

BILL NO. 9 OF 2020

A BILL

FOR AN ACT TO AMEND THE PUBLIC HEALTH ACT 1935

ENACTED by the Parliament of the Republic of Fiji—

Short title and commencement

1.—(1) This Act may be cited as the Public Health (COVID-19 Response) (Amendment) Act 2020.

(2) This Act comes into force on a date or dates appointed by the Minister by notice in the Gazette.

(3) In this Act, the Public Health Act 1935 is referred to as the “Principal Act”.

Section 69 amended

2. Section 69(5)(b) of the Principal Act is amended by deleting “to a fine not exceeding \$40” and substituting “on conviction to a fine not exceeding \$10,000 or imprisonment for a term not exceeding 5 years or both”.

Section 70 amended

3. Section 70 of the Principal Act is amended by deleting “unless it is otherwise prescribed to a fine not exceeding \$40 and in the case of a continuing offence to a further fine not exceeding \$40 for every day on which the offence is continued after conviction under this section” and substituting “on conviction to a fine not exceeding \$10,000 or imprisonment for a term not exceeding 5 years or both”.

Section 71 amended

4. Section 71(2) of the Principal Act is amended by deleting “to a fine not exceeding \$40” and substituting “on conviction to a fine not exceeding \$10,000 or imprisonment for a term not exceeding 5 years or both”.

Section 74 amended

5. Section 74(1) of the Principal Act is amended by deleting “to a fine not exceeding \$20” and substituting “on conviction to a fine not exceeding \$10,000 or imprisonment for a term not exceeding 5 years or both”.

Section 75 amended

6. Section 75(1) of the Principal Act is amended by deleting “to a fine not exceeding \$20” and substituting “on conviction to a fine not exceeding \$10,000 or imprisonment for a term not exceeding 5 years or both”.

Section 76 amended

7. Section 76(2) of the Principal Act is amended by deleting “to a fine not exceeding \$20” and substituting “on conviction to a fine not exceeding \$10,000 or imprisonment for a term not exceeding 5 years or both”.

Section 77 amended

8. Section 77 of the Principal Act is amended by deleting “to a fine not exceeding \$40” and substituting “on conviction to a fine not exceeding \$10,000 or imprisonment for a term not exceeding 5 years or both”.

Section 83 amended

9. Section 83(2) of the Principal Act is amended by deleting “\$200 or a term of imprisonment for 6 months” and substituting “\$10,000 or imprisonment for a term of 5 years or both”.

March 2020

PUBLIC HEALTH (COVID-19 RESPONSE) (AMENDMENT) BILL 2020

EXPLANATORY NOTE

(This note is not part of the Bill and is intended only to indicate its general effect)

1.0 BACKGROUND

- 1.1 On 11 March 2020, the World Health Organization characterised the coronavirus disease (COVID-19) as a global pandemic.
- 1.2 Pursuant to section 68 of the Public Health Act 1935 (**‘Act’**), COVID-19 has been listed as an infectious disease under Schedule 1 to the Act.
- 1.3 Essentially, this means that the Minister responsible for health (**‘Minister’**) is empowered to *inter alia* do all such things as the Minister may deem necessary for the protection of public health.
- 1.4 Part 7 of the Act, which specifically provides for preventing the occurrence or spread of any infectious disease, also empowers the Permanent Secretary responsible for health (**‘Permanent Secretary’**), subject to the approval of the Minister, to *inter alia* order the isolation and treatment of persons subject to isolation, and to regulate the movement of persons, animals, goods, vehicles and vessels on sea or on land.
- 1.5 Given the extremely infectious nature of COVID-19, it is imperative that orders made for the protection of public health by the Minister or Permanent Secretary are complied with. However, the current penalties for breaching such orders under Part 7 of the Act only range from \$20 to \$40, which are completely incapable of serving as a deterrent.
- 1.6 As such, the Public Health (COVID-19 Response) (Amendment) Bill 2020 (**‘Bill’**) seeks to amend the Act to strengthen the penalty provisions under Part 7 of the Act.

2.0 CLAUSES

- 2.1 Clause 1 of the Bill provides for the short title and commencement. If passed by Parliament, the amending legislation will come into force on a date or dates appointed by the Minister by notice in the Gazette.

- 2.2 Clause 2 of the Bill amends section 69(5)(b) of the Act to increase the penalty for any person who wilfully disobeys an order made by a medical officer of health or obstructs, delays or interferes with the prompt execution of such order. Clause 2 of the Bill seeks to amend the current penalty of a fine not exceeding \$40 to a fine not exceeding \$10,000 or imprisonment for a term not exceeding 5 years or both.
- 2.3 Clause 3 of the Bill amends section 70 of the Act to increase the penalty for any person who obstructs or hinders the Permanent Secretary, a medical officer of health or any other person authorised or directed by the Permanent Secretary or a medical officer of health in the exercise of his or her functions and duties under section 69 of the Act. Clause 3 of the Bill seeks to amend the current penalty of a fine not exceeding \$40 to a fine not exceeding \$10,000 or imprisonment for a term not exceeding 5 years or both.
- 2.4 Clause 4 of the Bill amends section 71(2) of the Act to increase the penalty for any medical practitioner who fails to give notice to the Permanent Secretary or the medical officer of health of the relevant Division that a patient that he or she is attending to suffers or has died from an infectious disease. Clause 4 of the Bill seeks to amend the current penalty of a fine not exceeding \$40 to a fine not exceeding \$10,000 or imprisonment for a term not exceeding 5 years or both.
- 2.5 Clause 5 of the Bill amends section 74(1) of the Act to increase the penalty for *inter alia* any person who, while aware that he or she is suffering from an infectious disease, wilfully is in any public place without taking proper precautions against the spread of the infection. Clause 5 of the Bill seeks to amend the current penalty of a fine not exceeding \$20 to a fine not exceeding \$10,000 or imprisonment for a term not exceeding 5 years or both.
- 2.6 Clause 6 of the Bill amends section 75(1) of the Act to increase the penalty for *inter alia* any person who lends, sells, transmits or exposes anything which he or she knows has been exposed to infection from any infectious disease unless such thing has first been effectively disinfected or proper precautions have been taken against the spread of the infection. Clause 6 of the Bill seeks to amend the current penalty of a fine not exceeding \$20 to a fine not exceeding \$10,000 or imprisonment for a term not exceeding 5 years or both.
- 2.7 Clause 7 of the Bill amends section 76(2) of the Act to increase the penalty for any person who wilfully disobeys an order made by a medical officer of health or the medical practitioner in charge of a hospital to only remove the dead body of a person who has died from an infectious disease from a hospital or place for the purpose of immediate burial or cremation. Clause 7 of the Bill seeks to amend the current penalty of a fine not exceeding \$20 to a fine not exceeding \$10,000 or imprisonment for a term not exceeding 5 years or both.

- 2.8 Clause 8 of the Bill amends section 77 of the Act to increase the penalty for any person who enters or leaves an isolation hospital, camp or station without authorisation. Clause 8 of the Bill seeks to amend the current penalty of a fine not exceeding \$40 to a fine not exceeding \$10,000 or imprisonment for a term not exceeding 5 years or both.
- 2.9 Clause 9 of the Bill amends section 83(2) of the Act to increase the maximum penalties for offences which may be prescribed by regulations. Essentially, clause 9 of the Bill empowers the Minister to prescribe by regulations a maximum fine of \$10,000 or a maximum term of imprisonment of 5 years or both for offences.

3.0 MINISTERIAL RESPONSIBILITY

- 3.1 The Act comes under the responsibility of the Minister responsible for health and medical services.

A. SAYED-KHAIYUM
Attorney-General