good-faith omissions when performing or exercising, or intending to perform or exercise, their functions, duties, or powers under this Act.
- (2) The persons are—
- (a) the Minister:
 - (b) the Secretary:
 - (c) a member of a body established under this Act:
 - (d) an authorised officer:
 - (e) any other person or member of a body involved 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 judicial review of the reasonableness of the decision or action.

Conflicts of interest

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

16 Obligations if Secretary has conflict 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.

17 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 interest to the Secretary 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 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***18 National Public Health Plan**

- (1) The Minister must make and maintain a National Public Health Plan.
- (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 threats 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;
 - (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.

- 19 Review and duration of National Public Health Plan**
The National Public Health Plan must be reviewed and amended as necessary to ensure that it continues to address the matters in section 18(2).
- 20 Preparing and amending National Public Health Plan**
The Minister must, before making, amending, or replacing 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

- 21 Island Public Health Plan**
- (1) The Minister may make an Island Public Health Plan for 1 or more islands after consultation with each Island Government concerned.
 - (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 threats 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 may address matters that are specific to a particular island.
- 22 Review and duration of Island Public Health Plan**
An Island Public Health Plan must be reviewed and amended as necessary to ensure that it continues to address the matters in section 21(2).
- 23 Preparing and amending Island Public Health Plan**
Before making or amending an Island Public Health Plan, the Minister must, in consultation with each Island Government 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 each island community concerned.

National Public Health Committee

24 National Public Health Committee established

- (1) The 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 King's Representative by Order in Executive Council and must comprise all of the following:
 - (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) a representative of the Ministry responsible for education, chosen by the Minister of Education; and
 - (f) 7 members chosen by the Minister, comprising 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 the disability community in the Cook Islands:
 - (vii) a person representing Cook Islands non-government organisations.
- (4) A member appointed under any of subsection (3)(c) to (f)—
 - (a) holds office for 2 years or any shorter period stated in the order of appointment; and
 - (b) may be reappointed; and
 - (c) despite the expiry of the member's term of office, continues in office until—
 - (i) the member is reappointed; or
 - (ii) the member's successor is appointed; or
 - (iii) the Minister informs the member by notice (with a copy to the Committee) that the member will not be reappointed and no successor will be appointed.

- (5) A notice under subsection (4)(c)(iii) must be served on the member in accordance with section 192.

25 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 well-being of Cook Islanders;
- (c) to monitor current and future threats to public health;
- (d) to recommend strategies and initiatives to respond to and mitigate the threats of climate change to public health;
- (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—
 - (i) the state of public health in the Cook Islands; and
 - (ii) the administration of this Act generally; and
 - (iii) 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.

26 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.
- (3) However, a deputy chairperson is subject to direction by the chairperson unless the chairperson is unable or unavailable to give directions.

27 Vacancies

- (1) This section applies if a position on the National Public Health Committee to which a person is appointed under any of section 24(3)(c) to (f) becomes vacant.
- (2) The Minister who was responsible for choosing the person who held the position before it became vacant must fill the vacancy as soon as is reasonably practicable.

28 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.

29 Resignation

- (1) A member of the National Public Health Committee may resign at any time by notice to the Minister (with a copy to the Committee).
- (2) The member must serve the notice on the Minister in accordance with section 192.

30 Removal from office

- (1) This section applies to members of the National Public Health Committee who are appointed under any of section 24(3)(c) to (f).
- (2) The Minister responsible for choosing the member for appointment may, at any time, remove the member for 1 or more of the following reasons:
 - (a) breach of the member's duties or the Committee's collective duties under this Act;
 - (b) failure or inability to perform, or inadequate performance of, the member's duties and responsibilities as a member;
 - (c) misconduct by the member;
 - (d) any other just cause.
- (3) The relevant Minister under subsection (2) removes the member by giving the member notice of the removal (with a copy to the Committee).
- (4) The notice must—
 - (a) state the reasons for the removal; and
 - (b) be served on the member in accordance with section 192.
- (5) A member is not entitled to any compensation or other payment or benefit relating to the member's removal from office.

31 Members ceasing to hold office

- (1) A member ceases to hold office if the member resigns or is removed from office under section 30 or ceases to hold office in accordance with any enactment.
- (2) If subsection (1) applies, section 24(4)(b) and (c) does not apply.

32 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 the performance of 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.

33 Conflicts of interest

- (1) A member of the National Public Health Committee who, in performing 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 or interests they or their immediate families have in organisations or products whose regulation or control may raise a conflict of interest with matters considered by the Committee.

34 Procedure

- (1) The National Public Health Committee may regulate its procedure as it sees fit, subject to this Act and regulations.
- (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.
- (4) If the members are equally divided in their opinions, the opinion of the chairperson prevails.
- (5) A meeting of the Committee where some or all members participate by telephone or video conference is valid and effectual.

35 Subcommittees of National Public Health Committee

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

Part 4 General duty

General duty

36 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 (the **general duty**).

- (2) Regulations may specify matters or circumstances that amount to—
 - (a) a breach of the general duty;
 - (b) compliance with the general duty.
- (3) A breach of the general duty may result in a compliance notice being issued, but does not otherwise of itself—
 - (a) give rise to any right or remedy; or
 - (b) constitute an offence.
- (4) In this Act, **breach**, in relation to the general duty, includes a failure to comply with a matter or circumstance that regulations specify amounts to compliance with the general duty.

Compliance notices for breach of general duty

37 Compliance notice for breach of general duty

- (1) An authorised officer may issue a compliance notice to a person for a breach of the 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) See sections 158 and 159 for general requirements applying to the issuing of compliance notices under this Act.
- (4) In any proceedings against a person in relation to a compliance notice for a breach of the general duty, it is a defence if the person proves that they complied with the applicable guidelines issued under section 38.

38 Guidelines

The Secretary may issue guidelines to assist persons to comply with the general duty.

Complaints of breach of general duty

39 Making complaint of breach of general duty

- (1) A person may make a complaint to an authorised officer if they believe that another person has breached the general duty.
- (2) The officer must advise the complainant and the person being investigated about how the investigation (if any) will be conducted.

40 Investigation of complaint

- (1) An authorised officer—
 - (a) must investigate a complaint that they consider is credible; but
 - (b) need not investigate a complaint if—
 - (i) its subject-matter is being or has been investigated under this section; or

- (ii) it does not relate to a public health risk.
- (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, on reasonable grounds, whether the person is in breach of the general duty.
- (4) To avoid doubt, a complaint is not credible if the authorised officer considers that it is vexatious, trivial, frivolous, or not made in good faith.

41 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—
 - (a) inform the person and the complainant of the decision and the reasons for it; and
 - (b) do one of the following:
 - (i) issue a compliance notice; or
 - (ii) 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; or
 - (iii) decide that it is appropriate to take no further action.
- (2) If the authorised officer—
 - (a) issues a compliance notice under subsection (1)(a), they must inform the person and the complainant in writing;
 - (b) makes a referral under subsection (1)(b) or decides to take no further action under subsection (1)(iii), they must inform the person and the complainant in writing of the referral or decision, advise them that no further action will be taken, and give reasons.
- (3) In any proceedings against a person in relation to a compliance notice for a breach of the general duty, it is a defence if the person proves that they complied with the applicable guidelines issued under section 38.
- (4) This section does not limit an authorised officer's power to issue a compliance notice in reliance on section 37.

42 If no breach of duty found

- If, after investigating a complaint, an authorised officer decides that a person does not appear to be in breach of the 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

Offences of causing risk to public health

- 43 Offence of causing material risk to public health**
- (1) A person commits an offence if they—

- (a) intentionally, negligently, or recklessly cause a material risk to public health; and
 - (b) know or ought to have known 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) for an individual, to a fine not exceeding \$10,000, imprisonment for a term not exceeding 6 months, or both;
 - (b) for a body corporate, to a fine not exceeding \$100,000.
- (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.

44 **Offence of causing serious risk to public health**

- (1) A person commits an offence if they—
- (a) intentionally, negligently, or recklessly cause a serious risk to public health; and
 - (b) know or ought to have known 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) for an individual, to a fine not exceeding \$20,000, imprisonment for a term not exceeding 12 months, or both;
 - (b) for a body corporate, to a fine not exceeding \$200,000.
- (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
 - (b) affect a wide geographical area; or
 - (c) have a serious impact on human life.

45 **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 order, notice, or direction under this Act that related to the risk to public health; and

- (c) as soon as they became 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, disease vectors, and antimicrobial resistance

Subpart 1—Water quality

46 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.

47 Water intended for human consumption

- (1) This section applies if the Secretary believes on reasonable grounds that water to which this subpart applies, and that is intended for human consumption, presents or may present a risk to public health.
- (2) The Secretary may, by order (a **water quality order**),—
- (a) require any action to be taken that the Secretary considers is reasonably necessary to minimise the risk to public health (including closing the source of the water);
- (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 landowner.
- (3) Before making an order under subsection (2), the Secretary must—
- (a) consult any person or body responsible for testing or monitoring the water source or supply; and
- (b) attempt to notify any obvious owner or occupier, but only if reasonable in the circumstances.
- (4) However, the Secretary is not required to consult or notify anyone under subsection (3) if the Secretary considers that the risk to public health requires urgent action.
- (5) If subsection (4) applies, the Secretary must notify any person or body responsible for testing or monitoring the water source or supply of the action taken as soon as is reasonably practicable.

48 Public exposure to contaminated water at public swimming pools or public 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 to 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 notice on that person to be displayed at the entrance to the pool or place (a **water quality notice**).
- (3) A person who is served with a water quality notice must display it at the entrance to the relevant pool, place, or property.

49 Service of water quality order or water quality notice

- (1) Subject to subsection (2), a water quality order or water quality notice must be served on the relevant person or persons in accordance with section 192.
- (2) If there is no person on whom a water quality order or water quality notice can practicably be served, the Secretary must instead display a copy of the order or notice at the entrance of the place that is subject to the order or notice.

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

- (1) A person commits an offence if they, without reasonable excuse,—
 - (a) fail to comply with a water quality order under section 47 or 48;
 - (b) obstruct any person taking any action that the Secretary orders be taken under either of those sections;
 - (c) fail to display a water quality notice served on them under section 48.
- (2) A person who commits an offence under subsection (1) is liable on conviction,—
 - (a) for an individual, to a fine not exceeding \$5,000, imprisonment for a term not exceeding 3 months, or both;
 - (b) for a body corporate, to a fine not exceeding \$50,000.

51 Secretary may issue guidelines for water monitoring and testing

- (1) The Secretary may issue 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—
 - (a) must 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) may take into account any relevant international standards and guidelines.

Subpart 2—Disease vectors

- 52 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.
- 53 Power of entry relating to disease vectors**
- (1) An authorised officer may enter premises (other than a dwelling) and take any action that is reasonably necessary to eradicate or control mosquitoes or other disease vectors that 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 applying 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 of the following at least 24 hours before commencing the application:
- (i) that the application is proposed to occur; and
- (ii) the name of the substance or chemical that is proposed to be applied; and
- (iii) the place to which the substance or chemical is proposed to be applied; and
- (iv) the name and address of the person to contact for further information about the application of the substance; and
- (v) 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 must be taken urgently, the officer need not comply with the notification requirements in subsection (2)(b).
- 54 Regulations about disease vectors**
Regulations made under section 188 may impose requirements and standards to protect the public against health risks from any specified disease vector.
- 55 Secretary may issue guidelines about disease vectors**
The Secretary may issue guidelines setting out actions that persons may undertake to ensure that they do not create areas favourable for the breeding of mosquitoes or other disease vectors.

Subpart 3—Antimicrobial resistance

56 Secretary to prepare and implement plan to address antimicrobial resistance

The Secretary must prepare and implement a plan to address antimicrobial resistance in accordance with section 57.

57 Preparing and implementing plan to address antimicrobial resistance

(1) In preparing and implementing the plan required under section 56, the Secretary must consider current practices and requirements relating to all of the following matters:

- (a) antimicrobial residue limits in food:
- (b) inspection of imported foods for possible antimicrobial residues:
- (c) monitoring of the following:
 - (i) the supply and use of antimicrobials across the Cook Islands; and
 - (ii) any reports of antimicrobial resistance:
- (d) commercial importation of antimicrobial medicines for human and animal use into the Cook Islands:
- (e) prescribing, supply, and use of antimicrobials for humans and animals:
- (f) primary production controls in relation to the use of antimicrobials in animal feed:
- (g) discharge of microbial residues into the environment:
- (h) assessment of the potential risk to public health presented by the supply and use of antimicrobials:
- (i) 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.

58 Regulations about antimicrobial resistance

(1) The King's Representative may, by Order in Executive Council on the recommendation of the Minister, impose requirements or prohibitions in respect of any of the matters in section 57(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

- 59 Meaning of vaccine-preventable disease**
In this Act, unless the context otherwise requires, **vaccine-preventable disease** means a disease listed in Schedule 1.
- 60 Vaccine-preventable disease may be declared by Order in Executive Council**
- (1) The King's Representative may, by Order in Executive Council on the recommendation of the Minister, amend or replace Schedule 1 to add or remove 1 or more diseases to or from the list of vaccine-preventable diseases in that schedule.
 - (2) Without limiting subsection (1), an order under that subsection may add a disease to Schedule 1 even if the disease is one for which a vaccine, rather than preventing the disease, may do either or both of the following:
 - (a) reduce the risk of an individual contracting the disease;
 - (b) reduce the severity of the disease if an individual does contract it.
- 61 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 publicly notified.
 - (4) In preparing and reviewing the schedule, the Secretary must have regard to the World Health Organization table *Recommended Routine Immunizations for Children*, as amended from time to time.
- 62 Vaccination availability**
- (1) 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
 - (b) without charge to the residents.
 - (2) For the purposes of this Act, **resident** means—
 - (a) a Cook Islander; or
 - (b) any other person who has been present in the Cook Islands for at least 90 days.

63 Administration of vaccines to children

- (1) A child may only be vaccinated by a medical practitioner or other person authorised by the Secretary, in writing, to give vaccinations to children.
- (2) A person who vaccinates a child must—
 - (a) provide the Secretary with any information the Secretary reasonably requires 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.

64 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) allow access by individuals to their vaccination status and records; and
 - (e) identify risks associated with vaccination rates in an area or a community; and
 - (f) 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.

65 Actions if child not vaccinated

- (1) This section applies if a child is not vaccinated according to the vaccination schedule.
- (2) An authorised officer may offer counselling or education to the child's parent.

66 Attendance at school

- (1) Before a child starts attending any school, the child's parent must provide the principal of the school with—
 - (a) a statement of the child's vaccination status; and
 - (b) an up-to-date vaccination record relating to the child (if available).
- (2) The principal must take reasonable steps to ensure that the parent 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 equivalent of any of the things in paragraphs (a) to (c) provided by an overseas government and approved by the Secretary.

67 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 for the child.
- (2) The principal must provide the Secretary with the names of any children—
 - (a) who are unvaccinated; or
 - (b) for whom the information required by section 66 has not been provided.
- (3) The Secretary may request any additional information from the principal that the Secretary considers is reasonably necessary to contact the parents of a child reported as being unvaccinated.

Outbreak of vaccine-preventable disease

68 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 a vaccine-preventable disease is 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.

69 Obligations on schools when outbreak declared

- (1) This section applies if the Secretary declares under section 68 that there is an outbreak of a vaccine-preventable disease.
- (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 order the closure of any school for a specified period.
- (4) The Secretary may make a direction or an order under this section if the Secretary believes on reasonable grounds that it is necessary—
 - (a) to reduce transmission of the vaccine-preventable disease and protect public health; or
 - (b) to protect the health of an unvaccinated child.
- (5) The Secretary must serve the direction or order on the school principal in accordance with section 192.

Administrative matters and regulations

- 70 Arrangements between Secretary and Ministry of Education**
The Secretary may consult and enter arrangements with the Ministry of Education in order to facilitate the measures in this Part relating to schools.
- 71 Regulations about vaccination**
Regulations made under section 188 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***Definitions and declarations*

- 72 Definitions of notifiable condition and notifiable pathogen**
In this Act, unless the context otherwise requires,—
- notifiable condition** means a disease or symptoms specified as a notifiable condition—
- (a) in Part 1 of Schedule 2; or
 - (b) by declaration of the Minister under section 74
- notifiable pathogen** means a pathogen specified as a notifiable pathogen—
- (c) in Part 2 of Schedule 2; or
 - (d) by declaration of the Minister under section 74.
- 73 Notifiable conditions and notifiable pathogens may be declared by Order in Executive Council**
The King's Representative may, by Order in Executive Council on the recommendation of the Minister, amend or replace Schedule 2 to—
- (a) add or remove 1 or more diseases to or from the list of 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.
- 74 Notifiable conditions and 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, by declaration, specify the disease or any symptoms as a notifiable condition or notifiable pathogen.
 - (3) A declaration under this section—

- (a) must be for a period of 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 2.
- (4) A notifiable condition or notifiable pathogen that is specified by declaration under this section must be added to Schedule 2 as soon as is reasonably practicable.

Reporting

75 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—
- (a) as soon as is 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.
- (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.

76 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—
- (a) as soon as is 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.
- (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.

77 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—
 - (a) as soon as is reasonably practicable; 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.

78 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 an 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.

79 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).

Secretary's powers to prevent spread of infection

80 Orders to prevent spread of notifiable condition or notifiable pathogen

- (1) The Secretary may make an order under this section if the Secretary reasonably believes that the order is required to respond to a risk of the spread of a notifiable condition or notifiable pathogen.
- (2) The Secretary may 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:
- (e) any premises must be cleaned or disinfected:
- (f) any premises must be closed or quarantined:
- (g) movement into or out of any premises is restricted in the manner specified:
- (h) other action prescribed by regulations must be taken.

81 Contents of orders

- (1) An order under section 80 must be in writing and must state—
 - (a) the grounds on which the order is made; and
 - (b) the date on, and time at, which the order comes into force; and
 - (c) the requirements to be complied with; and
 - (d) that the order may be enforced by reasonable force; and
 - (e) that failure to comply with the order is an offence.
- (2) If an order applies only to the items or belongings of 1 or more particular persons, the Secretary must take all reasonable steps to ensure that a person to whom the order applies is informed of the information listed in subsection (1) in a language that the person is likely to readily understand.

82 Service and notification requirements for orders

- (1) An order under section 80 has no effect until this section is complied with.
- (2) An order must,—
 - (a) if it applies to the items or belongings of 1 or more particular persons, be served on each of those persons in accordance with section 192; or
 - (b) in any other case, be publicly notified.
- (3) If an order applies to particular premises, it must also be prominently displayed at those premises.
- (4) If an order is varied, an amended order must be served or notified and, if applicable, displayed in accordance with this section as it applied to the principal notice.
- (5) If an order is revoked, notice of the revocation must, as soon as practicable, be served or notified and, if applicable, displayed in accordance with this section as it applied to the principal notice.

83 Oral orders in urgent situations

- (1) This section applies if the Secretary is satisfied, on reasonable grounds, that—
- (a) an order under section 80 is urgently needed; and
 - (b) there is insufficient time to comply with sections 81 and 82.
- (2) The Secretary may make the order orally by,—
- (a) if the order applies to the items or belongings of 1 or more particular persons, orally communicating the order to those persons; or
 - (b) if the order applies to the items or belongings of a class of persons,—
 - (i) announcing the order on television or radio; or
 - (ii) orally communicating the order by any other mechanism that is likely to reach (directly or indirectly) that class of persons; or
 - (c) in any other case,—
 - (i) announcing the order on television or radio; or
 - (ii) orally communicating the order by any other mechanism that is likely to reach (directly or indirectly) the majority of the population.
- (3) The Secretary must, as soon as practicable after making an oral order, replace it with an order that—
- (a) complies with sections 81 and 82; and
 - (b) states, in relation to the oral order, the grounds on which the Secretary was satisfied of the matters set out in subsection (1).
- (4) An oral order is revoked on the earlier of the following:
- (a) its replacement in accordance with subsection (3);
 - (b) the expiry of 48 hours after it is made.

84 Enforcement of orders

An authorised officer or a constable may do anything reasonably necessary (including the use of reasonable force) to ensure that an order made under this Part is complied with.

85 Offence for non-compliance with orders

A person who, without reasonable excuse, fails to comply with an order made under this Part commits an offence and is liable on conviction,—

- (a) for an individual, to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 6 months;
- (b) for a body corporate, to a fine not exceeding \$100,000.

Part 9
**Notifiable communicable conditions, public health
emergencies, and serious incidents**

Subpart 1—Notifiable communicable conditions

Reporting and other obligations of persons with condition

- 86 Medical practitioner must advise person**
- (1) This section applies to a medical practitioner (to whom section 75 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 88; 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 75.
- 87 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 medical practitioner; 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.
- 88 Person with notifiable communicable condition must avoid infecting others**
- (1) Any person who has been diagnosed with 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 a fine not exceeding \$5,000 or imprisonment for a term not exceeding 3 months.

*Contact tracing***89 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 with, or is suspected of having, a notifiable communicable condition in order to do any or all of the following:

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

90 Interpretation

In this Act, unless the context otherwise requires,—

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

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

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

91 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 is—
 - (a) 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 under this section commits an offence and is liable on conviction to a fine not exceeding \$5,000.

92 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 either or both of the following:

- (a) allow contact tracing officers to require any person to provide relevant information to them on a periodic basis or as otherwise specified:
- (b) allow contact tracing officers to request any of the following bodies to provide relevant information to them:
 - (i) an enforcement agency:
 - (ii) a department or an agency (however described) of the Government of the Cook Islands or the Government of another country:
 - (iii) a body corporate or unincorporated body 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 in which 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 so that it can be provided when required; and
 - (b) as required, and to the best of their ability, provide information that is accurate to the best of their knowledge.
- (5) If a person or body in the Cook Islands provides information to a contact tracing officer under subsection (2) in good faith, the person or body 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.
- (6) In this section, **relevant information** means information, including personal information, that the Secretary considers is reasonably necessary to reduce a risk to public health from a notifiable communicable condition or notifiable pathogen.

93 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 this Act or any regulation relating to contact tracing must not be disclosed outside of the Ministry unless—
 - (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
 - (d) the 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, 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 to authorise disclosure of personal information under subsection (1)(d), the Court must have regard to both of 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.

Secretary's powers to make orders

94 Order for clinical examination or test

- (1) The Secretary may make an 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 clinically examined or tested to determine the person's infectious state.
- (3) If a person has undertaken an examination or a test as required by this section, the Secretary may order the person to remain in isolation in a place specified by the Secretary until the results of the examination or test are available.
- (4) See section 99, which sets out requirements for the examination or test.
- (5) In this section, **person** includes a deceased person and this section, and any section related to a clinical examination or test under this section, is to be read with any necessary modifications.

95 Order for detention of 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 94.
- (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.
- (4) The Secretary must notify the person in writing as soon as is 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.

96 Order for counselling

- (1) The Secretary may make an order under this section for a person diagnosed with, or 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 has not done so.
- (2) The Secretary may order the person to undergo counselling about the condition and the risks the person may present to others.

97 Other orders

- (1) The Secretary may make an order under this section in relation to a person diagnosed with, or suspected of having, a notifiable communicable condition if—
- (a) the person has refused to comply with an order to undertake counselling under section 96; 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 96 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 considers 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 imposing any other restrictions or other requirements on, or in relation to, the person that the Secretary considers are reasonably necessary to protect public health (not amounting to isolation).
- (3) See section 99, which sets out requirements for a test or treatment carried out under subsection (2)(b).
- (4) In this section, **person** includes a deceased person and this section, and any section related to an order under this section, is to be read with any necessary modifications.

98 Order for isolation

- (1) The Secretary may make an order under this section for a person diagnosed with, or suspected of having, a notifiable communicable condition if any of the following apply:
 - (a) the person has refused to comply, or has not fully complied, with an order made under section 97;
 - (b) the Secretary believes that an order under section 97 is inappropriate in the circumstances;
 - (c) the Secretary believes 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 or if, in the Secretary's opinion, the risk of a person not complying with the order 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 must comply with the order for the period specified in the order or until the Secretary otherwise determines, subject to subsection (5).
- (5) However, a person must be released from isolation if the Secretary believes that the person no longer presents a risk to public health.
- (6) The Secretary must notify the person in writing as soon as is reasonably practicable if the Secretary considers that the person no longer presents a risk to public health.
- (7) The order ceases to apply to the person when the notification is made.

*Examinations, tests, and treatment under orders***99 Carrying out of clinical examination, test, or treatment under order**

- (1) This section applies if the Secretary orders—
 - (a) a clinical examination or test under section 94; or
 - (b) a programme of testing or treatment under section 97(2)(b).
- (2) The examination, test, or treatment must be carried out by—
 - (a) a medical practitioner; or
 - (b) a person who is qualified to carry out the examination, test, or treatment and who is named, or belongs to a class of persons specified, in the order.
- (3) The results of the examination, test, or treatment must be provided to the Secretary and—
 - (a) the person who was examined, tested, or treated; or
 - (b) in the case of a child, the child's parent; or
 - (c) in the case of a deceased person, the person's next of kin.

*General provisions about orders under this subpart***100 Detention for non-compliance with orders**

- (1) The Secretary may order that a person who fails to comply with an order made under this subpart must be detained and confined to a hospital or other suitable place determined by the Secretary until—
 - (a) the Secretary orders otherwise; 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 a constable.
- (3) A person who, without reasonable excuse, leaves a place where they are detained or confined under this section commits an offence and is liable on conviction to a fine not exceeding \$20,000 or imprisonment for a term not exceeding 12 months.

101 Offence for non-compliance with orders

- (1) A person who, without reasonable excuse, fails to comply with an order made under this subpart (including under section 100) commits an offence and is liable on conviction,—
 - (a) for an individual, to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 6 months;
 - (b) for a body corporate, to a fine not exceeding \$100,000.
- (2) To avoid doubt, a person may be convicted of an offence against this section and be subject to an order under section 100 in relation to the same conduct.

102 Review of orders

- (1) A person who is subject to an order under this subpart (including an order under section 100) may apply to the Secretary for a review of the order—
 - (a) within 5 working days after the order is served;
 - (b) at a later time, if the order remains in force and the person believes that the order is no longer justified.
- (2) An application may be made by the parent of a child who is 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 is reasonably practicable, hear the application and make a decision to confirm, vary, or revoke the order; and
 - (b) may determine the form of the review and that proceedings are not subject to the rules of evidence, subject to subsection (5).
- (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) An appeal against a decision under this section may be made to the Court (in which case the order remains in force until revoked by the Court).

Subpart 2—Public health emergencies

Public Health Emergency Plan

103 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—
 - (i) to 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 specify how those resources are to be used.
- (3) In preparing and maintaining the plan, the Secretary must have regard to plans made under the Disaster Risk Management Act 2007.

Declaration and duration of public health emergency

104 Declaration of public health emergency

- (1) The King'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) 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 105 must specify—
 - (a) the nature of the emergency; and
 - (b) the reason the emergency is declared; and
 - (c) the area or areas 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 section 105.
- (4) A declaration or an extension under this section must be publicly notified.

- (5) *See also* section 106, which enables the Prime Minister to declare a public health emergency during a state of disaster or state of emergency.

105 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 King's Representative by Order in Executive Council on the recommendation of the Minister, for further periods of not exceeding 28 days in each case.
- (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.
- (3) Any extension that makes the total duration of the public health emergency longer than 3 months must be approved by Parliament.
- (4) A declaration may be revoked at any time by the King's Representative by Order in Executive Council if the Minister is satisfied that it is no longer needed.

106 Public health emergency during state of disaster or state of emergency

- (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, in writing, declare a public health emergency if—
- (a) a public health emergency declared under section 104 is not already in force; and
 - (b) the Prime Minister believes on reasonable grounds the matters set out in section 104(2); and
 - (c) the Prime Minister has consulted the Minister.
- (3) A declaration under this section must—
- (a) specify the matters set out in section 104(3); and
 - (b) be notified in accordance with section 104(4).
- (4) Despite section 105, a declaration under this section—
- (a) need not be reviewed; and
 - (b) is of the same duration as the state of disaster or state of emergency.
- (5) The Secretary must be treated as appointed to the Response Executive under section 11 of the Disaster Risk Management Act 2007 if a public health emergency is declared (under this section or section 104) while the state of disaster or state of emergency is in force.
- (6) Parts 6 and 7 of the Disaster Risk Management Act 2007 apply in addition to the provisions of this subpart, but the provisions of this subpart prevail to the extent of any inconsistency.

Secretary's powers during public health emergency

- 107 Secretary must be satisfied that exercise of power is necessary**
Before exercising a power under this subpart, the Secretary must believe on reasonable grounds that it is necessary to respond to a public health emergency.
- 108 Secretary's powers during public health emergency**
- (1) The Secretary may take all measures 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, implement 1 or more of the following measures 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—
 - (i) be tested and retested as specified;
 - (ii) self-isolate or self-quarantine 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, restrict, or impose conditions on the entry to or departure from the Cook Islands of any person or persons generally;
 - (e) prohibit, restrict, or impose conditions on any travel of persons, aircraft, or vessels within the Cook Islands;
 - (f) isolate any vessel or aircraft;
 - (g) close, 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 measures relating to physical distancing between persons;
 - (n) exercise any power in relation to human remains that is given elsewhere in this Act;
 - (o) require a person to provide proof of vaccination or to 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 legislation (including the Ministry of Health (Pharmacy and Therapeutic Products) Regulations 2013):
 - (u) authorise persons to practise a regulated health profession:
 - (v) exercise any other power given to the Secretary under this Act.
- (3) The owner of, or any person who has an interest in, any premises or property acquired under subsection (2)(q) must be compensated for the acquisition at a rate set by the Financial Secretary.
- (4) The rate set by the Financial Secretary must be adequate, having regard to—
- (a) the type of premises or property acquired; and
 - (b) the loss of income or financial cost that the owner will otherwise suffer as a result of the order; and
 - (c) any other relevant matters.
- (5) *See* section 112 for the ability to challenge a rate of compensation set by the Financial Secretary.
- (6) Subsection (2) does not limit the Secretary's power under subsection (1).
- (7) The power to make orders under this section cannot be delegated to a constable.

109 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—
- (a) go into a place declared by the Secretary to be an isolation centre; or
 - (b) if the Secretary considers it appropriate in the circumstances, remain in isolation in a place specified in the order.
- (3) An order must include the following conditions:
- (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 in isolation.
- (4) An order may include other conditions that the Secretary considers appropriate, including a condition that the isolation be under supervision.

110 Use of premises for isolation centre or operations centre

- (1) The Secretary may, in writing, order that any specified premises 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 or 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 adequate, having regard to—
 - (a) the type of premises; and
 - (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.
- (4) An order under this section must be served in accordance with section 192 on the owner of, or any person who has an interest in, the premises.
- (5) This section does not limit section 108(2)(q).

111 Seizure or use of property (other than premises) needed to manage public health emergency

- (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 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.
- (4) An order under this section must be served in accordance with section 192 on the owner of, or any person who has an interest in, the premises.
- (5) This section does not limit section 108(2)(q).

112 Compensation may be challenged

- (1) A person who is dissatisfied with the rate of compensation set by the Financial Secretary under section 108(3), 110(2), or 111(2) may apply to the 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 against the determination to the Court of Appeal as if it were a civil proceeding.

Dissemination of harmful information

- 113 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 6 months or a fine not exceeding \$10,000;
 - (b) for a body corporate, to a fine not exceeding \$100,000.
 - (3) No prosecution may be taken under this section unless the Solicitor-General consents after taking into account the right to freedom of speech under the Constitution.
 - (4) In this section, **harmful information** means information that—
 - (a) the person knows, or reasonably ought to have known, is false information about the public health emergency, including measures being taken to respond to it; or
 - (b) is intended to promote civil disorder or civil unrest.

Guidelines and enforcement

- 114 Secretary may issue guidelines**
The Secretary may issue guidelines—
- (a) to assist compliance with orders made under this subpart; and
 - (b) for managing public health emergencies.
- 115 Enforcement of this subpart**
- (1) A constable may—
 - (a) arrest any person who does not comply with an order made under this subpart; and
 - (b) detain the person in any place that the Secretary orders for the duration of the order.
 - (2) 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.
- 116 Offence for non-compliance with this subpart**
A person who, without reasonable excuse, fails to comply with an order made under this subpart commits an offence and is liable on conviction,—
- (a) for an individual, to a term of imprisonment not exceeding 12 months or a fine not exceeding \$20,000;
 - (b) for a body corporate, to a fine not exceeding \$200,000.

Subpart 3—Serious incidents

117 Meaning of serious incident

- (1) In this subpart, **serious incident**—
 - (a) means an occurrence that presents a serious risk to public health; but
 - (b) does not include an occurrence that is a disaster or an 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 that causes damage to water supplies or sewerage systems;
 - (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.

118 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 is reasonably practicable after, making the declaration.
- (4) A declaration expires on the close of the earlier of the following:
 - (a) the date specified in the declaration;
 - (b) the date that is 14 days after the date on which the declaration comes into force.
- (5) The Secretary may, with the approval of the Minister, amend or extend the declaration for a further 14 days and may extend the declaration under this subsection more than once.
- (6) A declaration, an amendment to a declaration, or an 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.

119 Orders to respond to serious incident

- (1) This section applies if the Secretary has made a declaration of a serious incident.
- (2) The Secretary may, by order, implement measures that the Secretary considers are reasonably necessary to respond to the incident, including 1 or more of the following measures:
 - (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 premises (including a dwelling) and to seize or destroy property:
- (e) prohibit, restrict, or impose conditions on any travel of persons, aircraft, or vessels within the Cook Islands:
- (f) require a person to provide information or answer questions:
- (g) require premises to be cleaned or decontaminated:
- (h) direct any person who presents or may present a risk to public health to do either or both of the following:
 - (i) remain isolated from other persons for a specified period:
 - (ii) undergo medical observation, medical examination, or medical treatment.

120 Offence for non-compliance with orders

A person who, without reasonable excuse, fails to comply with an order made under this subpart commits an offence and is liable on conviction,—

- (a) for an individual, to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 6 months:
- (b) for a body corporate, to a fine not exceeding \$100,000.

Subpart 4—General provisions about orders under this Part

General precondition

121 Orders must be necessary and proportionate

(1) The Secretary may make an order under this Part that imposes a restriction or other requirement on a person only if the Secretary believes on reasonable grounds that the restriction or other requirement—

- (a) is necessary to protect the community from a risk to public health; and
- (b) is the least restrictive means necessary to protect the community from the risk; and
- (c) is proportionate to the risk.

(2) This section applies whether the order applies to a particular person, a class of persons, or to persons generally.

(3) This section does not limit or affect any other preconditions that must be met under this Part before the Secretary may make an order.

Contents, notification, etc, and revocation of orders

122 Contents of orders

(1) An order under this Part must be in writing and must state—

- (a) the grounds on which the order is made; and

- (b) the date on which the order is made; and
 - (c) the date on, and time at, which the order comes into force; and
 - (d) if the order applies to 1 or more particular persons, or to a class of persons, those persons or that class of persons; and
 - (e) the requirements that must be complied with; and
 - (f) that the order may be enforced by reasonable force; and
 - (g) that failure to comply with the order is an offence; and
 - (h) if the order is made under subpart 1 of this Part, that a person who is subject to the order may apply for it to be reviewed in accordance with section 102.
- (2) If an order applies to 1 or more particular persons, the Secretary must take all reasonable steps to ensure that those persons are informed of the information described in subsection (1) in a language that they are likely to readily understand.

123 Service and notification requirements for orders

- (1) An order under this Part has no effect until this section is complied with.
- (2) An order must,—
- (a) if it applies to 1 or more particular persons, be served on each of those persons in accordance with section 192; or
 - (b) in any other case, be publicly notified.
- (3) If an order applies to particular premises, it must also be prominently displayed at those premises.
- (4) If an order is varied, an amended order must be served or notified and, if applicable, displayed in accordance with this section as it applied to the principal notice.
- (5) If an order is revoked, notice of the revocation must, as soon as practicable, be served or notified and, if applicable, displayed in accordance with this section as it applied to the principal notice.

124 Oral orders in urgent situations

- (1) This section applies if the Secretary is satisfied, on reasonable grounds, that—
- (a) an order under this Part is urgently needed; and
 - (b) there is insufficient time to comply with sections 122 and 123.
- (2) The Secretary may make the order orally by,—
- (a) if the order applies to 1 or more particular persons, orally communicating it to those persons; or
 - (b) if the order applies to a class of persons,—
 - (i) announcing the order on television or radio; or
 - (ii) orally communicating the order by any other mechanism that is likely to reach (directly or indirectly) that class of persons; or
 - (c) in any other case,—
 - (i) announcing the order on television or radio; or

- (ii) orally communicating the order by any other mechanism that is likely to reach (directly or indirectly) the majority of the population.
- (3) The Secretary must, as soon as practicable after making an oral order, replace it with an order that—
 - (a) complies with sections 122 and 123; and
 - (b) states, in relation to the oral order, the grounds on which the Secretary was satisfied of the matters set out in subsection (1).
- (4) An oral order is revoked on the earlier of the following:
 - (a) its replacement in accordance with subsection (3);
 - (b) the expiry of 48 hours after it is made.

Application, etc, of orders

125 Orders may apply to class of persons

- (1) An order that may be made under this Part in relation to a person may apply to a class of persons.
- (2) This Part applies with any necessary modifications in relation to an order that applies to a class of persons.

126 Person may be subject to multiple orders

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

127 Orders in relation to children

- (1) This section applies if an order under this Part relates to a child.
- (2) The child's parent—
 - (a) must ensure that the child complies with the order; and
 - (b) is liable for any offence arising out of the child's noncompliance with the order.
- (3) In this section, **child** means a person under 15 years of age.

128 Orders in relation to other persons

- (1) This section applies if an order under this Part relates to a person who—
 - (a) is unlikely to understand or comply with the requirements of the order; and
 - (b) is not a child within the meaning of section 127(3).
- (2) The person's guardian or the person's day-to-day carer (if any)—
 - (a) must ensure that the person complies with the order; and
 - (b) is liable for any offence arising out of the person's noncompliance with the order.

Other provisions about orders

129 Enforcement of orders

An authorised officer or a constable may do anything reasonably necessary (including the use of reasonable force) to ensure that an order made under this Part is complied with.

- 130 Secretary may issue guidelines about isolation**
The Secretary may issue guidelines for the care and treatment of persons subject to isolation or detained under this Part.
- 131 Habeas corpus**
(1) The following is detention of a person for the purposes of a writ of habeas corpus under Article 65(1)(c) of the Constitution:
(a) isolation or detention and confinement of a person under an order made under section 94(3), 95, 98, 100, or 109;
(b) detention of a person by a constable under section 115(1)(b).
(2) Subsection (1) does not prevent the Court from determining that anything else done under this Act amounts to the detention of a person.
- 132 Application of this subpart to orders under sections 110 and 111**
Section 129 is the only section in this subpart that applies to an order under section 110 or 111.

Part 10

Travel into, out of, or within Cook Islands

- 133 Quarantine of vessels and aircraft**
(1) This section applies to a vessel or an aircraft—
(a) entering the Cook Islands from a place outside the Cook Islands; or
(b) travelling from a place within the Cook Islands that has been restricted under this Act; or
(c) entering the Cook Islands or travelling within the Cook Islands and ordered by the Secretary to be quarantined under subsection (3).
(2) The vessel or aircraft is quarantined at all times, in accordance with section 134, until—
(a) pratique has been granted to the vessel or aircraft under section 137;
(b) if subsection (1)(b) or (c) applies, the Secretary releases the vessel or aircraft from quarantine.
(3) The Secretary may order a vessel or an aircraft to be quarantined, by notifying the person in charge of the vessel or aircraft, if the Secretary believes on reasonable grounds that the vessel or aircraft presents a risk to public health.
(4) To avoid doubt, subsection (3) is not limited to public health emergencies and serious incidents but applies in any circumstances where the Secretary believes on reasonable grounds that a vessel or an aircraft presents a risk to public health.
(5) In this section and section 134, **person in charge** of a vessel or an aircraft means,—
(a) for a vessel, the master:

- (b) for an aircraft, the pilot responsible for the operation and safety of the aircraft.

134 Effect of quarantine on vessel or aircraft

- (1) This section applies to a vessel or an aircraft that is quarantined under section 133.
- (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 the Secretary); or
 - (d) move the vessel or aircraft from the 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 requirements relating to the quarantine that are provided in writing by the Secretary to the person in charge of the vessel (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,—
 - (a) for an individual, to a term of imprisonment not exceeding 6 months or a fine not exceeding \$10,000;
 - (b) for a body corporate, to a fine not exceeding \$100,000.

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

- (1) If a vessel or an aircraft is quarantined under section 133, 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 which the vessel or aircraft was quarantined.
- (2) Subsection (1) does not apply to a person who boards the vessel or aircraft to perform a function under this Act.

136 Powers of authorised officers in relation to quarantined vessel or aircraft

An authorised officer may, for the purpose of identifying or managing risks to public health in the Cook Islands, do 1 or more of the following in relation to a vessel or an aircraft that is quarantined under section 133:

- (a) board the vessel or aircraft at any time;
- (b) require any person who is found on board, or who is known to be associated with, the vessel or aircraft to provide information or answer questions;
- (c) direct that the vessel or aircraft be moored or parked at a specified place;
- (d) give directions in relation to the storage of any cargo or other items on the vessel or aircraft;
- (e) direct the movement of any person who is—
 - (i) found on board the vessel or aircraft; or
 - (ii) in contact with a person on board the vessel or aircraft.

137 Secretary may grant pratique for quarantined vessel or aircraft

- (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 may grant pratique subject to conditions.
- (3) The Secretary grants pratique by giving the person in charge of the vessel or aircraft a certificate of pratique in the form approved by the Secretary.

138 Secretary may require information from persons entering or exiting Cook Islands

- (1) This section applies to a person who is arriving in or exiting the Cook Islands.
- (2) The Secretary may require the person to provide information that is relevant to identifying or managing risks to public health in the Cook Islands (including information relating to the person's travel history, health, or vaccination status).

139 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, in writing, order them to be isolated for a specified period or until they no longer present a risk to public health.
- (3) Isolation under subsection (2) is detention of a person for the purposes of a writ of habeas corpus under Article 65(1)(c) of the Constitution.
- (4) Subsection (3) does not prevent the Court from determining that anything else done under this Act amounts to the detention of a person.
- (5) In this section,—
invasive procedure—

- (a) means a procedure that involves—
 - (i) the puncture or incision of a person’s skin; or
 - (ii) the insertion of an instrument or foreign material into a person’s body; or
 - (iii) the examination of a person’s body cavity; but
- (b) does not include any of the following procedures:
 - (i) a medical examination of a person’s ear, nose, or mouth;
 - (ii) an assessment of a person’s temperature using an ear or oral thermometer;
 - (iii) a procedure that produces images by passing radiation, radio frequencies, or sound waves through a person’s body (for example, a procedure using an X-ray or ultrasound);
 - (iv) a retinoscopy

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.

Part 11

Human remains

140 Human remains received in the Cook Islands

- (1) This section applies to a person who receives human remains in the Cook Islands for the purpose of burial or cremation (whether in the Cook Islands or elsewhere).
- (2) The person must cause the remains to be buried or cremated within 24 hours after receipt.
- (3) However, if the remains are to be buried or cremated anywhere other than the island where they are received, the person may instead ensure that the steps specified in subsection (4) are carried out in respect of those remains.
- (4) The steps are—
 - (a) embalm the remains, and encase them in a sealed and impervious container, within 24 hours after receipt;
 - (b) keep the remains embalmed and encased at all times while the remains are being held or transported in the Cook Islands pending burial or cremation;
 - (c) if burial or cremation is to take place in the Cook Islands, bury or cremate the remains within 48 hours after receipt;
 - (d) if burial or cremation is to take place outside the Cook Islands, transport the remains out of the Cook Islands within 48 hours after receipt.
- (5) For the purposes of subsection (3), if remains are received elsewhere than on an island (for example, if they are received at sea), the remains

are deemed to have been received on the island where they are first landed.

- (6) In this section, **receipt** means receipt of the human remains in terms of subsection (1).

141 Human remains brought into the Cook Islands

- (1) This section applies to a person who—
- (a) receives human remains outside the Cook Islands for the purpose of burying or cremating them in the Cook Islands; and
 - (b) brings the remains into the Cook Islands for that purpose.
- (2) The person must—
- (a) keep the remains embalmed, and encased in a sealed and impervious container, at all times while the remains are being held or transported in the Cook Islands pending burial or cremation; and
 - (b) cause the remains to be buried or cremated within 48 hours after bringing them into the Cook Islands.

142 Exemptions from sections 140 and 141

- (1) A person may apply to the Secretary for an exemption from an obligation imposed by section 140 or 141.
- (2) Subject to regulations and subsection (3), the Secretary may issue a written exemption to an applicant on receipt of an application that is—
- (a) in an approved form; and
 - (b) accompanied by the fee (if any) prescribed by regulations.
- (3) The Secretary—
- (a) may not issue an exemption unless satisfied that the human remains will be dealt with in accordance with risk-control procedures; and
 - (b) may impose any condition on the exemption that the Secretary considers is necessary or desirable to ensure compliance with the procedures.
- (4) An exemption must—
- (a) specify the obligation from which the applicant and any other specified person or class of persons is exempt; and
 - (b) specify the alternative dealings (in place of compliance with the obligation) with the human remains approved by the Secretary; and
 - (c) identify the human remains (by name of the deceased or other known details) in respect of which the exemption is to apply.
- (5) A person to whom an exemption is issued must ensure that no condition on the exemption is breached.
- (6) Despite section 140 or 141 (as the case may require), a person acting in accordance with an exemption issued under this section need not comply with the obligation specified in the exemption.

143 Land burials

A person must not bury any human remains on land except—

- (a) in a sealed and impervious crypt; and
- (b) in accordance with regulations.

144 Opening graves and removing human remains

(1) Despite the Coroners Act 1979-80, a person must not open a grave, or remove human remains from a grave, except in accordance with a written authorisation issued under this section.

(2) A person may apply to the Secretary for an authorisation.

(3) Subject to regulations and subsection (4), the Secretary may issue a written authorisation to an applicant on receipt of an application that is—

- (a) in an approved form; and
- (b) accompanied by the fee (if any) prescribed by regulations.

(4) The Secretary—

- (a) may not issue an authorisation unless satisfied that the opening of the grave or (as the case may be) removal of the remains will be carried out in accordance with risk-control procedures; and
- (b) may impose any condition on the authorisation that the Secretary considers is necessary or desirable to ensure compliance with the procedures.

(5) An authorisation must identify (by name of the deceased or other known details) the grave or human remains to which it applies.

(6) A person to whom an authorisation is issued must ensure that no condition on the authorisation is breached.

145 Regulations about human remains

(1) Regulations may be made under section 188 for all or any of the following purposes:

- (a) regulating the embalming and encasing of human remains and other means of preparing human remains for burial or cremation;
- (b) regulating the cremation of human remains and the operations of crematoria;
- (c) regulating public access to cemeteries and crematoria;
- (d) regulating or prohibiting the burial of human remains—
 - (i) within specified areas of land;
 - (ii) at sea generally or within specified areas of the sea;
- (e) otherwise regulating the storage, collection, treatment, removal, transportation, or other disposal (including burial or cremation) of, or other dealings with, human remains.

(2) Regulations made for the purpose of subsection (1)(d) may, without limitation, provide for areas of land or sea to be set aside for burials with the approval of a person or body specified in the regulations.

146 Relationship between this Part and other enactments

Except for section 144, this Part is subject to—

- (a) sections 94, 97 to 99, and 108, including any orders made by the Secretary under any of those sections; and
- (b) the Coroners Act 1979-80, including any directions given by a coroner under that Act.

Part 12**Health promotion objectives and functions****147 Objectives regarding health promotion**

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

- (a) to optimise the physical and mental well-being of Cook Islanders;
- (b) to promote health equitably throughout 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.

148 Secretary's functions regarding health promotion

In seeking to achieve the objectives in section 147, the Secretary must from time to time review the need to—

- (a) prepare plans and strategies to inform evidence-based practices; and
- (b) co-ordinate responses to identified health priorities across government and the community; and
- (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 on progress towards achieving the objectives.

149 Warning statements

- (1) This section applies if the Secretary believes on reasonable grounds that an activity or a 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 publicly notified.
- (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.

150 Threat declarations and codes of practice

- (1) The Minister may declare that a disease is a threat to health and well-being.
- (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 well-being 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, an undertaking, or a circumstance; and
 - (b) relate to 1 or more of the following:
 - (i) the advertising, sponsorship, promotion, or marketing of specific goods or services;
 - (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. If the Minister does so, the report must be published on a publicly accessible internet site maintained by, or on behalf of, the Ministry.
- (6) A code of practice issued 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 13 Personal information

151 Meaning of personal information and application of Part

- (1) In this Act, **personal information** means any information that may, or is likely to, identify an individual (whether the individual is living or dead).
- (2) This Part applies to personal information held by the Ministry and its staff, if the information is obtained in the course of—
 - (a) administering this Act; or
 - (b) exercising powers or performing functions or duties under this Act.
- (3) However, *see* section 93 in relation to the disclosure of contact tracing information that is personal information.

152 Confidentiality of personal information

- (1) The Secretary must take all reasonable steps to ensure that personal information is stored securely and is protected from loss, misuse, and interference.
- (2) The Secretary may prepare guidelines relating to the management of personal information collected and held under this 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.

153 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 disclosure is necessary in the interests of public health surveillance or the administration of this Act; or
 - (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 disclosure is necessary to contain the risk of infection; or
 - (j) for research purposes in accordance with section 154; or
 - (k) if the disclosure 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.

154 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 impracticable in the circumstances to obtain the relevant 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.
- (5) Requirements under subsection (4)(b) must be served in accordance with section 192 on the person to whom the personal information is disclosed.

155 Anonymous data or information may be disclosed

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

156 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 14

Powers and enforcement

Compliance notices

157 Interpretation

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

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

158 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 (*see* section 36):
 - (b) an order, a direction, a notice, or other requirement imposed by or under this Act or by or under regulations.
- (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 issued 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 37.
- (3) The notice must state—
 - (a) the name of any person responsible for complying with the notice in sufficient detail so as to make them clearly identifiable and accountable; and
 - (b) the reasons for the notice; 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 notice; and
 - (e) the period for which the notice remains in force (if the person is required by the notice to discontinue an activity for a specified period); and
 - (f) the name of any relevant authority that may take actions under section 164 in relation to the notice if it is not complied with.
- (4) The notice must be served on the person to whom it is issued in accordance with section 192.

159 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 orally.
- (3) The officer must then issue a written compliance notice that is to the same effect, and that complies with the requirements in section 158, as soon as is reasonably practicable after issuing the notice orally.
- (4) A written compliance notice must be served on the person to whom it is issued in accordance with section 192.

160 Person must comply with compliance notice

- (1) A person to whom a compliance notice is issued must not, without reasonable excuse, fail to comply with the notice.

- (2) A person must not obstruct another person who is complying with a compliance notice.
- (3) A person who breaches subsection (1) or (2) commits an offence and is liable on conviction,—
 - (a) for an individual, to a fine not exceeding \$5,000, imprisonment for a term not exceeding 3 months, or both;
 - (b) for a body corporate, to a fine not exceeding \$50,000.

161 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.
- (3) The Secretary must consider and determine an application made under this section as soon as is reasonably practicable.

162 Decision on review

- (1) The Secretary may, after considering an application for review, confirm, vary, or revoke the compliance notice, or any part of it, to which the review relates.
- (2) The compliance notice, or part of it, remains in force while it is under consideration by the Secretary, unless the Secretary decides otherwise.
- (3) If a notice is varied, an amended notice must be served in accordance with section 192 on the person to whom it applies.
- (4) If a notice is revoked, the person to whom it applies must be notified as soon as practicable.

163 Appeal against review decision

- (1) A person who is dissatisfied with a decision under section 162 may appeal to the Court.
- (2) An appeal must be made within 14 days after the decision.
- (3) However, the Court may, at any time, extend the time allowed for making an appeal.
- (4) On appeal, the Court may—
 - (a) confirm, vary, or revoke—
 - (i) the notice that was subject to the review; or
 - (ii) any part of the notice; and
 - (b) give any direction that the Court thinks fit.
- (5) The filing of the appeal does not excuse a person from fulfilling an obligation under a notice unless the Court otherwise orders.
- (6) In the case of a notice that continues to have effect following an appeal, no further appeal may be brought in respect of the same notice.
- (7) No appeal is allowed against a notice made in respect of a public health emergency.

*Other actions that may be taken***164 Other actions if compliance notice not complied with**

- (1) A relevant authority may take action under this section if a compliance notice 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) A relevant authority may enter a dwelling under this section only under a search warrant.
- (4) Action may be taken on behalf of the relevant authority by—
 - (a) an authorised officer; or
 - (b) another person authorised by the relevant authority for the purpose.

165 Action in urgent situations

- (1) An authorised officer may take action under this section if—
 - (a) a compliance notice has not been complied with and the officer believes on reasonable grounds that—
 - (i) the situation that is the subject of the notice is creating, or is likely to create, a risk to public health; and
 - (ii) immediate action is necessary to respond to the risk; or
 - (b) no compliance notice has been issued but an authorised officer believes on reasonable grounds that—
 - (i) a situation is creating, or is likely to create, a risk to public health; and
 - (ii) 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 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 (including a dwelling); and
 - (b) seize, retain, move, destroy, or otherwise dispose of any substance or thing; and
 - (c) use force to enter any premises without warrant if the authorised officer believes on reasonable grounds that the circumstances require that action to be taken.

166 Recovery of costs

- (1) The Secretary may require a person who fails to comply with a compliance notice to pay the reasonable costs and expenses incurred by the Secretary in taking action in relation to the notice.
- (2) The Secretary may require the person to pay the costs and expenses, in the way specified by the Secretary, within 28 days after the Secretary notifies the person of the requirement.
- (3) If the costs and expenses are not paid within that time,—
 - (a) the unpaid amount becomes a debt due to the Secretary; and
 - (b) if regulations prescribe a rate at which the debt incurs interest, the debt incurs interest at the prescribed rate.

*Powers of authorised officers***167 Power to require information**

- (1) An authorised officer may, for any purpose relating to the administration or enforcement of this Act, require a person to provide any information that may be relevant to the administration or enforcement of this Act.
- (2) A person who refuses, without reasonable excuse, to provide information required under subsection (1) commits an offence and is liable on conviction,—
 - (a) for an individual, to a fine not exceeding \$5,000, imprisonment for a term not exceeding 3 months, or both;
 - (b) for a body corporate, to a fine not exceeding \$50,000.
- (3) This section does not apply to information that is required for the purpose of contact tracing (*see* subpart 1 of Part 9).

168 Power to enter or inspect premises

- (1) An authorised officer may, for any purpose relating to the administration or enforcement of this Act, at any reasonable time, enter or inspect any premises other than a dwelling.
- (2) During the course of an entry or inspection under subsection (1), an authorised officer may—
 - (a) require any person found in the premises to answer questions;
 - (b) inspect any article or substance found in the premises;
 - (c) take and remove samples of any substance or other thing found in the premises;
 - (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 this Act.
- (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 and is liable on conviction,—
 - (a) for an individual, to a fine not exceeding \$5,000, imprisonment for a term not exceeding 3 months, or both;
 - (b) for a body corporate, to a fine not exceeding \$50,000.

169 Power to enter dwellings

- (1) An authorised officer may enter a dwelling—
 - (a) under a search warrant (*see* sections 170 and 171); or
 - (b) without a search warrant—
 - (i) if the occupier of the dwelling consents to the entry (*see* section 172); or
 - (ii) if, and to the extent that, the entry is reasonably necessary to exercise a power under section 84, 100(2), 115(1), or 129.
- (2) A person commits an offence if the person, without reasonable excuse, refuses to allow an authorised officer to—
 - (a) enter or inspect a dwelling under a search warrant or to do anything authorised by the warrant;
 - (b) enter a dwelling under subsection (1)(b)(ii).
- (3) A person who commits an offence under subsection (2) is liable on conviction,—
 - (a) for an individual, to a fine not exceeding \$5,000, imprisonment for a term not exceeding 3 months, or both;
 - (b) for a body corporate, to a fine not exceeding \$50,000.
- (4) This section does not limit section 165(4)(a) (which relates to action in urgent situations).

170 Search warrant may be issued to allow entry to dwelling

- (1) A Justice of the Peace or Judge may issue a search warrant to allow entry to a dwelling if satisfied that—
 - (a) there are reasonable grounds to suspect that an offence against this Act has been, is being, or is about to be, committed; and
 - (b) a warrant is required in the circumstances.
- (2) A search warrant may be exercised on 1 or more occasions within the period of 14 days after it is issued, after which it expires.
- (3) A search warrant may be obtained electronically or by telephone if it cannot otherwise be obtained in a reasonable period of time.

171 Powers under authority of search warrant

A search warrant authorises the person executing it—

- (a) to enter and search the dwelling specified in the warrant and search any item or items found in the dwelling 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 dwelling any equipment, to use any equipment found in the dwelling, and to extract electricity 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 in the dwelling 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 record the dwelling and anything found in it, if the person executing the warrant has reasonable grounds to believe that the recording may be relevant to the purposes of the entry and search.
- (2) For the purposes of subsection (1)(i), a **record** may take the form of 1 or more of the following:
- (a) photographs;
 - (b) audio recordings;
 - (c) video recordings;
 - (d) drawings.

172 Duties and powers of authorised officer entering dwelling with consent

- (1) Before entering a dwelling with the consent of the occupier, an authorised officer must advise the occupier—
 - (a) of the reason for the proposed entry; and
 - (b) that the occupier may refuse consent to the entry and to the exercise of any or all of the powers referred to in subsection (2).
- (2) An authorised officer who enters a dwelling with the consent of the occupier may, with the occupier's consent, exercise any or all of the powers that may be authorised by a search warrant.

*Assistance in exercising powers***173 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 Act.
- (2) The constable or other person is entitled to exercise the power as directed by the authorised officer.
- (3) A provision of this Act that relates to the power applies, with any necessary modifications, in relation to the constable or other person as if they were an authorised officer.

*Validity of actions and decisions***174 Actions and decisions valid despite defects, etc, in appointment**

All actions and decisions of the Secretary, or any Ministry employee or agent acting under the authority of the Secretary or otherwise under this Act, are to be treated as having 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.

*Provision and use of information***175 Limits on reasons for refusing to provide information**

- (1) This section applies to a person who is required to provide information under this Act.
- (2) The person is not entitled to refuse to provide the information on the basis of self-incrimination.
- (3) The 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.

176 Answers not admissible in evidence

- (1) This section applies if a person is asked questions under a power in this Act.
- (2) Any answers the person gives are not admissible in evidence against the person for any offence or the imposition of a penalty.
- (3) However, subsection (2) does not apply in relation to a prosecution of the person under section 178(1)(b) or (d).

177 Use of information for assessment of public health risks

- (1) This section applies to information that is provided to an authorised officer—
 - (a) in accordance with a requirement under this Act; or
 - (b) otherwise at the request of the authorised officer.
- (2) The information may be used by the Ministry to assess public health risks.
- (3) To avoid doubt, this section does not affect the application of Part 13 to personal information that is used for that assessment.

*Offences***178 General offences**

- (1) A person commits an offence if the person, without reasonable excuse,—
- (a) threatens, hinders, obstructs, or misleads an authorised officer or a person assisting an authorised officer in the performance of their functions under this Act; or
 - (b) makes a statement or gives information to a person in the performance 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 performance of their functions under this Act, having been directed or required to provide the information; or
 - (d) makes a declaration or gives 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 premises 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 in the performance of their functions 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,—
- (a) for an individual, to a fine not exceeding \$5,000, imprisonment for a term not exceeding 3 months, or both;
 - (b) for a body corporate, to a fine not exceeding \$50,000.
- (3) In this section, **performance of their functions** includes performance of a duty or exercise of a power.

*Infringement offences***179 Penalties for infringement offences**

A person who commits an infringement offence is liable to—

- (a) an infringement fee of an amount prescribed by the regulations not exceeding one-fifth of the maximum penalty for the relevant offence;
- (b) a fine imposed by the Court of an amount not exceeding one-fifth of the maximum penalty for the relevant offence.

180 Proceedings for infringement offences

A person who is alleged to have committed an infringement offence may—

- (a) be served with an infringement notice in accordance with sections 181 and 182; 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.

181 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.

182 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
 - (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, an infringement notice sent to a valid electronic address under subsection (1)(d) 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 communications.

183 What infringement notice must contain

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 (unless a request is made to withdraw the notice or an appeal is made against a refusal by the Secretary to withdraw the notice):

- (d) a statement of the person's right to object to the notice and request it be withdrawn within 14 days, under section 185;
- (e) any other information prescribed in the regulations.

184 Steps after infringement notice issued

A person who is served with 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, or fail to pay, the fine within 28 days after the infringement notice is issued, in which case the person is liable to prosecution under section 185; or
- (c) object to the notice and request the Secretary to withdraw it under section 185.

185 Request for withdrawal of infringement notice

- (1) A person who wishes to object to an infringement notice under section 183(c) may make a written request to the Secretary to withdraw the notice on either or both of the following grounds:

- (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 a 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 15 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 accepts the request, the notice under subsection (3)(c) must include a statement that the infringement notice has been withdrawn.

- (5) If the Secretary refuses the request, the notice under subsection (3)(c) must 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 186 if the infringement fine is not paid within the 14-day period; and

- (c) information about the right to appeal against the refusal within 14 days under section 187.

186 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 an objection and a request for withdrawal of a notice that is not accepted by the Secretary, within 14 days after notice under section 185(3)(c) of the decision is given; or
 - (c) in the case of an appeal against the refusal to withdraw the infringement notice, within 14 days of the decision on appeal upholding the infringement notice.
- (2) The person is not liable to pay the fine if the infringement notice is withdrawn.

Appeals relating to infringement notices

187 Appeals

- (1) A person who is required to comply with an infringement notice and who has requested the withdrawal of the notice may appeal to the Court against—
 - (a) the notice or any part of the notice;
 - (b) a variation of the notice;
 - (c) an extension of the notice;
 - (d) a decision by the Secretary refusing to withdraw the notice.
- (2) An appeal must be made within 14 days after whichever of the following events is relevant:
 - (a) the issue of the notice;
 - (b) the variation or extension of the notice;
 - (c) the refusal to withdraw the notice.
- (3) However, the Court may, at any time, extend the time allowed for making an appeal.
- (4) On appeal, the Court may—
 - (a) confirm, vary, or cancel the notice, or its extension or variation;
 - (b) give any direction that the Court thinks fit.
- (5) The filing of the appeal does not excuse a person from fulfilling an obligation under a notice unless the Court otherwise orders.
- (6) In the case of a notice that continues to have effect following an appeal, no further appeal may be brought in respect of the same notice.
- (7) No appeal is allowed against a notice made in respect of a public health emergency.

Part 15
Regulations, guidelines, and service

Regulations

188 Regulations

- (1) The King's Representative may, by Order in Executive Council, make regulations—
 - (a) prescribing anything required or authorised to be prescribed under this Act; and
 - (b) providing for anything that is necessary or desirable for carrying this Act into effect.
- (2) Regulations under subsection (1) may, without limitation, be made 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 performing functions or duties or exercising powers 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 an authorisation to undertake that activity and—
 - (i) prescribing circumstances in which a licence or an 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, including by prescribing—
 - (i) standards for potable water:
 - (ii) standards or requirements 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:
 - (g) regulating the treatment and disposal of sewage and wastewater:
 - (h) regulating or prohibiting the discharge into a water source or wastewater of specified materials or chemicals or contaminants that may present a risk to public health (where a **specified material** is a material specified in a standard or code of practice):

- (i) regulating the storage, use, handling, transport, and disposal of any waste material (except wastewater) that may present a risk to public health:
 - (j) imposing requirements and standards relating to disease vectors:
 - (k) imposing requirements set out in section 71 relating to vaccination:
 - (l) controlling, restricting, or prohibiting the promotion of goods or services that the Minister considers present a risk to public health, including goods and services that are controlled by other enactments, for example, tobacco and alcohol:
 - (m) implementing the Cook Islands' obligations as a signatory to the International Health Regulations (2005):
 - (n) imposing standards and requirements to assist contact tracing:
 - (o) providing for—
 - (i) the quarantine of vessels and aircraft:
 - (ii) other public health measures relating to persons and goods that are entering or exiting the Cook Islands:
 - (p) prescribing offences for the breach of—
 - (i) regulations; or
 - (ii) a direction given or requirement made under the authority of regulations:
 - (q) prescribing penalties for those offences, which must be no more than,—
 - (i) for an individual, a fine of \$5,000; or
 - (ii) for a body corporate, a fine of \$50,000:
 - (r) prescribing offences to be infringement notice offences:
 - (s) prescribing procedures relating to infringement notices:
 - (t) prescribing forms to be used for the purposes of this Act:
 - (u) prescribing matters for which fees are payable under this Act and the amounts of those fees:
 - (v) prescribing grounds for an exemption from fees, in whole or in part:
 - (w) prescribing transitional and savings provisions relating to the coming into force of this Act.
- (3) A regulation may incorporate a code of practice, standard, specification, or other document in whole or in part as amended from time to time.
- (4) 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 the Cook Islands; and
 - (b) consulted the relevant government authorities and agencies that may be affected by the regulation.

189 General provision as to regulations

- (1) A regulation 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) Regulations 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 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.

190 Regulations about transitional matters

- (1) The King'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 regulations:
 - (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.

Guidelines

191 Guidelines

- (1) Guidelines issued 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

192 Service of instruments

- (1) This section applies to an instrument if another provision of this Act says that the instrument must be served in accordance with this section.
- (2) The instrument must be served on an individual by 1 or more of the following means:
 - (a) delivering it to the individual:
 - (b) delivering it to the individual's usual or last known place of residence or business:

- (c) sending it by electronic means to the individual.
- (3) The instrument 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;
 - (b) delivering it to the usual or last known place of residence or business of any officer of the body;
 - (c) sending it by electronic means to any officer of the body;
 - (d) delivering it to the registered office of the body.
- (4) The instrument must be served on a partnership by 1 or more of the following means:
 - (a) delivering it to 1 or more of the partners;
 - (b) delivering it to the usual or last known place of residence or business of any partner;
 - (c) sending it by electronic means to any partner;
 - (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, the instrument may be served by affixing it or a copy of it in a prominent location in or on the usual or last known place of residence or business of the person.

Part 16

Repeals, savings, and consequential amendments

193 Public Health Act 2004 repealed

The provisions of the Public Health Act 2004 are repealed on the date or dates appointed by Order in Council for the purpose of their repeal (*see* section 2(2)).

194 Orders and directions under Public Health Act 2004 remain in force

- (1) This section applies to any order or direction made under the Public Health Act 2004 that—
 - (a) is in effect immediately before the repeal of the provision of the Public Health Act 2004 under which it was made; and
 - (b) could have been made under this Act.
- (2) The order or direction—
 - (a) must be treated as an order or a direction made under this Act; and
 - (b) continues to have effect under this Act.

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

- (1) This section applies to the extent that the provisions of the Public Health Act 2004 under which the Public Health (Sewage and Wastewater Treatment and Disposal) Regulations 2014 were made are repealed.

(2) The regulations remain in force as if they were made under this Act.

196 Consequential amendments to other Acts

Amend the Acts specified in Schedule 3 as set out in that schedule.

Schedule 1
Vaccine-preventable diseases

COVID-19
Diphtheria
Haemophilus influenzae
Hepatitis B
Human papillomavirus
Measles
Mumps
Pneumococcal infection
Poliomyelitis
Rotavirus
Rubella
Tetanus
Tuberculosis
Whooping cough (pertussis)

Schedule 2

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)
 - Chickenpox (varicella)
 - Chikungunya
 - Cholera
 - Conjunctivitis
 - 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
 - Malaria
 - Measles (rubella or morbilli)
 - Monkeypox
 - Mumps
 - Ringworm (tinea imbricata)
 - SARS (severe acute respiratory syndrome)
 - Scabies
 - Tuberculosis: pulmonary and other sites
 - Typhoid
 - Venereal disease (candidiasis, gonorrhoea, syphilis, trichomoniasis, venereal warts)
 - Viral haemorrhagic fevers (including but not limited to Ebola, Lassa fever and Marburg virus)
 - Whooping cough (pertussis)
 - Yellow fever
 - Zika

- 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 3

Consequential amendments to other Acts

Cook Islands Immigration Act 2021

Repeal section 228.

Crimes Act 1969

Repeal the cross-heading above section 166.

Repeal sections 166 to 169.

Customs Revenue and Border Protection Act 2012

Replace section 38(1)(a) with:

- “(a) has or may have a notifiable communicable condition as defined in the Public Health Act 2024; or”

Food Act 1992-93

In section 2, replace the definition of **authorised officer** with:

“**authorised officer**—

- “(a) means any suitably qualified person who has been authorised in writing by the Board to carry out duties under this Act; and
- “(b) includes any person appointed as an authorised officer under the Public Health Act 2024”

Ministry of Health Act 2013

After section 6(i), insert:

“(ia) to—

- “(i) exercise and perform the Ministry’s powers, functions, and duties under the Public Health Act 2024;
- “(ii) assist the Secretary (as defined in that Act) in exercising and performing the Secretary’s powers, functions, and duties under that Act.”

In section 6(j), after “implement”, insert “other”.

After section 18(5), insert:

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

- “(a) authorised officers appointed under the Public Health Act 2024;
- “(b) persons appointed as health inspectors or authorised officers, however described, under any other enactment administered by the Ministry.”

Sale of Liquor Act 1991-92

In section 35(b), replace “, or Public Health Inspector” with “or authorised officer appointed under the Public Health Act 2024”.

To Tatou Vai Act 2021

In section 5, replace the definition of **potable** with:

“**potable**, in relation to water, means water that complies with—

- “(a) a standard for potable water that is prescribed by regulations made under any enactment; or
- “(b) in the absence of such a standard, the standards for Microbiological Compliance (effective immediately before the commencement of the Public Health Act 2004) set out in the document published by the Ministry of Health of New Zealand entitled *Drinking-Water Standards for New Zealand 2000*”

Wandering Animals Act 1976

In section 8(c), replace “.” with “:”.

After section 8(c), insert:

- “(d) persons appointed as authorised officers under the Public Health Act 2024.”

This Act is administered by the Ministry of Health.

Printed under the authority of the Cook Islands Parliament—2024.
