

No. 2 of 2020.

*Emergency (General Provisions)(COVID 19) Act 2020.*

Certified on : 09 APR 2020



No. 2 of 2020.

AN ACT

entitled

*Emergency (General Provisions)(COVID 19) Act 2020.*

**ARRANGEMENT OF SECTIONS.**

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2. Interpretation -
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  - “Authorised Officer”
  - “COVID-19”
  - “Emergency Controller”
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No. 2 of 2020.

AN ACT

entitled

***Emergency (General Provisions)(COVID 19) Act 2020,***

Being an emergency law as authorised by Part X of the *Constitution* for the purpose of -

- (a) dealing with the National Emergency declared on 23 March 2020 for the whole area of Papua New Guinea, and as extended by Parliament, for the purpose of preventing, detecting, containing and mitigating the effects of the global COVID-19 pandemic in Papua New Guinea; and
- (b) enabling the implementation of all measures necessary and practical to manage the spread of COVID-19 and its eradication in Papua New Guinea,

MADE by the National Parliament to come into operation upon certification.

**1. COMPLIANCE WITH CONSTITUTIONAL REQUIREMENTS.**

This Act, being an emergency Act, is a law that is made to regulate or restrict certain rights and freedoms referred to in Subdivision III.3.C. (*Qualified Rights*) of the *Constitution*, namely -

- (a) liberty of persons conferred by Section 42; and
  - (b) the freedom of arbitrary search and entry conferred by Section 44; and
  - (c) the right to freedom of movement conferred by Section 52; and
  - (d) the protection from unjust deprivation of property conferred by Section 53,
- of the *Constitution*, for the purpose of giving effect to the public interest in public safety, public order and public welfare.

**2. INTERPRETATION.**

- (1) In this Act, unless the contrary intention appears -
  - “aircraft” has the same meaning under the *Civil Aviation Act 2000*;
  - “Authorised Officer” means a person appointed in accordance with Section 5;
  - “COVID-19” means a novel corona virus declared to be a public health emergency of international concern by the World Health Organization, and declared in Papua New Guinea as an infectious disease under the *Public Health Act* (Chapter 226) and as a quarantinable disease under the *Quarantine Act* (Chapter 234);

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“Emergency Controller” means the Emergency Controller appointed under Section 4 the *Emergency (General Provisions)(COVID 19) Regulation 2020*, and saved under Section 14 of this Act;

“National Emergency” means the National Emergency declared by the Head of State, acting on advice, on 23 March 2020 pursuant to Section 228 of the *Constitution*, in response to the COVID-19 pandemic, and as extended by Parliament;

“Provincial Co-ordination Centre” means a co-ordination centre set up within a Provincial Government for the purposes of facilitating the implementation of the emergency laws in the province;

“vehicle” has the same meaning under the *Road Traffic Act 2014*;

“vessel” has the same meaning under the *Fisheries Management Act 1998*.

(2) Unless the contrary intention appears, the provisions of the *Interpretation Act* (Chapter 2) apply to this Act.

### **3. APPLICATION.**

This Act applies to the area of Papua New Guinea, notwithstanding the provisions of any other law to the contrary.

### **4. FUNCTIONS OF THE EMERGENCY CONTROLLER.**

(1) The Emergency Controller must -

- (a) implement any direction or directions given to him by the National Executive Council; and
- (b) administer the emergency laws passed in respect of the National Emergency; and
- (c) subject to the directions under Paragraph (a), do such things as he considers necessary and within his powers, including, among other things, actions to -
  - (i) prevent the spreading of COVID-19; and
  - (ii) enable testing, diagnosis and treatment of COVID-19; and
  - (iii) control the outbreak of COVID-19; and
  - (iv) eradicate the danger of the outbreak of COVID-19; and
  - (v) mitigate the impacts of the outbreak of COVID-19; and
  - (vi) any other functions necessary to achieve the objectives of this Act.

(2) In consultation with the Prime Minister, the Emergency Controller is responsible for the dissemination of information relating to the National Emergency to the public.

(3) In performing his functions and exercising his powers under this Act, the Emergency Controller -

- (a) must seek the relevant medical and health advice from the appropriate experts within the National Department of Health; and

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(b) may seek other technical or expert advice from relevant State agencies.

**5. AUTHORISED OFFICER.**

(1) The Emergency Controller may, by notice in the National Gazette, appoint a person to be an Authorised Officer under this Act.

- (2) A notice under Subsection (1) must include, among other things -
- (a) the title of the office and the officer upon whom the status of Authorised Officer is conferred; and
  - (b) the name of the law under which the office is established, if applicable; and
  - (c) consistent with this Act, the powers conferred on the Authorised Officer; and
  - (d) the date of commencement of the notice; and
  - (e) the terms and conditions of appointment of the Authorised Officer.

**6. POWERS OF THE EMERGENCY CONTROLLER.**

(1) Subject to Subsection (3), the Emergency Controller has the powers necessary to do any one or all of the following:

- (a) issue emergency orders; and
- (b) restrict or issue directions for the movement of persons; and
- (c) regulate business activities; and
- (d) give directions with respect to the occupation and operation of premises, including the disinfecting and cleaning of such premises; and
- (e) enter and search any premises and seize items; and
- (f) require a person to provide information or answer questions; and
- (g) order the destruction or disposal of items; and
- (h) direct a person to be quarantined or remain quarantined for necessary periods; and
- (i) direct a person to undergo medical observation, medical examination, medical treatment or vaccination; and
- (j) direct the evacuation of any premises or areas; and
- (k) regulate all modes of transportation; and
- (l) procure the necessary goods, works and services for the purposes of the National Emergency; and
- (m) issue relevant notices; and
- (n) impose fines; and
- (o) establish Provincial Co-ordination Centres; and
- (p) give any other directions reasonably necessary to achieve the purposes of this Act.

(2) Notwithstanding the *Search Act* (Chapter 341), the power under Subsection (1) to enter premises, aircrafts, vehicles and vessels may be exercised without a warrant or the consent of the owner or occupier of a premises, aircrafts, vehicles or vessels.

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(3) In exercising the powers under this Act, the Emergency Controller, an Authorised Officer, or a person authorised by the Emergency Controller, must take all reasonable and practicable steps to ensure that any directions made, actions taken and measures imposed under this Act -

- (a) are necessary for achieving the objectives of this Act; and
- (b) are the least restrictive as possible; and
- (c) are the least intrusive and invasive as possible; and
- (d) take into full account the human rights of the persons affected by such direction, actions or measures.

### **7. EMERGENCY ORDERS.**

(1) The Emergency Controller may make Emergency Orders for the purpose of his functions and powers under this Act, and such Emergency Orders form part of this Act.

(2) Without limiting Subsection (1), the Emergency Controller may issue Emergency Orders on the following:

- (a) movement of persons; and
- (b) social interaction and etiquette; and
- (c) matters relating to health and quarantine; and
- (d) private sector business activities, including the informal sector; and
- (e) price regulation for certain goods and services, in consultation with the Independent Consumer and Competition Commission; and
- (f) employment, including matters relating to superannuation; and
- (g) the National Public Service; and
- (h) transportation; and
- (i) education and the operation of educational institutions; and
- (j) public utility services; and
- (k) establishment of Provincial Co-ordination Centres; and
- (l) any other operational matters.

(3) An Emergency Order under Subsection (1) must, where practicable -

- (a) be in writing; and
- (b) be made public in such a manner as the Emergency Controller thinks fit.

### **8. PROCUREMENT OF GOODS, WORKS AND SERVICES.**

(1) The *National Procurement Act 2018* and the *Public Finance (Management) Act 1995* do not apply to all procurement for the purposes of the National Emergency.

(2) The procurement of goods, works and services for the purposes of the National Emergency must be done in consultation with the Emergency Controller.

(3) The Emergency Controller must submit to the National Executive Council, no later than three months after the end of the national emergency, a report on all procurement undertaken during the National Emergency.

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**9. DELEGATION.**

The Emergency Controller may delegate his functions or powers under this Act or any other emergency laws to an Authorised Officer or a person authorised by the Emergency Controller, except this power of delegation.

**10. GENERAL OFFENCES.**

(1) A person who -

- (a) refuses or fails to comply with an Emergency Order or any other direction or instruction given by the Emergency Controller, an Authorised Officer or a person authorised by the Emergency Controller in the exercise of his powers under this Act; or
- (b) obstructs, hinders or intimidates an Authorised Officer, or a person authorised by the Emergency Controller, who is performing a function under this Act; or
- (c) refuses to provide the Emergency Controller, an Authorised Officer, or a person authorised by the Emergency Controller, with such information as that person is required to provide under this Act; or
- (d) knowingly gives false or misleading information to the Emergency Controller, an Authorised Officer, or a person authorised by the Emergency Controller; or
- (e) recklessly disseminates false or misleading information to the public in relation to the National Emergency; or
- (f) impersonates the Emergency Controller or an Authorised Officer; or
- (g) fails to comply with a notice issued by the Emergency Controller or an Authorised Officer under this Act,

commits an offences and is liable, upon conviction -

- (h) in the case of a body corporate, to a fine not exceeding K500,000.00; or
- (i) in the case of a natural person, to a fine not exceeding K50,000.00.

(2) A person who returns a positive test for COVID-19, who knowingly and intentionally disobeys a direction or an order made under this Act, is guilty of an offence, and is liable, upon conviction, to a fine not exceeding K10,000.00 or a term of imprisonment not exceeding nine months.

(3) Where a person commits an offence under Subsection (2) which results in the infection or death of another person, that person is liable to punishment under the *Criminal Code Act* (Chapter 262).

**11. MISCONDUCT.**

The Emergency Controller, an Authorised Officer or a person authorised by the Emergency Controller who -

- (a) accepts a bribe or reward; or
- (b) colludes with another person,

in the discharge of his functions and powers under this Act, is guilty of an offence.

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Penalty: A fine not exceeding K50,000.00 or imprisonment for a term not exceeding five years.

**12. PROTECTION OF EMERGENCY CONTROLLER.**

The Emergency Controller, an Authorised Officer or a person authorised by the Emergency Controller, in carrying out his duties or exercising his powers under this Act or any other emergency laws made in relation to the National Emergency, is not civilly liable or criminally responsible for anything done or omitted to be done, in good faith.

**13. REPORTS.**

The Emergency Controller must furnish to the responsible Minister and the Prime Minister such reports as and when required.

**14. SAVINGS.**

(1) The appointment of the Emergency Controller made pursuant to the *Emergency (General Provisions)(COVID 19) Regulation 2020* is saved under this Act.

(2) Any decision made, action taken or measures imposed by the Emergency Controller, an Authorised Officer or a person authorised by the Emergency Controller under the *Emergency (General Provisions)(COVID 19) Regulation 2020* are saved under this Act.

**15. REPEAL.**

The *Emergency (General Provisions)(COVID 19) Regulation 2020* is repealed.

I hereby certify that the above is a fair print of the *Emergency (General Provisions)(COVID 19) Act 2020* which has been made by the National Parliament.

  
Acting Clerk of the National Parliament.

09 APR 2020

I hereby certify that the *Emergency (General Provisions)(COVID 19) Act 2020* was made by the National Parliament on 2 April 2020.

  
Speaker of the National Parliament.

09 APR 2020