



Tonga

# **PUBLIC HEALTH ACT 1992**

**NO. 29 OF 1992**





## PUBLIC HEALTH ACT 1992

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## PUBLIC HEALTH ACT 1992

NO. 29 OF 1992

### AN ACT TO DEAL WITH PUBLIC HEALTH SERVICES IN TONGA

I assent,  
TU'IPELEHAKE,  
18th May, 1993.

[2nd of November, 1992]

**BE IT ENACTED** by the King and Legislative Assembly of Tonga in the Legislature of the Kingdom as follows:

**1 Short Title.**

This Act may be cited as the Public Health Act 1992.

**2 Act Binds the Crown.**

This Act shall bind the Crown.

**3 Interpretation.**

In this Act, unless the context otherwise requires —

“**advertises**” means the use of —

- (a) words whether spoken or written;

- (b) symbolic or pictorial representation or design; or
- (c) other representation by any means whatever, used or apparently used to promote directly or indirectly the sale or disposal of food;

“**air pollution**” means air that is fouled by any substance which is declared by the Minister from time to time to be noxious or offensive;

“**animal**” means cattle, swine, sheep, horses or goats;

“**analyst**” means a suitably qualified person appointed by the Minister to act under this Act;

“**authorised officer**” means a suitably qualified person who has been authorised by the Minister in writing to carry out duties under this Act;

“**best practicable means**” means provision and maintenance of plant, and the proper use thereof, having regard to, among other things, local conditions and circumstances, financial implications and the current state of technical knowledge;

“**captain**” means the person for the time being in command of an aircraft;

“**cargo**” means goods or merchandise carried on an aircraft or ship;

“**carrier**” means a person, animal or bird who, without symptoms or signs of a disease, harbours an infective agent and serves as a potential source of infection;

“**chimney**” includes structures or openings of any kind from or through which, smoke or fumes may be emitted;

“**communicable disease**” means a disease caused by an infective agent and which is transferable directly or indirectly to man, animal or bird;

“**concern**” means factory, workshop, offices, shop or any place of business at which persons are employed or work;

“**concurrent disinfection**” means the disinfection of infected articles used by a patient during his illness;

“**contact**” means a person or animal that has been in an association with an infected person or animal or contaminated environment which might provide an opportunity to acquire the infective agent;

“**container**” includes any basket, tray, pail, package, or receptacle of any kind, whether open or closed;

“**contamination**” means presence of an infectious agent on body surface or on other materials including food and water;

“**crew**” means the personnel of an aircraft or ship, who are employed on duties on board;

“**current International Health Regulations**” means the current international health regulations of the World Health Organisation;

“**disinsection**” means the destruction of insects which may carry human disease;

“**dustbin**” means a movable receptacle for the deposit of ashes, or refuse or other waste, with a fitting lid;

“**dwelling**” means any building, tent, van, caravan or other structure or erection which is used or intended to be used in a permanent or temporary capacity for human habitation and includes the land and out buildings belonging thereto;

“**employer**” means any person or persons, partnership, company or other combine, being a legal entity and responsible for the payment of a worker's remuneration;

“**epidemic**” means the occurrence of cases of illness in an area or community clearly in excess of expectancy;

“**factory**” means a building or its precincts in which persons are employed in labour in any process for or incidental to any of the following purposes:

- (a) making of any article or part of an article;
- (b) altering, repairing, ornamenting, finishing, cleaning or washing, or the breaking-up or demolishing of any article;

“**food**” means any article manufactured, sold or represented for human consumption, and includes:

- (a) drink;
- (b) chewing substances; and
- (c) any ingredient, food additive or other substance that enters into or is capable of entering into or is used in the composition or preparation of food;

“**food business**” means any trade or business for the purpose of which any person engages in the handling of food;

“**food premises**” means any premises in, or from which, there is carried on any food business and includes stalls, vans, tents, vehicles or land used for displaying and selling food;

“**hospital**” means any institution for the reception, investigation and treatment of persons suffering from illness or mental disorder or persons requiring rehabilitation and includes health centres, clinics, dispensaries and outpatient departments maintained in connection with such an institution;

“**insanitary condition**” means such condition or circumstances as might cause contamination or be injurious or dangerous to health;

“**isolation**” means, when applied to a person or group of persons, the separation of that person or group of persons from other persons, except the health staff on duty, in such a manner as to prevent the spread of infection;

“**label**” means tag, brand, mark, pictorial or other descriptive matter written, printed, stencilled, marked, embossed, impressed on or attached to or included in, belonging to, or accompanying any product;

“**laboratory**” means premises provided by the Ministry for investigation of the chemical and microbiological content of specimens and other matters;

“**lairage**” means that part of a slaughterhouse used for the confinement of animals awaiting slaughter;

“**mains**” means the principal pipes in the distribution of a water supply or in a sewerage disposal system;

“**market**” means a public meeting place either open or covered used for the purchase and sale of commodities; including food;

“**master**” means the person, for the time being, in charge of or in command of a ship;

“**meat**” means the flesh of animals and poultry including fat and offal;

“**medical examination**” is the physical examination of persons who may be suffering or suspected of suffering from a disease;

“**minister**” means the Minister of Health;

“**nurse**” means a registered nurse, nurse/midwife or traditional birth attendant;

“**occupier**” means the person in occupation of premises or having charge or management or control of premises either on his own account or as an agent of another person but does not include a lodger;

“**offal**” includes stomach, intestine, liver and kidneys;

“**owner**” means an occupier or a person in possession of any land or premises who is receiving the rent of the land or premises whether on his own account or as trustee for another person;

“**package**” includes anything in which material is wholly or partly placed or packed;

“**place of entertainment**” means a theatre, cinema, club, restaurant or other premises where food and/or entertainment is provided;

“**potable**” means water which is safe to drink;

“**poultry**” means any domesticated bird including chickens, turkeys, ducks, geese, guinea-fowls or pigeons;

“**premises**” means any hospital, institution, dwelling-house; lodging-house, shed or other building, or tent, ship, aircraft or land;

“**preparation**” in relation to food, includes manufacture, processing, transport and any form of treatment;

“**sanitary convenience**” means a flush toilet, urinal and pit latrine;

“**sanitary facility**” means sanitary convenience, bath, shower, sink, wash-hand basin, washing-machine, or laundry;

“**sell**” means offer, advertise, keep, expose, transmit, convey, deliver, prepare or possess for sale or exchange, or dispose of for any consideration whatsoever;

“**sewer**” means a pipe or system of pipes used for the drainage of any number of buildings more than one of which are not within the same curtilage (being the area attached to a dwelling house as part of its enclosure), or from a street;

“**terminal disinfection**” means the disinfection of articles used by a patient, when removed by death or to hospital or has ceased to be a source of infection;

“**village water committee**” means a body created in accordance with the Water Supply Regulations 1963

“**waste**” includes garbage, household refuse, rubbish, scrap and trade waste;

“**workplace**” means any place in which persons are employed otherwise than in private domestic service but does not include a factory.

## PART I. - ADMINISTRATION

### 4 Duties of Minister.

The Minister shall be responsible for the administration of this Act.

### 5 Power to make regulations.

- (1) The Minister may make regulations for the effective carrying out of the provisions of this Act.

- (2) It shall be an offence for any person to commit any act in contravention of any provision of a regulation made under this Act.

## **6 Appointment of a National Public Health Advisory Committee.**

- (1) The Minister shall appoint a National Public Health Advisory Committee to advise him upon matters affecting public health.
- (2) The Minister may appoint other permanent, temporary, or ad hoc public health advisory committees.

## **7 Appointment of authorised officers.**

- (1) The Minister shall appoint authorised officers under this Act. All the powers and duties of an authorised officer shall also be exercised by the Director of Health, the Chief Medical Officer (Public Health) or a medical or health officer in charge of a health district.
- (2) Any appointment made under this section shall be in the form appearing in Schedule 1 to this Act.

## **8 Duties of authorised officers.**

The Minister shall specify the duties of authorised officers who shall carry warrants of appointment. Authorised officers may visit premises, make reports, serve notices and institute legal proceedings.

## **9 Powers of authorised officers.**

- (1) Authorised officers on showing their warrant of appointment, shall have the right to enter any premises at all reasonable times, to ascertain if there has been or is likely to be a contravention of this Act, to examine any process, to open any receptacle, to take samples of or from any materials, to examine any records, to question persons working on premises, to require persons to undertake specific action, to seize and detain any article and to make such further investigation and take such further action as they consider necessary to meet the requirements of this Act.
- (2) Authorised officers shall have the right to stop and upon showing their warrant of appointment search or detain any container or vehicle where it is believed on reasonable grounds that any provision of this Act has been or is likely to be contravened.
- (3) Only an authorised officer who is a medical officer or a health officer when there is no medical officer may undertake the medical examination of a person.

- (4) Authorised officers may issue an appropriate official instruction in writing requiring a nuisance or any action or process to cease immediately or within a stated time.

## 10 Collection of Samples.

- (1) An authorised officer may demand, select, take or obtain samples of any food, food additive or package for sale required by him for the purposes of this Act, on payment of tender of the current market value of, or at the rate of payment prescribed for, the food, food additive or package;
  - (a) to the person selling, manufacturing, distributing or preparing the food, food additives or package; or
  - (b) to the agent or servant of any such person.
- (2) Where food or a food additive is kept for retail sale in a closed package, an authorised officer shall not demand less than the whole package.

## 11 Analysis of Samples.

- (1) An authorised officer may submit a sample or specimen to the Ministry's laboratories for analysis or examination.
- (2) Where a sample seized under section 9 or 10 is to be analysed or examined, the authorised officer shall:
  - (i) notify the person from whom the sample was obtained of his intention to submit the sample for analysis or examination;
  - (ii) divide the sample into three equal portions and "label" or "mark" and seal each portion;
  - (iii) deliver one portion to the Ministry's laboratory and one to the person from whom the sample was obtained; and
  - (iv) retain one portion until the conclusion of legal proceedings if such proceedings are instituted.
- (3) The Ministry's laboratory shall issue a certificate in the form prescribed under Schedule 2 to this Act stating the result of any analysis or examination undertaken. Such certificate shall, in any legal proceedings, be prima facie evidence of the facts stated therein.
- (4) Any person against whom proceedings might be instituted shall be given a copy of the certificate from the Ministry's laboratory before the proceedings are commenced.

**12 Protection of authorised officers.**

An authorised officer shall not be personally liable in respect of any act done by him in the execution or purported execution of his duties under this Act and within the scope of his employment if it was done in the honest belief that his duties under this Act required or entitled him to do it:

Provided that nothing in this section shall be construed as relieving the Ministry from any liability in respect of acts of its officers in the course of their employment.

**13 Limitations on authorised officers.**

Authorised officers shall not act in any matter in which they directly or indirectly have an association, familial or otherwise, with the individual, premises, trade or concern involved.

**14 Abatement procedure etc.**

The offences listed under the summary offences sections (Part II) and other matters may be dealt with in the following manner:

- (1) Where an authorised officer is satisfied that a contravention exists or has occurred, he may serve a notice in the form prescribed under Schedule 3 to this Act on the person by whose act, default or sufferance, the contravention arose or continues, and if that person cannot be found, on the owner or occupier of the premises on which the contravention occurs, requiring him within a specified period of time, to abate the contravention or as the case may be to prevent its recurrence, and for that purpose to carry out such work or to take such action as may be specified in the notice. Provided that —
  - (i) Where the contravention arises from any defect of a structural nature in a building, the notice shall be served on the owner of the building;
  - (ii) Where the person causing the contravention cannot be found and it is clear that the contravention does not arise or continue by the act, default or sufferance of the owner or occupier of the premises, the authorised officer may do what he considers necessary to abate the contravention or to prevent a recurrence thereof;
  - (iii) Where it is reasonably practicable and desirable an authorised officer may require the contravention to be abated immediately.
- (2) Any person on whom an abatement notice is served who fails to comply with its requirements or any of them is guilty of an offence and is liable on conviction to a fine not exceeding \$200 or to imprisonment not exceeding 6 months or to both. In addition the court may order the



defendant to comply with the notice or any part thereof within a specified time and may also make an order prohibiting the continuance or recurrence of the contravention referred to in the notice.

- (3) Where proceedings are brought under this section in respect of a contravention it shall be a defence that the offence was necessary for the carrying on of a business or manufacture and has not occurred longer than necessary and that the best practicable means have been taken to prevent it being prejudicial to health or a nuisance.
- (4) Where a contravention appears to be due to the acts or defaults of two or more persons proceedings may be instituted against –
  - (i) any one of them, or
  - (ii) two or more of them;

and any one or more persons proceeded against shall be liable to the penalty and orders referred to in sub-section (2) above notwithstanding that the acts or defaults of any one of those persons would not individually have caused the contravention.

## **15 Delegation of authority.**

The Minister may delegate any power conferred on him by this Act except the power to make regulations.

## **16 Penalties.**

A person convicted of an offence under this Act for which no special penalty is provided shall be liable —

- (a) in the case of a first offence, to a fine not exceeding \$100 or to imprisonment for a term not exceeding three months, or to both;
- (b) in the case of a subsequent offence, to a fine not exceeding \$200 or to imprisonment for a term not exceeding six months, or to both.

## **17 Obstructing an officer and false statements.**

- (1) Any person who wilfully obstructs or threatens any medical officer or an authorised officer carrying out the provisions of this Act including any regulation made under the Act shall be guilty of an offence.
- (2) Any person who knowingly makes any false or misleading statement either orally or in writing to a medical or an authorised officer carrying out the provisions of this Act including any regulation made under the Act shall be guilty of an offence.

## PART II. - SUMMARY OFFENCES

### 18 Premises.

Any person who keeps any premises in such a state as to be prejudicial or likely to be prejudicial to the health of any person is guilty of an offence.

### 19 Animals, birds or fish.

Any person who keeps an animal, bird, or fish in such a place or in such a manner as to be a nuisance or prejudicial to the health of any person is guilty of an offence.

### 20 Deposits.

Any person who causes or allows the accumulation or deposit of material which is a nuisance or prejudicial to health, is guilty of an offence.

### 21 Smoke, dust or noise etc.

Any person who creates or allows the creation of dust, smoke, fumes, effluvia, effluent or noise which is a nuisance or prejudicial to the health of the inhabitants of the neighbourhood or to the health of any person is guilty of an offence.

### 22 Smell etc.

Any person who creates or allows the creation of a smell or odour which persists for longer than six hours and which is a nuisance or prejudicial to the health of persons working or residing in the vicinity of the source of the smell or odour is guilty of an offence.

### 23 Factory, Workshop, etc.

Any person who owns or manages a factory, workshop, work place or place of entertainment —

- (a) which is not supplied with sufficient means of lighting or ventilation or sanitation, or
- (b) in which sufficient means of lighting or ventilation or sanitation are not maintained, or
- (c) which is overcrowded, or

(d) in which a hazardous process or dangerous machinery is used, so as to be prejudicial to the health or safety of the persons employed or to other persons is guilty of an offence.

**24 Wells, etc.**

Any person who causes or allows a well, septic tank, settlement tank, cesspool or any water storage vessel used in connection with the supply of water for domestic or other purposes, to be so placed or so constructed or so kept as to render water used for drinking liable to contamination or infection or so as to be prejudicial to health, is guilty of an offence.

**25 Pools, ditches, etc.**

Any person who causes or allows a lagoon, pool, pond, ditch or, watercourse to be so fouled or polluted or infected as to be prejudicial to health, is guilty of an offence.

**26 Watercourse.**

Any person who causes or allows any part of a watercourse to be so choked-up or silted-up as to obstruct or impede the proper flow of water and thereby give rise to conditions which constitute a nuisance or are prejudicial to health, is guilty of an offence.

**27 Tents, vans, etc.**

Any person who causes or allows any tent, van, shed or other temporary dwelling to be in such a state or so overcrowded as to be prejudicial to the health of the occupants or which, by reason of absence of proper sanitary accommodation or otherwise gives rise, either on the site of or on other land in the vicinity, to conditions prejudicial to health, is guilty of an offence.

**28 Flush toilets, etc.**

Any person who causes or allows any privy, earth closet, flush toilet, latrine or other sanitary convenience and any drain, cesspool, soakpit or other means for the disposal of sewage or liquid waste to be so situated or in such a condition as to be a nuisance or prejudicial to health, is guilty of an offence.

**29 Dwellings.**

Any person who causes or allows any dwelling or other building to be without sufficient and suitable sanitary accommodation resulting in conditions prejudicial to health either within the building or in the vicinity, is guilty of an offence.

**30 Food premises, etc.**

Any person who causes or allows any premises, stall container or vehicle in which food is manufactured, prepared, stored or delivered to be in such a defective or dirty condition or in which the equipment and methods of handling the food or drink are so unsatisfactory with regards to hygiene as to be a nuisance or prejudicial to health, is guilty of an offence.

**31 Cemeteries.**

Any person who causes or allows a cemetery, burial place or any place where the remains of the dead are disposed of to be kept in such a condition as to be prejudicial to health is guilty of an offence.

**32 Rodents and insects.**

Any person who causes or allows any building, land or water to be infested with rodents or insect pests so as to be a nuisance or prejudicial to health is guilty of an offence.

## **PART III (A) - FOOD - GENERAL PROVISIONS**

**33 Premises.**

For the purposes of Part III of this Act, reference to premises shall be deemed to include reference to any street, open space or place of public resort, bicycle, or other vehicle used for the preparation, preservation, packaging, storage or conveyance of any food.

**34 Registration of Food Premises.**

(1) All food premises in hotels, motels, guest houses, tourist resorts, restaurants and markets, food processing establishments, super-markets, stores, hawkers and all milk suppliers shall be registered with the Ministry.

- (2) The Minister may by regulations require the registration of any other food premises or class of food premises.
- (3) If any premises required to be registered under sub-sections (1) or (2) above are not so registered the manager and the owner of such premises shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$500 or to imprisonment not exceeding 1 year or to both. In addition the court may order the closure of the premises until they are registered.

### **35 Cancellation of Registration.**

The Minister may at any time cancel the registration of premises registered under section 34 if he considers this to be necessary in the interests of public health.

### **36 Prohibition of adulterated food, etc.**

- (1) Any person who prepares, packs or sells any food that —
  - (a) has in or upon it any substance which is poisonous, dangerous or otherwise injurious to health; or
  - (b) consists in whole or in part any filthy, putrid, rotten, decomposed or diseased substance or foreign matter, or is otherwise unfit for human consumption; or
  - (c) is adulterated; or
  - (d) has deteriorated or has perished; or
  - (e) is contained in a damaged packaging; or
  - (f) has been declared by the Minister to be dangerous or injurious under section 43,shall be guilty of an offence.
- (2) Any food shall be adulterated if:
  - (a) it contains or is mixed with any substance which diminishes in any manner its nutritive or other beneficial properties as compared with such food in a pure, normal or in an undeteriorated condition;
  - (b) any substance or ingredient has been extracted wholly or in part or removed from it so that its properties as compared with those of the food in a pure state and in an undeteriorated condition, are diminished;
  - (c) it contains any substance which is prohibited or is not permitted;
  - (d) it contains a greater proportion of any substance than is permitted;

- (e) it is prepared in a manner whereby damage, deterioration, or inferiority is or may be concealed;
- (f) it is wholly or partly the product of a diseased animal or of an animal which has died —
  - (i) naturally; or
  - (ii) in the case of a warm blooded animal, other than by slaughter;
- (g) it is injurious to health, dangerous or offensive;
- (h) a package or a thing included in a package or anything or matter with which the food comes into contact consists wholly or partly of a substance which may render the food concerned injurious to health, dangerous or offensive;
- (i) it contains a foreign or matter;
- (j) it is in a sealed package and the package is damaged and can no longer ensure protection to its contents from contamination or deterioration; or
- (k) it is in any package, and the contents of the package as originally packed have been removed in whole or in part and other injurious or harmful contents have been placed in the package.

### **37 Misleading practices.**

Any person who labels, packages, prepares, sells or advertises any food in a manner that is false, misleading or deceptive as regards its character, nature, value, substance, quality, composition, merit or safety, shall be guilty of an offence.

### **38 Composition standards for foods.**

Where a standard of composition has been prescribed for any food, any person who labels, packages, prepares, sells or advertises any food which does not comply with that standard, in such a manner that it is likely to be mistaken for food of the prescribed standard, shall be guilty of an offence.

### **39 Insanitary food.**

Any person who sells, prepares, packages or stores for sale any food under insanitary conditions shall be guilty of an offence.

**40 Importation of food.**

- (1) Subject to the provisions of subsection (2), the importation of any article which does not comply with the provisions of this Act is prohibited.
- (2) Where an article sought to be imported into Tonga would, if sold in Tonga constitute a contravention of this Act, the article may be imported into Tonga for the purpose of satisfactorily relabelling or reconditioning the same so that the provisions of this Act are complied with. If not so treated within one month; the article shall be immediately exported or shall be forfeited and disposed of as the Minister may direct.

**41 Refrigerated food.**

Any food which must be retained at a low temperature to preserve its quality and protection from infection shall be kept in a suitable refrigerated container while imported, transported, displayed for sale, delivered after sale, or kept by any hotel, restaurant or other public eating place. Any person who contravenes the provisions of this section is guilty of an offence.

**42 Food Regulations.**

- (1) The Minister may by regulations provide for standards in relation to food and in particular but without prejudice may make regulations in relation to any of the matters in the following subsections:
- (2) The Minister may make regulations for:
  - (a) declaring that any food or class of food is adulterated if any prescribed substance or class of substance is present therein or has been added thereto or extracted or omitted therefrom;
  - (b) respecting —
    - (i) the labelling and packaging and the offering, exposing and advertising for sale of food;
    - (ii) the size, dimensions and other specifications of packages of food;
    - (iii) the sale or the conditions of sale of any food; and
    - (iv) the use of any substance as an ingredient in any food, to prevent the consumer or purchaser thereof from being deceived or misled as to its quality, quantity, character, value, composition, effect, merit or safety or to prevent injury to the health of the consumer or purchaser;
  - (c) prescribing standards of composition, strength, potency, purity, quality or other property of any food;

- (d) respecting the importation or exportation of food, in order to ensure compliance with this Act;
  - (e) respecting the method of preparation, preserving, packing, storing, conveying, and testing of any food, in the interests of, or for the prevention of injury to the health of the consumer, user or purchaser, and for the observance of adequate standards of hygiene in the carrying out of these activities;
  - (f) respecting the carriage of goods subject to the provisions of this Act including the licensing of vehicles used in such carriage;
  - (g) requiring persons who sell food, to maintain such books and records as the Minister considers necessary for the proper enforcement and administration of the Act;
  - (h) providing for the analysis or examination of food, for the purposes of the Act or for any other purposes and prescribing a tariff of fees to be paid for such analysis and for prescribing methods of analysis;
  - (i) providing for the taking of samples of any articles for the purposes of this Act or for any other purpose;
  - (j) exempting any food, from all or any of the provisions of this Act and prescribing the condition of such exemption;
  - (k) respecting the licensing of premises where foods are prepared, and of persons preparing such foods;
  - (l) providing standards for the microbiological quality of foods;
  - (m) requiring procedures for the recall of foods;
  - (n) providing specifications for any materials in contact with food, including packaging to avoid contamination both from the environment and the materials themselves; and
  - (o) prescribing anything which is to be or which may be prescribed under this Act.
- (3) Where any regulations made under this Act or under any other Act prohibit or restrict the addition of any ingredient or material to any food, the addition of such ingredient or material, if made in contravention of the regulations shall for the purpose of this Act; be deemed to render the food injurious to health.
- (4) Where any regulations made under this Act or any other Act prescribe the composition of any article of food intended for sale, or prohibit or restrict the addition of any ingredient or material to any such article, the purchaser of such article shall, unless the contrary is proved, be deemed for the purpose of this section to have demanded an article complying with the provisions of the regulations as regards the presence or amount of any constituent, ingredient or material specified in the regulation.



**43 Gazette Notice of food dangerous or injurious to health.**

If in the opinion of the Minister, a food would or may be dangerous or injurious to health, the Minister may declare by notice in the Gazette that food to be dangerous or injurious.

**44 Prohibition.**

The Minister may prohibit by order published in the Gazette the cultivation, taking, harvesting, or otherwise obtaining any food from any area if, in the opinion of the Minister, that food may be dangerous or injurious to persons who consume that food. Any person who does not comply with orders made under this section shall be guilty of an offence.

**45 Importation.**

- (1) The Minister may direct any person who obtains particulars of importation or use of any substances to which this Act applies to furnish to the Minister, within such time as may be specified in such direction, such particulars, as may be specified. of the composition and use of any substance sold or for sale in the course of business or used in the preparation of food.
- (2) Without prejudice to the generality of subsection (1), a direction made thereunder may require the following particulars to be furnished in respect of any substance, that is to say —
  - (a) particulars of the composition and chemical formula of the substance;
  - (b) particulars of the manner in which the substance is used or proposed to be used in the preparation of food;
  - (c) particulars of any investigations carried out by or to the knowledge of the person carrying on the business in question, for the purpose of determining whether and to what extent the substance, or any product formed when the substance is used as aforesaid is injurious to, or in any other way affects, health;
  - (d) particulars of any investigations carried out by or to the knowledge of the person carrying on the business in question, for the purpose of determining the cumulative effect on the health of a person consuming the substance in ordinary quantities.
- (3) No particulars furnished in accordance with a direction under this section and no information relating to any individual business obtained by means of such particulars shall, without the previous consent in writing of the person carrying on the business in question, be disclosed except in due discharge of the duties under this Act, and any person who discloses any

such particulars of information in contravention of this subsection shall be guilty of an offence.

## PART III (B) - FOOD PREMISES

### 46 Uses of premises for food.

- (1) No person shall use any premises or permit any premises to be used for or in connection with the sale, preparation, storage, or packing of food for sale, unless the premises —
  - (a) are kept adequately lighted by daylight or artificial light, as the circumstances require, at all times when any work is being carried out on the premises;
  - (b) are kept adequately ventilated at all times while any food, food package or material for the packing of food is present therein;
  - (c) are provided with a means of drainage sufficient for the removal of any waste liquid produced therein and the drains are in good, clean, working order and condition;
  - (d) are at all times kept clean and free from foul odours and as far as practicable, free from solid waste, dust and creatures likely to contaminate food;
  - (e) have walls, floors, ceilings and roofs that are properly constructed, in good repair and easy to clean;
  - (f) are provided with sinks and other sanitary fittings reasonably necessary for cleaning articles, utensils, or appliances used in the premises and such sinks and other sanitary fittings are maintained in good, clean, working order and condition;
  - (g) are provided with an adequate supply of hot and cold water, and soap or other detergent;
  - (h) are provided adequately with wash-basins and toilets for the use of persons engaged or employed in or about the premises, all such wash-basins and toilets are maintained in good, clean, working order and condition and have an adequate supply of hot and cold water, soap or other detergent, nail brushes, and towels or other drying equipment.
- (2) Any person who contravenes any part of sub-section (1) above shall be guilty of an offence.

**47 Limitation on use of premises for food.**

No person shall use any premises or permit any premises to be used for or in connection with the sale, preparation, storage, or packing of food for sale, if such premises are used for any other purpose that is likely to affect the quality of the food. Any person who contravenes the provisions of this section is guilty of an offence.

**48 Abatement or prohibition order.**

- (1) This section shall apply to any premises that are, in the opinion of an authorised officer, by reason of their construction or disrepair or by reason of the use or character of any neighbouring premises, in such a condition that any food in the first premises may be exposed to contamination or taint, or may deteriorate or become dirty.
- (2)
  - (a) An authorised officer may serve a notice in writing on any owner or occupier of any premises to which this section applies, requiring a process to be abated or prohibiting immediately the use of the premises for or in connection with the sale, preparation, storage, or packing of any food for sale.
  - (b) Every such notice shall —
    - (i) specify the premises to which it relates;
    - (ii) state the reason for the abatement or prohibition; and
    - (iii) specify a date and time on which the abatement or prohibition is to come into force.
- (3) When in the opinion of an authorised officer the reason for which any such notice was served has ceased to exist, he shall revoke the notice and shall give written notice of the revocation to the owner or occupier of the premises concerned, and every other person on whom a copy of the notice has been served.
- (4) While any such notice remains in force, no person shall knowingly use or permit the use of the premises specified in the notice for or in connection with the sale, preparation, storage, or packing of any food for sale.
- (5) Any person who contravenes the provisions of this section is guilty of an offence.

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## PART III (C) - FOOD - FOOD HYGIENE

### 49 Avoidance of pollution.

Every person in possession or control of food for sale, or an article, utensil, receptacle or appliance used for or in connection with the preparation, storage, packing or sale of food shall at all times keep the food or the article, utensil, receptacle or appliance clean and free from contamination by damp, foul odours or dust and protect them as far as practicable from access by creatures likely to contaminate the food. Any person who contravenes the provisions of this section is guilty of an offence.

### 50 Protection of food.

Every person in possession or control of food for sale which is ordinarily consumed in the state or condition in which it is sold shall protect the food from dust, from creatures likely to contaminate the food, and from any unwholesome matter, by storage in covered receptacles, or by covering with gauze, or by other effective means. Any person who contravenes the provisions of this section is guilty of an offence.

### 51 Restrictions.

- (1) No person shall use, or permit to be used –
  - (a) any article, receptacle, utensil, appliance or vehicle for or in connection with the preparation, storage, packing, conveying or delivery of food for sale unless it is constructed of such material and in such a manner as to be easily cleaned and kept clean;
  - (b) in the conveying or delivery of food for sale, any article, receptacle, utensil, appliance or vehicle that is also used for the conveying of any matter which endangers or likely to endanger the wholesomeness, cleanliness or freedom from contamination of the food;
  - (c) in the preparation of food for sale, any article that has been used for any purpose which is likely to contaminate or taint the food; or
  - (d) any room used in the manufacture, storage, preparation, packaging, display or sale of food, for sleeping purposes.
- (2) Any person who contravenes the provisions of this section is guilty of an offence.

**52 Avoidance of contamination.**

No person shall keep, carry, spread or use, or permit to be kept, carried, spread or used, any poisonous or harmful substance so as to expose food intended for sale to the risk of contamination by that substance at any time in the course of preparation, storage, packing, conveying, delivery or exposure of food for sale. Any person who contravenes the provisions of this section is guilty of an offence.

**53 Food handlers to be clean.**

Every person who is engaged or employed in the preparation, storing, packing, conveying or delivering food for sale, and in the course of his employment comes in direct contact with such food or with the interior of any package used for such food, shall at all times maintain his clothing and his person in a state of cleanliness and avoid smoking or spitting. Any person who contravenes the provisions of this section is guilty of an offence.

**54 Food handlers to avoid polluting food.**

No person who is engaged or employed in the sale of food, or in the preparation, storage, packing, conveying or delivery of food for sale, shall do or omit to do anything whereby that food becomes, or is likely to become contaminated, infected, polluted, tainted, spoiled or in any way a risk to public health. Any person who contravenes the provisions of this section is guilty of an offence.

**55 Persons suffering from communicable disease.**

Any person who is suffering from, or he has reason to believe he is a carrier of, a communicable disease, or who is suffering from an exposed skin lesion or wound shall engage or be employed in the preparation, storage, packing, conveying or delivery of food for sale or of any ingredient or package for such food. Any person who contravenes the provisions of this section is guilty of an offence.

**56 Contact with infectious person.**

- (1) An authorised officer or a medical officer may by notice in writing prohibit any person who has been in recent contact with any person to whom section 55 applies from engaging in or being employed in the preparation, storage, packing, conveying or delivery of food for sale.
- (2) Any person to whom a notice is issued under subsection (1) may, within 14 days of receipt appeal in writing to the Minister. The Minister on

receipt of such an appeal shall within 14 days inform the appellant of his decision.

### **57 Examination of food handler.**

Any food handler may be required to undergo a medical examination when an authorised officer considers it necessary and may be excluded from food handling until the result of the examination is known.

### **58 Revocation of control notice**

Where in the opinion of an authorised officer or a medical officer there is no longer any risk of any food becoming infected by a person on whom a notice has been served under section 56, the medical officer shall revoke the notice and shall give written notice of the revocation to that person and every other person on whom a copy of the notice has been served.

### **59 Effect of control notice.**

- (1) No person shall engage or be employed in a business in contravention of a notice served on him under section 56.
- (2) No person shall knowingly employ any other person upon whom a notice has been served under section 56.
- (3) Any person who contravenes the provisions of this section is guilty of an offence.

### **60 Notice of contaminated supply.**

- (1) Where an authorised officer suspects on reasonable grounds that any food is infected with an organism capable of causing disease, or contains a toxic substance, he may, by notice in writing describing the source from which he believes the food has been supplied, prohibit the person so supplied from selling any food which he knows or has reason to believe has been obtained at or from the source specified.
- (2) A notice served under this section —
  - (i) shall remain in force for such period, not exceeding one month, as shall be specified in the notice,
  - (ii) may be revoked at any time by an authorised officer or a medical officer, who shall notify the person on whom the notice was served of the revocation, or
  - (iii) may be extended for one further month by the Director of Health.

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## **PART III (D) - SLAUGHTERHOUSES AND SLAUGHTERERS**

### **61 Persons authorised to slaughter.**

No person shall slaughter any animal for sale in a public market or shop for human consumption unless he is authorised to do so in writing by the Minister.

### **62 Refusal to authorise.**

The Minister may refuse to issue an authorisation to slaughter or cancel an existing authorisation if satisfied that the person concerned has not or will not observe all the requirements under this Act.

### **63 Inspection of meat before sale.**

- (1) No person shall sell meat or offal until the meat or offal has been inspected and passed as fit for human consumption by an authorised officer.
- (2) Any person who contravenes this section is guilty of an offence.

### **64 Notice of intention to slaughter.**

The occupier of a slaughterhouse or any person who slaughters for sale for human consumption shall give the Ministry 24 hours notice in writing of his intention to slaughter provided that where slaughtering is carried out at the same place and at the same time on certain days of each week, one notice to that effect may be given and will satisfy this requirement until there is a change of days or times.

### **65 Stamping of carcasses.**

When an authorised officer has inspected an animal carcass and organs, he may apply an official stamp to the various parts of the carcasses so that one of the stamps is visible on each of the main joints or portions into which the carcass is divided.

### **66 Persons suffering from communicable.**

No person who is suffering from, or has a reasonable belief that he is a carrier of, a communicable disease or with an unprotected skin lesion or wound shall be

employed in slaughtering or on any work involving the handling the meat of animals or poultry. Any person who contravenes the provisions of this section is guilty of an offence.

### **67 Minister may make arrangements for slaughtering.**

The Minister may make arrangements for slaughtering or processing any animals intended for human consumption either by persons engaged in the trade of slaughtering or butchering or by employees of the ministry and may make charges for services provided.

### **68 Requirements for slaughter houses.**

- (1) Every slaughterhouse or premises where animals are slaughtered shall have –
  - (i) adequate space and hygienic facilities including clean utensils, appliances, receptacles and clothes for the efficient performance of slaughter and proper inspection of carcasses;
  - (ii) suitable hanging space for carcasses to allow air to circulate freely between the carcasses;
  - (iii) separate lairage accommodation for the isolation of animals or poultry suspected of being diseased pending inspection by an authorised officer;
  - (iv) a separate well-lit room for the detention of carcasses or viscera suspected of being diseased pending the examination by an authorised officer;
  - (v) suitable sanitary accommodation and washing facilities for persons employed in slaughtering;
  - (vi) impervious and durable floors, ceilings and walls, screened windows and closing doors, adequate lighting and ventilation, a potable water supply and drainage and proper arrangements for the disposal of solid and liquid waste;
  - (vii) a hygienic code of practice prepared by the Minister to be followed by persons employed in slaughtering.
- (2) Animals or poultry shall be slaughtered as skilfully, humanely and expeditiously as possible.
- (3) The provisions of subsection (1) paragraphs (i), (ii), (v) and (vii) and subsection (2) shall also apply to slaughtering taking place in the open.
- (4) Any person who contravenes the provisions of this section is guilty of an offence.



**69 Slaughterhouse to be kept clean.**

All slaughterhouses and places of slaughter shall be kept clean and free from flies, insects and rodent pests and no animals other than those intended for slaughter shall be allowed on the premises.

Any person who contravenes the provisions of this section is guilty of an offence.

**70 Restriction on transport of meat.**

- (1) All meat including poultry meat removed after slaughter shall be transported in clean vehicles or containers and all persons handling such meat during loading, unloading or transport shall wear clean clothes.
- (2) No skins, hooves or manure or live animals or poultry or any other material likely to be a source of contamination shall be carried in the same vehicle or container as meat intended for human consumption.
- (3) Any person who contravenes the provisions of this section is guilty of an offence.

## **PART IV - PREMISES**

**71 Authority to erect or alter premises.**

- (1) No person shall erect or commence to erect or alter any premises unless he is in possession of a written permit to do so from the Minister.
- (2) Any person who contravenes the provisions of this section is guilty of an offence.

**72 Plans to be submitted.**

The Minister shall require a detailed plan of any premises which it is intended shall be constructed, extended or altered, to be submitted to him by the owner or developer. The purpose for which the premises are intended must be stated.

**73 Requirements for plans.**

The detailed plan of any premises submitted to the Minister shall include:

- (a) the overall dimensions of the building and proposed number of floors;
- (b) details of the drainage system for the premises;

- (c) details of the ventilation both natural and artificial of the premises;
- (d) details of the lighting both natural and artificial of the premises;
- (e) details of the sanitary arrangements of the premises;
- (f) dimensions of rooms in the premises including height, floor space, siting of doors and windows and any other details of any room or passage;
- (g) the intended use of the rooms in the premises;
- (h) details of food preparation rooms including storage accommodation;
- (i) details of the water supply to, and disposal of sewage from the premises;
- (j) details of the methods to be used to reduce noise between rooms in the premises and from the premises;
- (k) the materials and fittings to be used in the construction of the premises;
- (l) details of the site of the premises and whether there are any drainage or construction difficulties with the site, and details if the site is on reclaimed or made up land, including details of the time which has elapsed between the land being filled in and the time at which it is proposed to commence erection of the premises;
- (m) details of the spatial relation of the site to adjoining premises and roads;
- (n) the precautions proposed to ensure that the premises do not constitute a fire hazard.

#### **74 Site Inspection.**

- (1) All authorised officers may in accordance with section 9 visit sites during the course of construction to ensure the Ministers requirements approved in the plan are being met.
- (2) Where an authorised officer is satisfied that a contravention exists or has occurred, he may serve a written notice on the owner or occupier of the premises requiring him, within a specified period of time, to rectify the contravention or as the case may be to prevent its recurrence, and for that purpose to carry out such work or to take such action as may be specified in the notice.
- (3) Any person who fails to comply with the requirements of a written notice served on him pursuant to subsection (2) is guilty of an offence and shall be liable to a fine not exceeding \$500 or to imprisonment for any period not exceeding 2 years or to both.

**75 Dilapidated, dangerous or unhealthy premises.**

- (1) If it appears to the Minister that any premises or part of any premises —
- (a) are in such a condition or are used to carry such loads as to be dangerous to persons in the building or any adjoining premises or nearby street or land; or
  - (b) are by reason of their dilapidated or ruinous condition, seriously detrimental to the amenities of the neighbourhood; or
  - (c) in the case of premises or part thereof which are used as a dwelling, are in the opinion of an authorised officer unfit for human habitation; or
  - (d) are a serious danger to health,
- the Minister may apply to a court and the court may make such order as it deems fit requiring the owner or occupier of the premises to restrict the use of, repair, alter, rebuild or demolish the premises and may in addition or alternatively make such other orders as the circumstances of the case require.
- (2) The Chief Justice may make Rules of Court relating to applications under this section or section 76.

**76 Failure to comply.**

If the person on whom an order is made under section 75 fails to carry out any work required by the order within the time specified, in addition to any other remedies available to him the Minister may cause that work to be carried out and recover the cost of it from the person in default.

**77 Saving for Tongan houses, tent, ship, aircraft etc.**

This Part of this Act shall not apply:

- (a) to dwelling houses built of traditional Tongan materials to which sections 6 and 7 of the Town Regulations Act apply;
- (b) to a tent, ship, aircraft or land.

**PART V - WATER SUPPLY CONTROL****78 Duty of Minister.**

It shall be the duty of the Minister to:

- (a) determine which sources of water in Tonga are suitable for public water supply; and
- (b) take regularly such steps as may be necessary for ascertaining the sufficiency and wholesomeness of the water supplies.

### **79 Premises to have potable water.**

The Minister shall pursuant to powers vested in the Ministry by section 89, ensure as far as is reasonably practicable that all premises used for human habitation or where persons attend or are employed have available a sufficient supply of potable water. It shall remain the responsibility of the owner or occupier of such premises to secure the availability of such a supply.

### **80 Examination of water sources.**

All sources of water supply, including wells, boreholes, rain water, cisterns, streams or any other source, shall be periodically examined by authorised officers to determine their suitability or otherwise as a water supply source.

### **81 Minister to issue portable water certificate.**

If the Minister is satisfied after examination of a water supply, that it is potable he shall give a certificate in writing to that effect to the responsible person. Such examinations and certifications shall be regularly repeated.

### **82 Offence to use uncertificated water supply.**

- (1) No person shall use any source of water as a public water supply until he has received a certificate from the Minister stating that the water is potable.
- (2) Any person who contravenes the provisions of this section is guilty of an offence and shall be liable to a fine not exceeding \$1000.

### **83 Village water committees to be advised.**

The Minister shall advise the village water committee on all measures required to ensure that the water used in its area is safe for drinking and remains so. The Minister may charge for any service he provides to maintain the quality and sufficiency of water supplies.

**84 Advice on prevention of contamination.**

The Minister shall advise in writing any water supplier of all measures he requires to be taken to safeguard a water supply from contamination.

**85 Closure of a water supply if water unsafe.**

The Minister shall, in writing, advise any water supplier if supply of water becomes unsafe and the measures including the closure of the supply which should be taken to safeguard public health.

**86 Piped water supplies.**

In the case of piped supplies:

- (a) Where the source of water used and the treatment provided are not able continuously to provide drinking water meeting the requirements of safety in regulations made under this Act, adequate chlorination or alternative sterilisation shall be applied routinely after the final stage of treatment;
  - (b) No water supplier shall add chlorine or chloramine or any other substance to a water supply until it has consulted with and has received in writing the consent of the Minister for any action it proposes to take;
  - (c) No water shall be distributed from any pipes or mains which have been installed or repaired until such pipes or mains have been thoroughly disinfected to the satisfaction of the Minister;
  - (d) The Minister shall require a regular programme of flushing of inactive portions of the distribution network in order to prevent accumulations of objectionable materials in the pipes or mains;
  - (e) The pipes and mains shall be so connected to each other as to result in a continuous flow in the mains to the satisfaction of the Minister; and
  - (f) The Minister shall require that there is a continuous water service to all parts of any premises, as evidenced by positive pressure in all parts of the distribution network at all times to prevent pollution being sucked in through leaks or plumbing faults. Such pressure shall be maintained (by booster pump where necessary) so as to reach the top floor of the highest premises served by the mains.
- (2) Any water supplier who contravenes any of the provisions of this section is guilty of an offence and shall be liable to a fine not exceeding \$1000.

**87 Rejection of plans for premises if Minister not satisfied with water supply.**

The Minister shall reject plans for any premises unless:

- (a) they provide in or within a reasonable distance of the premises a supply of potable water for the users of the premises; and
- (b) he is satisfied that the proposals can and will be carried into effect.

**88 Failure to comply.**

If after any such plans as aforesaid have been passed, no supply of wholesome water sufficient for the purposes of the users of the premises is provided in or within a reasonable distance of the premises, the Minister shall give notice in writing to the owner of the premises prohibiting him from occupying it or permitting it to be occupied until the Minister is satisfied that such a supply has been provided.

**89 Sampling of water.**

The Ministry shall regularly carry out routine sampling of water supplied by any water supplier and of any source of water supply. This sampling of water shall include:

- (a) physical and chemical analysis;
- (b) examination for presence of harmful micro-organisms and other offensive biological matter;
- (c) examination for radio-active content.

## **PART VI - WASTE DISPOSAL**

**90 Gazette Notice by Minister.**

Sections 91, 92, 93, 95 and 97 shall apply only to any town, village or area which the Minister may from time to time by notice in the Gazette determine.

**91 Power to make arrangements.**

The Minister shall make arrangements for the collection, transport and disposal of domestic, commercial and trade waste and may charge the owner or occupier of premises for these services.

**92 Arrangements for cleansing.**

The Minister may make arrangements for cleaning and ensuring the efficient functioning of latrines, cesspits or any other receptacles for sewage and may charge the owner or occupier of premises for these services.

**93 Dustbins and collection of waste.**

- (1) Every owner or occupier of premises shall provide a sufficient number of dustbins, provided with tight fitting lids, for the reception of the waste arising from or existing on the premises and shall —
  - (a) at all times keep the dustbins tightly covered except when depositing waste in them;
  - (b) keep the dustbins and covers clean and in good repair;
  - (c) place the dustbins in a position easily accessible for collection and, when more than one is necessary, they shall be placed together.
- (2) The Minister may supply dustbins to premises and if so the owner or occupier of the premises shall accept, pay for and use these dustbins.
- (3) Every owner or occupier of premises shall cause all waste arising from the premises to be deposited in the dustbins or otherwise disposed of.
- (4) Waste shall not be scattered on or within the surroundings of any premises nor heaped nor deposited in or around the premises except in a dustbin.
- (5) No person shall throw or deposit any waste on any roadway, vacant land or foreshore or into any stream, creek, pond, well, lake or the sea.
- (6) The occupier of any premises shall be deemed to have offended against the provisions of this section where any accumulation of waste other than that contained in a dustbin is found on the premises.
- (7) Where there is an accumulation of waste on premises of which there is more than one occupier, each occupier shall be deemed to have offended against the provisions of this section.
- (8) Where a medical officer or an authorized officer has required the owner or occupier of premises orally or in writing to remove an accumulation of waste and the accumulation is allowed to remain for 24 hours after the notice is given, the owner or occupier as the case may be shall be deemed to have committed an offence against the provisions of this section.
- (9) It shall be the duty of the waste collector to remove, empty and replace all dustbins at least twice weekly but he shall not be required to remove any dustbin standing at a greater distance than 5 metres from any road.
- (10) It shall be the duty of the occupier of any premises where the dustbin is not cleared for over 4 days to notify the Minister of such failure to clear.

- (11) Every person who offends against any of the provisions of this section shall be guilty of an offence and liable to a fine not exceeding \$50 and in the case of a continuing offence to a further fine not exceeding \$5 for each day during which the offence continues after such conviction.

#### **94 Disposal of Toxic or Hazardous Waste.**

- (1) The Minister may by regulations specify —
- (a) types of solid or liquid waste which shall be considered to be toxic or hazardous to health;
  - (b) those sites approved by the Minister as suitable for the storage or controlled disposal of toxic or hazardous waste;
  - (c) the types and specifications of containers to be used for the storage or disposal of toxic or hazardous waste, and
  - (d) such other matters relating to the transportation, storage, or controlled disposal of toxic or hazardous waste as the Minister may require.
- (2) All toxic or hazardous waste shall be placed in such containers as may be specified by the Minister and shall be transported to those sites approved by him as suitable for the storage or controlled disposal of toxic or hazardous waste.
- (3) Any person who contravenes the provisions of subsection (2) is guilty of an offence and shall be liable to a fine not exceeding \$5000 or to imprisonment for any period not exceeding 3 years or to both.

#### **95 Street Cleaning.**

The Minister may arrange for the cleaning of streets and other public places including the provision of suitable containers and vehicles.

#### **96 Disposal of Waste.**

- (1) The Minister may by regulations specify —
- (a) those sites approved by the Minister as suitable for the reception of waste;
  - (b) the charges for the collection and reception of waste;
  - (c) the manner and times at which waste is to be received at an approved site; and
  - (d) other matters relating to the collection, transportation, and reception of waste.



- (2) Waste which in any way may constitute a nuisance or be injurious to health shall be placed in suitable containers for collection and transportation to those sites approved by the Minister as suitable for the reception of waste.
- (3) Waste shall be delivered at approved sites in such manner and at such times as specified by the Minister.
- (4) Any person who contravenes the provisions of this section is guilty of an offence.

**97 Power to use Waste.**

- (1) No person shall extract materials from waste at or from an approved site for re-use or re-sale unless prior written permission from the Minister has been obtained.
- (2) Any person who contravenes the provisions of this section is guilty of an offence.

**98 Prohibition on the Importation of Toxic or Hazardous Waste.**

- (1) No toxic or hazardous waste may be imported into the Kingdom.
- (2) Any person who contravenes the provisions of this section is guilty of an offence and shall be liable to a fine not exceeding \$10,000 or to imprisonment for any period not exceeding 5 years or to both.

**99 Waste disposal offences.**

It is an offence to deposit any waste except in containers provided or at registered waste disposal sites except with prior agreement in writing of the Minister.

**100 Powers extend to ships and aircraft.**

The provisions of this Part of this Act shall apply to ships and aircraft where applicable.

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## PART VII - SANITARY FACILITIES

### 101 Provision of sanitary facilities.

- (1) Every owner of premises shall provide sanitary facilities of a type approved by the Minister and suitable to the needs of the premises.
- (2) Any owner who contravenes the provisions of this section is guilty of an offence.

### 102 Minister to approve plans.

All plans for new or replacement sanitary facilities in all premises shall be subject to the approval of the Minister.

### 103 Minister specify standards.

The Minister shall specify standards with respect to numbers, suitability for male and female users, lighting and ventilation and availability of sanitary facilities in all premises including temporary accommodation and recreational sites.

### 104 Sanitary facilities in dwellings.

Every new dwelling or an existing dwelling undergoing a major alteration shall have at least one flush toilet, a bath or shower, wash-hand basin, kitchen sink and provision for washing clothes.

### 105 Public premises.

Public premises shall have sufficient and suitable sanitary facilities for the number of persons residing, working in, or using the premises.

### 106 Sanitary facilities requirements - general.

- (1) Sanitary facilities shall be sufficient in number, sitting, provision for both sexes and of types approved by the Minister; and shall be easily accessible.
- (2) Wash-hand basins shall be provided adjoining all flush toilets or urinals.
- (3) Public premises used by females shall have provision for the disposal of sanitary towels.

**107 Restriction on conveniences.**

No sanitary convenience shall open directly into a living room or a food preparation area.

**108 Restriction on pit latrines.**

- (1) No pit latrine shall be constructed within 30 metres of any public or domestic water supply.
- (2) Pit latrines shall be fly-proofed.
- (3) Any person who contravenes the provisions of this section is guilty of an offence.

**109 Sanitary facilities in schools.**

The Minister may specify the number and types of sanitary facilities to be provided in schools and other educational establishments.

**110 Minister to approve design, etc.**

The design, material of construction, drainage, method of operation, placement and surrounds of sanitary facilities shall be subject to the approval of the Minister.

**111 Standards for septic tanks.**

The Minister may specify standards for septic tanks relating to site, size, frequency of emptying, ventilation, control of discharge, proximity to public or domestic water supplies and avoidance of nuisance or injury to health.

**112 Urinals-requirements.**

Urinals shall be of stall or continuous wall-type and constructed of impervious materials, satisfactorily drained and fitted with an approved flushing system.

**113 Drinking fountains.**

Drinking fountains shall be constructed of approved materials and designed to prevent mouth-to-nozzle contamination. Only potable water shall be used.

**114 Dangerous materials restricted.**

- (1) No person shall permit any toxic, explosive or inflammable material to pass into any sewer, public or private, or into any septic tank.
- (2) Any person who contravenes the provisions of this section is guilty of an offence.

**115 Extension to ships and aircrafts.**

Authorised officers may inspect sanitary facilities in ships and aircraft and require them to be adequate, well-maintained and clean.

## **PART VIII (A) - AIR POLLUTION**

**116 Functions of Minister on air pollution.**

In relation to air pollution the Minister shall have the following powers and duties —

- (a) to declare by regulations the substances which are noxious or offensive and may cause air pollution;
- (b) to keep himself informed of the general levels of air pollution, or the absence of air pollution, throughout Tonga;
- (c) to formulate policies for, promote and encourage the reduction, minimisation and control of air pollution;
- (d) to establish standards for levels of emission of harmful material into the air;
- (e) to regulate and monitor compliance with these standards, including sources and possible sources of air pollution;
- (f) the other powers and duties given to him in this Act.

**117 Plans etc. for potential sources of air pollution.**

- (1) The Minister shall require the owner or occupier of any premises proposing to install a source of air pollution to inform the Ministry of —
  - (a) Plans of the new source to be created;
  - (b) The fuels to be used in the source;
  - (c) Details of the method to be used to arrest smoke, dust, grit and fumes and how these are to be measured;
  - (d) The height of any chimney connected to the source.

- (2) Any owner or occupier who fails to supply the information required under subsection (1) is guilty of an offence.

### **118 Permission to erect a furnace, etc.**

- (1) No permission to build a new source shall be given until plans have been submitted to the Minister and the Minister is satisfied that the plans submitted meet with his requirements. When plans have been approved, the Minister shall issue an authorisation in writing to the owner or occupier of the premises.
- (2) Potential sources of air pollution shall not be sited in residential areas.
- (3) Any person who builds a new source of air pollution without authorisation from the Minister or who having received authorisation fails to build in conformity with that authorisation is guilty of an offence and shall be liable to a fine not exceeding \$2000 or to imprisonment for a term not exceeding 12 months or to both and in the case of a continuing offence to a further fine not exceeding \$200 for each day during which the offence continues after conviction.

### **119 Ships to comply.**

- (1) This part of this Act applies to all ships in port or in any harbour in the Kingdom.
- (2) The master, owner, charterer or agent of a vessel which contravenes any of the provisions of this Part is guilty of an offence and shall be liable to a fine not exceeding \$2000 or to imprisonment for a term not exceeding 12 months or to both, unless in the case of the owner, charterer or agent, he proves —
  - (i) that he did not know that the contravention was intended or was taking place; or
  - (ii) that he took all reasonable steps to prevent the contravention taking place.

### **120 Standards of emissions from motor vehicles.**

The Minister may specify standards of emission from any motor vehicle which causes or contributes to, or is likely to cause or contribute to air pollution which is a nuisance or endangers public health.

**121 Motor Vehicles may be examined.**

- (1) The Minister may require motor vehicles which emit excessive or harmful exhaust smoke or fumes to be examined and if necessary require the owner of the vehicle to carry out such repairs and maintenance as are necessary to reduce the amount of exhaust smoke or fumes.
- (2) Any person who uses a motor vehicle which emits excessive or harmful exhaust smoke or fumes or which otherwise fails to conform to any standard specified by the Minister under section 120 is guilty of an offence.
- (3) Any person who uses or permits another to use a motor vehicle that emits excessive or harmful exhaust smoke or fumes after he has been required to carry out repairs and maintenance and before such repairs and maintenance have been carried out is guilty of an offence and is liable to a fine not exceeding \$200 or to imprisonment for a term not exceeding 6 months or to both.

**122 Standards of certain substances in fumes.**

- (1) The Minister shall by notice in the Gazette specify standards for certain substances contained in smoke or fumes from factories or workshops or any other source.
- (2) If any factory or workshop or other source is used that does not conform to any standard specified under subsection (1) the owner or manager is guilty of an offence and shall be liable to a fine not exceeding \$2000 or to imprisonment for a term not exceeding 12 months or to both unless, in the case of the owner, he proves —
  - (i) that he did not know that the contravention was intended or was taking place; or
  - (ii) that he took all reasonable steps to prevent the contravention taking place.

**PART VIII (B) - NOISE POLLUTION****123 Functions of Minister on noise pollution.**

In relation to noise pollution the Minister shall have the following powers and duties –

- (a) to keep himself informed of the general levels of noise pollution, or the absence of noise pollution throughout Tonga;

- (b) to formulate policies to, promote and encourage the reduction, minimisation and control of noise pollution;
- (c) to establish standards for levels of noise;
- (d) to regulate and monitor compliance with those standards, including sources and possible sources of noise pollution;
- (e) the other powers and duties given to him in this Act.

## **PART IX - PORT HEALTH**

### **124 Minister as Port Health Authority.**

The Minister is hereby designated as the Port Health Authority for all ports and airports in the Kingdom.

### **125 Power to make regulations.**

The Minister may make Public Health Regulation relating to ships and aircraft which shall conform with current International Health Regulations adopted by the World Health Assembly.

### **126 Isolation premises.**

- (1) The Minister may provide –
  - (a) premises for the medical inspection and temporary isolation of passengers or crew;
  - (b) the means of cleaning, disinfection or disinsection of persons or clothing; and
  - (c) transportation to and reception of persons in hospital where necessary.
- (2) The Minister may require the cleaning, disinfecting, disinsecting or de-ratting of ships or aircraft at such places and in such manner he may by regulation specify.

### **127 Inspection of ships or aircraft.**

Authorised officers may inspect any ship or aircraft and shall inspect if the master or captain has notified a case or suspected case of communicable disease aboard.

**128 Ship may be detained.**

Authorised officers may detain a ship or aircraft pending investigation and may for that purpose require that ship or aircraft to move to or remain detained at a specified site.

**129 Detention for examination.**

- (1) Authorised officers may if a person from a ship or aircraft is suffering from a communicable disease detain any or such person for medical examination and may require him and his belongings to be disinfected and later disinfected.
- (2) Authorised or Customs officers may detain any person reasonably suspected of suffering from a communicable disease for up to 3 hours.

**130 Infected person.**

A person from a ship or aircraft suffering from or suspected of suffering from a communicable disease may be removed by the medical officer or authorised officer to a hospital.

**131 Captain or master to inform.**

The master or captain shall answer questions by a medical officer or authorised officer about health conditions on board and must immediately notify such officer of any circumstances likely to lead to the spread of infection.

**132 Declaration of Health.**

The master or captain may be required to give to an authorised officer a Declaration of Health in such form as the Minister may direct.

**133 Surveillance of suspect.**

A medical officer may place under surveillance for appropriate periods of any person arriving from an infected area and may direct him to attend a medical examination at specified times and places.

**134 Medical Examination.**

A medical officer may examine any person embarking an aircraft or ship whom he has reasonable grounds to suspect is suffering from any communicable disease and may prohibit embarkation if his suspicions are confirmed.



**135 Non compliance.**

Any master or captain who is unwilling to comply with the requirements of this Act may be required to remove his ship or aircraft immediately from the Kingdom.

**136 Water supply and disposal, etc.**

The Minister shall ensure that there is available at ports:

- (a) a supply of potable water;
- (b) adequate facilities for the storage and disposal of waste matter;
- (c) adequate facilities for the storage of imported cargo pending examination; and
- (d) adequate means for the destruction of rodents and insect pests.

**137 Failure to comply.**

Any person who fails to comply with any of the provisions of this Part is guilty of an offence.

## **PART X - NOTIFIABLE DISEASES**

**138 Diseases to be notified.**

- (1) The diseases listed in Schedule 4 shall be notified in accordance with this Part.
- (2) The Minister may add diseases to Schedule 4 by notice in the Gazette.
- (3) In this Part, such diseases shall be referred to as “notifiable diseases”.

**139 Duty to notify cases of diseases.**

- (1) Where any person is suffering from an illness which creates a reasonable suspicion that he is suffering from a notifiable diseases, it shall be the duty of that person forthwith to notify a medical practitioner or a nurse or an authorised officer or a health officer of the district where that person is residing.
- (2) As soon as he becomes aware that a person described in subsection (1) may be suffering from a notifiable disease:
  - (a) the head of the family of that person;

- (b) the nearest relative living in the same premises as that person;
- (c) anyone in attendance on that person; or
- (d) the occupier of the premises in which that person resides,

shall enquire of that person whether notification has been made in accordance with subsection (1) and if he has any reasonable ground to believe such notification has not or may not have been made, he shall immediately notify a medical practitioner or a nurse or an authorised officer or a health officer of the district where that person resides.

- (3) On receipt of notification under subsection (1) or (2) the medical practitioner, nurse, authorised officer or health officer shall immediately record the information in the form prescribed under Schedule 5 and deliver such form or the information on such form to the Director of Health within twelve hours of the notification.
- (4) Any person who contravenes the provisions of this section is guilty of an offence.

#### **140 Duty of medical office in charge of hospital.**

If a medical practitioner confirms the report under section 139 or has reasonable grounds to believe that any person is suffering from a notifiable disease, he may order that person to be isolated or removed to hospital.

#### **141 Medical Practitioner or Authorised officer to notify.**

The medical practitioner or authorised officer who first sees a case or suspected case of a notifiable disease shall promptly notify the Director of Health on the form prescribed under Schedule 6.

#### **142 Duty of Medical Practitioner.**

The medical officer in charge of any hospital in which a case of notifiable disease occurs or has been admitted; shall promptly notify the Director of Health giving details of the case on the appropriate notification form.

#### **143 Duty of authorised officer.**

On receipt of the notification of a case or suspected case of notifiable disease, the Director of Health shall require an authorised officer to take all steps to prevent the spread of the disease in conjunction with the medical officer. These measures may include provisions to:

- (a) examine the patient and determine the best practicable means of dealing with the case;
- (b) examine contacts or carriers including the taking of specimens for bacteriological and virological or other investigation;
- (c) detain, examine and take specimens from any animal or bird or from any material or object which it is considered may be a source of infection or for the transmission of infection;
- (d) carry out such concurrent and terminal disinfection and disinsection as is necessary;
- (e) vaccinate or immunize the patient and any close contacts of the patient when the medical officer so advises;
- (f) order the patient or contacts or carriers to be detained in hospital or isolated in a suitable place until the medical officer with the approval of the Director of Health is satisfied that there is no risk of the patient or any contact or carrier spreading the disease;
- (g) prohibit the patient or his contacts or anyone else whom he considers might spread the disease from engaging or being employed in the sale, preparation; storage, packing, conveying or delivery of food or of an ingredient or package for such food;
- (h) advise the relatives in the case of death of the patient on the best practicable means of preventing the risk of spreading the disease including measures to be taken before and after the funeral of the deceased. If the relatives cannot afford to carry out the measures advocated, or if the relatives cannot be found, then the Director of Health shall arrange for the Ministry to carry out these measures including the interment of the body;
- (i) prohibit the removal of the body of a person who has died from a notifiable disease from premises until the Director of Health is satisfied that all measures have been taken to prevent the spread of the disease.

#### **144 Penalty for failure to comply.**

Any person shall be guilty of an offence who:

- (a) knowing or believing that he is suffering from a notifiable disease exposes other persons to the risk of infection by his presence or conduct in any street, public place, public transport vehicle, place of entertainment, assembly, club, hotel, restaurant or shop;
- (b) having care of a person whom he knows or believes to be suffering from a notifiable disease, causes or permits that person to expose other persons to the risk of infection by his presence or conduct in any of the aforementioned places;

- (c) gives, lends transmits or exposes without previous disinfection or disinsection any clothing or bedding or any other article(s) which he knows or has reasonable grounds to believe many carry infection from a notifiable disease;
- (d) rents, hires leases or sells any premises where he knows or believes there is or has been a case of notifiable disease before any necessary terminal disinfection or disinsection has been completed.

#### **145 Action to be taken if disease is subject to International Health Regulations.**

Where the patient is suffering from one of the diseases subject to the current International Health Regulations, the Director of Health shall immediately put into operation all or any of those measures necessary to prevent the spread of disease as are recommended in the current International Health Regulations.

#### **146 Provision of hospitals, etc.**

The Minister may provide and maintain hospitals or other places for the treatment of notifiable diseases and also for means of disinfection, disinsection and where necessary, the destruction of infected or infested articles or materials and any other means for the control of notifiable diseases.

### **PART XI - HEALTH AND SAFETY AT WORK**

#### **147 Registration of concern.**

The owner of any concern employing 5 or more persons shall register it annually with the Ministry. Any owner who contravenes this section is guilty of an offence.

#### **148 Registration of dangerous process.**

The owner of any concern with less than 5 employees shall register it with the Ministry if it undertakes any process which is dangerous or potentially dangerous to the health of the employees or other persons. Any owner who contravenes this section is guilty of an offence.

**149 Notification of death.**

Any death which occurs at a concern shall be reported forthwith to the Minister by the manager or owner of that concern. Any person who contravenes this section is guilty of an offence.

**150 Notification of serious accident.**

Any serious accident to a person at his place of work and resulting in an absence of more than 5 days from work shall be reported forthwith to the Minister by the manager or the owner of that concern. Any person who contravenes this section is guilty of an offence.

**151 Visits by authorised officer.**

In his regular visits to concerns the authorised officer shall pay special attention to the following matters:

- (i) Overcrowding;
- (ii) The adequacy of ventilation, including the exhaust ventilation of a dangerous process;
- (iii) Lighting, natural or artificial;
- (iv) Type and adequacy of sanitary conveniences for the numbers of persons employed;
- (v) Type and adequacy of washing facilities for the number of persons employed;
- (vi) Seating facilities;
- (vii) First aid provisions and numbers of staff with first aid training;
- (viii) The maintenance of adequate health records for all employees;
- (ix) The safety of any hazardous process or dangerous machinery used;
- (x) The safe disposal of any offensive or toxic waste material;
- (xi) Ensure that where protective measures are required for employees they are available, utilised and efficient; and
- (xii) Safety education.

**152 Hazards to other persons.**

An authorised officer shall ensure that no hazards emanate from concerns which are a nuisance or injurious to the health of other persons living or working in the vicinity of the concern.

**153 Notification of occupational diseases.**

The Minister may by regulation require specified occupational diseases to be notified to the Director of Health by the manager or owner of any concern. Any person who contravenes this section is guilty of an offence.

**PART XII - HAIRDRESSERS AND BEAUTICIANS****154 Premises to be registered.**

All premises used for hairdressing, and beauty treatment, including places where only shaving, hair-washing or hair treatment of any kind is carried on, shall be registered with the Ministry. Any person who contravenes this section is guilty of an offence.

**155 Before granting a certificate**

Before granting a certificate of registration for the premises to be used for any or all of the purposes stated in section 154, the Minister may require:

- (a) that there is on the premises a sufficient supply of hot and cold water available at all times;
- (b) that there is on the premises adequate means of disposal of hair and other waste matter;
- (c) that the premises are kept clean at all times;
- (d) that there is suitable equipment for the disinfection of all instruments used in the premises and that a sufficient quantity of clean towels is available at all times;
- (e) that all electrical appliances used on the premises are safe and efficient;
- (f) that no substance or method of operation will be used that might cause injury to the customer or staff;
- (g) that the premises are adequately ventilated;
- (h) that the premises are adequately lighted;
- (i) that there are adequate sanitary facilities for staff and customers;  
and
- (j) that the dimensions of the premises are adequate for their purpose.

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## PART XIII - CEMETERIES

### 156 Approval of cemeteries.

No land shall be used for a cemetery without a certificate granted under section 157:

Provided that this provision shall not apply to any land already reserved, declared or resumed as a cemetery under the Land Act at the time this Act comes into force.

### 157 Land used to be suitable.

The Minister shall give a certificate in writing if he is satisfied that any land to be used for a cemetery is suitable for such purpose.

### 158 Restriction on use of land.

Before issuing such a certificate, the Minister shall:

- (a) Determine the minimum distance of the cemetery from places of human habitation;
- (b) Determine that the cemetery is so sited as to cause no risk of contamination of a water supply;
- (c) Determine the minimum depth at which bodies shall be buried after taking into consideration the ground where the cemetery is situated.

### 159 Time between death and burial.

Subject to the Inquest Act (Cap. 20) and unless otherwise directed by the Minister, a deceased person shall be buried within 24 hours of his death.

### 160 Death from communicable disease.

The Ministry shall advise relatives on the measures to be taken to prevent the spread of infection where the deceased has died from a communicable disease. In special circumstances the Ministry may undertake the burial of the body.

### 161 Burials at seas.

No person shall be buried at sea unless special permission has been given by the Minister who shall require that measures are taken to ensure the body will not be washed back on land.

**162 Private mortuaries.**

Any private mortuary shall be registered with the Minister who may specify standards required for such registration.

**163 Cremation.**

The arrangements for any proposed cremation of a deceased person must have been approved by the Minister.

## **PART XIV - REPEAL AND SAVINGS**

**164 Repeal and Savings.**

The Public Health Act (Cap. 74) and all regulations made thereunder are hereby repealed, excepting the Public Health (Bakeries and Bread Vendors) Regulations 1940, the Restaurants and Food Store Regulations 1940, the Water Supply Regulations 1963 and the Public Health (Meat) Regulations 1967 which are deemed to have been made under this Act:

Provided that any existing orders, appointments, certificates, licences or notices made or granted under the repealed Act or regulations shall, except only so far as they conflict with the provisions of this Act, remain in force until revoked as if they were made or granted under this Act.

Passed in the Legislative Assembly this 2nd day of November, 1992.



**SCHEDULE I**

Ministry of Health

Public Health Act 1992 - Section 7

**WARRANT OF APPOINTMENT**

I hereby appoint.....as a duly authorised officer of the Ministry of Health.

He is required to perform the duties placed on him by the Public Health Act and by any regulations made under that Act. He has a right of entry at all reasonable times, and to make such investigation and take such samples as may be necessary to fulfil his responsibility under the above Act. He may serve a notice on you requiring prompt action.

Your co-operation is requested in assisting this officer.

Signed:

Director of Health

Date

on behalf of the Minister of Health

**SCHEDULE 2**

Confidential

Ministry of Health

Public Health Act 1992 - Section 11

Pathology Laboratory,..... Hospital

Certificate of Result of Examination of sample or specimen marked or  
labelled.....

Name of authorised officer: Signed:

Nature of specimen:

Date of collection of specimen:

Date of submission of specimen:

Nature of examination requested:

Report of laboratory findings:

Medical Officer in Charge of Laboratory

copies to: Director of Health

Authorised Officer

Source of specimen (if necessary)

**SCHEDULE 3**

Ministry of Health

Public Health Act 1992 - Section 14

**NOTICE TO ABATE AN OFFENCE**

Name:

Address:

You are herewith formally advised that you are committing an offence under section .....of the Public Health Act by reason of:

You are instructed to abate this breach of the law or to prevent its recurrence by:

date:

time:

Failure to respond to this Notice may lead to prosecution.

Signed:

Authorised Officer

Address:

Date:

Signature of person served with Notice

Date:

**SCHEDULE 4**

Ministry of Health

Public Health Act 1992 - Section 138.

Acquired Immunodeficiency Syndrome (AIDS)	Meningitis, all forms
AIDS Related Complex (ARC)	Mumps
Anthrax	Ophthalmia neonatorum
Brucellosis	Padratyphoid fever
Cholera	Pertussis (whooping cough)
Dengue fever	Plague
Diphtheria	Pneumonia, all forms
Dysentery, all forms	Poliomyelitis
Encephalitis-acute	Psittacosis
Filariasis	Puerperal fever
Food poisoning suspected food poisoning	Rabies
Gastroenteritis	Rheumatic fever
Hepatitis A	Rubella
Hepatitis B	Tetanus (including tetanus neonatorum)
Human Immunodeficiency Virus Infection- I(HIV-1)	Trachoma
Human Immunodeficiency Virus Infection- 2(HIV-2)	
Infectious conjunctivitis	Tuberculosis, all forms
Influenza	Typhoid fever
Leprosy	Viral haemorrhagic fever
Leptospirosis	Yaws
Malaria	Yellow fever
Measles (morbilli)	

**SCHEDULE 5**

Confidential

Ministry of Health

Public Health Act 1992 - Section 139

To the Director of Health,

**REPORT OF NOTIFICATION OF POSSIBLE NOTIFIABLE DISEASE.**

I have been notified by:

Name:

Address:

that \_\_\_\_\_ of

is suspected of suffering from a notifiable disease.

Time of Notification:

Suspected disease:

Date of onset:

Present address of patient:

Age of patient:

Sex of patient:

Signature of Medical Practitioner,

Nurse,

Authorised Officer or Health Officer.

Address:

Date:

**SCHEDULE 6**

Confidential

Ministry of Health

Public Health Act, 1992 - Section 141

**NOTIFICATION OF NOTIFIABLE DISEASE**

I hereby certify that in my opinion the person named below is suffering from the disease stated.

Name (in full and in capitals)

Age:

Disease:

Date of onset:

Present address of patient:

If the patient is in hospital or place of isolation, the address from whence admitted:

Signature of Medical Practitioner or Authorised Officer

Address:

Date: