

Namibia

## Public and Environmental Health Act, 2015

Act 1 of 2015

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# Public and Environmental Health Act, 2015

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Republic of Namibia  
**Annotated Statutes**

**Public and Environmental Health Act, 2015**  
**Act 1 of 2015**

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**ACT**

**To provide a framework for a structured uniform public and environmental health system in Namibia; and to provide for incidental matters.**

BE IT ENACTED as passed by the Parliament, and assented to by the President of the Republic of Namibia as follows:

**Part 1 – INTRODUCTORY PROVISIONS**

**1. Definitions**

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

“**accommodation establishment**” means a premises in or on which the business of providing accommodation with or without meals against payment to tourists is or is intended to be conducted;

“**adult**” means a person 18 years and older;

“**authorised**”, “authorised person”, “authorised staff member” or “authorised in writing” means a person or staff member authorised under this Act;

“**business**” means an activity operated or conducted for profit or gain by a person or organisation, or is operated or conducted by a non-profit organisation and include a profession, occupation, trade or industry;

“**business premises**” means a registered premises used or intended to be used for carrying on a business or trade;

“**building**” means a permanent or non permanent structure with or without walls, doors or roofs, intended for inhabitation, storage or trading;

**“burial”** means a legally approved mode of disposal of human remains and includes the cremation of human remains;

**“carcass”** means a dead body of an animal;

**“chairperson of a regional council”** means the chairperson as defined in section 1 of the Regional Councils Act, 1992 (Act [No. 23 of 1992](#));

**[The Regional Councils Act is Act 22 of 1992, not Act 23 of 1992.]**

**“chief executive officer”** means a chief executive officer defined in section 1 of the Local Authorities Act, 1992 (Act [No. 23 of 1992](#));

**“chief health officer”** means the person referred to in section 20 of the National Health Act;

**“chief regional officer”** means a chief regional officer as defined in section 1 of the Regional Councils Act;

**“child”** means a person under the age of 18 years;

**“communicable disease”** means an illness or disease resulting from an infection due to pathogen agents or toxins, following the direct or indirect transmission of the agent from the source to the host;

**“contagious disease”** means an infectious diseases or communicable disease which is easily transmitted by physical contact with the person suffering the disease or by the secretions of the person or objects touched by the person;

**“cost”** means the expenditure incurred for a given service, product or goods; **“diagnosis”** means the act or process of identifying or determining the nature and cause of disease or injury through evaluation of patient history, examination and review of laboratory data;

**“district health board”** means a district health board defined in section 1 of the National Health Act;

**“dwelling”** means a house, room, shed, shack, hut, cave, tent, vehicle, vessel, boat or a other structure or place whatsoever, or a portion thereof which is used by a human being for sleeping or living purposes;

**“emergency”** means a localised or regional situation where immediate or significant risk to public health exists and where action is immediately required to protect the public from significant harm;

**“emergency management and response committee”** means a committee contemplated in section 31(1)(a);

**“environmental health practitioner”** means a person registered as an environmental health practitioner under the Allied Health Professions Act, 2004 (Act [7 of 2004](#));

**“feeding article”** means a bottle, teat, measuring device or other utensil or article designed to be used in preparing infant food or feeding infant food to infants;

**“food or article of food”** means a substance whether processed, semi processed or raw which is intended for human consumption and this include an animal product, fish, fruit, vegetables, condiments, confectionery, beverages, water and other article or thing whatsoever, other than drugs and tobacco in a form, state or stage of preparation;

**“food handler”** means a person employed in a food premise who at a time may be involved in the manufacturing or handling of food;

**“formidable epidemic disease”** means a disease contemplated in section 22;

**[There are two closing quotation marks in the Government Gazette after the phrase “formidable epidemic disease”, as reproduced above.]**



**“guardian”** means a person having, by reason of the death, illness, absence or inability of the parent or a other cause, the custody of a child;

**“hazardous waste”** means waste which, because of its quantity concentration or characteristics, may be hazardous to human health or the environment when improperly treated, stored, transported or disposed;

**“head of health services”** means an environmental health practitioner appointed by a local authority as contemplated in section 22 of the National Health Act;

**“health hazard”** means a condition, situation, thing or activity which poses harm or threat to life, health or environment;

**“health practitioner”** means a person registered or enrolled, under -

- (a) the Allied Health Professions Act, (Act [No. 7 of 2004](#));
- (b) the Medical and Dental Act, (Act [No. 10 of 2004](#));
- (c) the Nursing Act, (act No. 8 of 2004);
- (d) the Pharmacy Act, (Act [No. 9 of 2004](#)); or
- (e) the Social Work and Psychology Act, 2004 (Act [No. 6 of 2004](#));

[This list is reproduced as it appears in the Government Gazette. The year which would normally precede the bracketed phrase is missing in several paragraphs, and the word “Act” in paragraph (c) should be capitalised.]

**“industrial waste”** means waste produced by an industrial activity, and it includes liquid, sludge, solid or hazardous waste;

**“infant”** means a child under the age of one year;

**“infant food”** means food, including dairy produce which is -

- (a) sold for consumption by infants; or
- (b) represented by its manufacturer or seller as being suitable for consumption by infants;

**“infected person”** means a person suffering from, or in the incubation stage or contaminated with the infection of a disease through direct or indirect contact;

**“International Health Regulations”** means the set of International laws and rules adopted by the Twenty-Second World Health Assembly to which Namibia is a party, and includes an amendment to which Namibia becomes a party;

**“isolation”** means the segregation or separation from and interdiction of communication with others, of persons who are or are suspected of being infected with a disease;

**“isolation facilities”** means special hospitals or premises or portion set apart and used solely for the admission and accommodation of persons suffering from an infectious disease which might be spread from person to person through personal contact or a communicable disease;

**“label”** means a brand, mark or written pictorial or other descriptive matter that appears on or is attached to or packed with, and refers to food products or infant food or feeding article or the package;

**“local authority”** means -

- (a) a local authority council as defined in section 1 of the Local Authorities Act;
- (b) in relation to a settlement area as defined in section 1 of the Regional Councils Act or the regional council concerned; or

- (c) in relation to areas outside a local authority area and a settlement area, the chairperson of a regional council acting under the instruction of the chief health officer as contemplated in section 21(1) of the National Health Act;

**“local authority area”** means the local authority area as defined in section 1 of the Local Authorities Act;

**“market”** in relation to a product, includes to promote, distribute, advertise or sell the product or to provide public relations or informational services in connection with the product;

**“maternal death”** means the death of a woman while pregnant or within 42 days of termination of pregnancy, irrespective of the duration and site of pregnancy (uterine or extra-uterine), from a cause related to or made worse by the pregnancy or its management, including direct or indirect maternal death, but excluding accidental or incidental causes;

**“medical observation”** means the screening of suspected or infected persons to determine the signs and symptoms for diagnostic and treatment purposes;

**“medical practitioner”** means a person who is registered as such under the Medical and Dental Act, 2004 (Act [No. 10 of 2004](#));

**“medical surveillance”** means the keeping of suspected or confirmed infected person under medical supervision;

**“Minister”** means the Minister responsible for health;

**“Ministry”** means the Ministry responsible for the administration of health; **“neo-natal death”** means the death of an infant before 28 days after birth;

**“non-communicable disease”** means a disease or health condition that cannot be contracted from another person, an animal or directly from the environment, but which may result from genetic or lifestyle factors;

**“notifiable infectious disease”** means a disease classified as such under section 6; **“occupier”**, in relation to a premises, means a person -

- (a) in actual occupation of the premises;
- (b) legally entitled to occupy the premises; or
- (c) having the charge or management of the premises, and includes the agent of the person if he or she is absent from Namibia or his or her whereabouts are unknown;

**“owner”** in relation to a premises, means -

- (a) the person in whose name the Title Deed to the premises is registered;
- (b) if the person is dead, insolvent, mentally disordered or defective or a minor or under a legal disability, the person in whom the administration of that person’s estate is vested, whether as executor, trustee, curator, guardian or in a other capacity whatsoever; or
- (c) if the premises are under lease, the registration whereof is in law necessary for the validity of the lease, the lessee,

and if the owner is absent from Namibia or his or her whereabouts are unknown, **“owner”** includes an agent of the owner or a person receiving or entitled to receive rent in respect of the premises;

**“package”** means a thing in or by which food, infant food or a feeding article is covered, enclosed, contained or packed;

**“ante-natal death”** means stillbirths or deaths within one week of birth;

**“premises”** means a building or tent, together with the land on which the same is situated and the adjoining land used in connection therewith, and includes a vehicle or vessel;

**“public building”** means a building which is open to the public;

**“regional director of health”** means the person in charge of a regional health office as contemplated in section 18 of the National Health Act;

**“regional health board”** means a regional health board defined in section 1 of the National Health Act;

**“sanitation”** means the safe disposal of human excreta; “sell” includes –

- (a) for the purposes of sale, to offer, keep, possess, expose, display, transmit, consign, convey or deliver;
- (b) to authorise, direct or allow a sale;
- (c) to barter, exchange, supply or dispose of for a consideration, direct or indirect;

**“sexually transmitted infection”** means an infectious or communicable disease that is normally transmitted through sexual intercourse;

**“school”** means a public or private establishment for pre-primary, primary, secondary or higher education, and includes a hostel or boarding-house kept for housing the pupils at the establishment;

**“slaughter house”** means a place where animals are slaughtered for food;

**“special waste”** means waste which requires special handling and treatment before it may be discharged into a plumbing system;

**“staff member”** means a staff member of the Ministry or of a local authority;

**“state health service”** means a state health service defined in section 1 of the National Health Act;

**“state hospital”** means state hospital defined in section 1 of the National Health Act;

**“test order”** means a test order issued as contemplated in section 8(2);

**“tourist”** means a person who travels to a destination away from his or her normal place of residence for recreational or business purposes;

**“this Act”**, includes regulation made or in force under this Act;

**“tuberculosis”** means an infectious disease of humans and animals caused by a species of Mycobacterium mainly infecting the lungs where it causes tubercles characterised by the expectoration of mucus and sputum, fever, weight loss, and chest pain, and which is transmitted through inhalation, ingestion of bacteria;

**“unfit”** means unsuitable or inadequate for use or consumption;

**“vector borne disease”** is a disease that is transmitted to humans by an insect or arthropods;

**“waste disposal site”** means a landfill site, waste treatment plant, incinerator or other place used or designated for the disposal of waste;

**“waste”** includes all items that people no longer have a use for, which they either intend to get rid of or have already discarded; and

**“waterborne disease”** means a disease caused by pathogenic micro-organisms which are directly transmitted when fresh contaminated water is consumed.

## 2. Objects of Act

The objects of this Act are to -

- (a) promote public health and wellbeing;

- (b) prevent injuries, diseases and disabilities;
- (c) protect individuals and communities from public health risks;
- (d) encourage community participation in order to create a healthy environment; and
- (e) provide for early detection of diseases and public health risks.

## **Part 2 – POWERS AND FUNCTIONS OF LOCAL AUTHORITIES WITH REGARD TO PUBLIC AND ENVIRONMENTAL HEALTH ISSUES**

### **3. Powers and functions of local authorities**

- (1) A local authority must take necessary precautions for the -
  - (a) prevention of the occurrence or for dealing with the outbreak or prevalence, of a infectious or communicable, non-communicable or contagious diseases; and
  - (b) promotion of relevant primary health care programs.
- (2) Every local authority must take the necessary and reasonably practicable measures to -
  - (a) maintain its local authority area at all times in a hygienic and clean condition;
  - (b) prevent the occurrence within its local authority area of -
    - (i) a health nuisance;
    - (ii) an unhygienic condition;
    - (iii) an offensive condition; or
    - (iv) other condition which could be harmful or dangerous to the health of a person within its local authority area or the local authority area of another local authority;
  - (c) if a health nuisance or condition referred to in paragraph (b)(i) to (iv) has so occurred, to abate or cause to abate the health nuisance or condition or to remedy or cause to be remedied, the health nuisance or condition;
  - (d) to prevent the pollution of water intended for human consumption, irrespective whether the water is obtained from sources within or outside its local authority area, or to purify the water which has become so polluted;
  - (e) to render in its local authority area, subject to this Act or other law, services approved by the Minister for the -
    - (i) prevention of a communicable disease;
    - (ii) promotion of health of persons; and
    - (iii) rehabilitation of persons to be cured of a medical condition and to co-ordinate the services with due regard to similar services rendered by the Ministry.
- (3) If the Minister is satisfied, after consultation with a local authority, that the local authority is able to perform a specific power or function of the Minister or a staff member of the Ministry provided for in this Act, the Minister may direct, by notice in the Gazette, the local authority to perform the power or function.
- (4) If requested by a local authority, the Minister may in writing delegate a particular power or function of the Minister or a staff member of the Ministry to the local authority subject to conditions regulating the delegation and the proper discharge of functions so delegated.

- (5) The Minister must, in respect of an expenditure incurred by a local authority referred to in subsections (3) and (4) in performing a function concerned, refund to the local authority concerned the amount as the Minister, with the consent of the Minister responsible for finance, may determine.
- (6) A person who contravenes or fails to comply with the provisions of this Part commits an offence and is liable to a fine of N\$100 000 or to imprisonment for a period not exceeding 10 years, or to both such fine and such imprisonment.

#### **4. Health committees**

- (1) A local authority may establish a committee, to be known as a health committee, for the better administration of power or functions contemplated in section (3).
- (2) The State and one or more local authorities or two or more local authorities may combine to establish jointly a health committee referred to in subsection (1).

### **Part 3 – NOTIFICATION, PREVENTION AND CONTROL OF DISEASES**

#### **5. Principles of notification of diseases**

- (1) The chief health officer and a local authority must prevent the spread of a notifiable infectious disease without unnecessarily restricting personal liability or privacy.
- (2) A person who -
  - (a) is at risk of contracting a notifiable infectious disease must take precaution to avoid contracting the disease; or
  - (b) suspects that he or she may have a notifiable infectious disease must ascertain whether he or she has a disease and which precautions should be taken to prevent spreading the disease.
- (3) A person who -
  - (a) is at risk of contracting a notifiable infectious disease;
  - (b) suspects that he or she has a notifiable infectious disease; or
  - (c) has a notifiable infectious disease,has the following rights to the extent that those rights do not infringe on the well being of others to -
  - (i) be protected from unlawful discrimination;
  - (ii) have his or her privacy respected;
  - (iii) be given information about the medical and social consequences of the disease; and
  - (iv) have access to available treatment.

#### **6. Classification of diseases**

The Minister, in respect of the notification of diseases, may classify by notice in the Gazette a disease to be -

- (a) an infectious disease;
- (b) a notifiable infectious disease; or
- (c) a notifiable infectious disease to be a vaccine preventable notifiable infectious disease.

## 7. Notification and reporting of notifiable infectious diseases

- (1) If a patient, to the knowledge of a health practitioner attending to the patient, is suffering from a notifiable infectious disease or dies from that disease, the health practitioner must forthwith in the prescribed manner, furnish the chief health officer and the local authority in whose local authority area the patient is, with a written certificate of notification containing the prescribed particulars.
- (2) The -
  - (a) head of health services of a local authority notified as contemplated in subsection (1) must investigate the source of the notifiable infectious disease and if necessary, take the remedial action considered necessary to hold the spread of the notifiable infectious disease; and
  - (b) chief health officer must cause or direct that a notifiable infectious disease so notified be investigated by an environmental health practitioner or other health practitioner authorised by the chief health officer with regard to the source of the disease.
- (3) A principal or head of a learning institution, head of a family or a household, employer, owner or occupier of land or premises, traditional leader, chief or headmen must report to a local authority the particulars of the patient and his or her symptoms, the occurrence of a case of illness or death coming to his or her notice and suspected to be due to a notifiable infectious disease, or with a history or presenting symptoms or appearances which might reasonably give grounds for the suspicion.
- (4) A -
  - (a) health practitioner who contravenes or fails to comply with subsection (1); or
  - (b) person referred to in subsection (3) who contravenes or fails to comply with that subsection, commits an offence and is liable to a fine not exceeding N\$100 000 or to imprisonment for a period not exceeding 10 years, or to both such fine and such imprisonment.

## 8. Inspection of premises and issuing of test orders

- (1) A head of health services or a health practitioner authorised by the chief health officer may at a reasonable time enter and inspect a premises in which he or she has reason to believe that a person -
  - (a) suffering from a notifiable infectious disease;
  - (b) who has recently suffered from a notifiable infectious disease; or
  - (c) who has recently been exposed to an infection of a notifiable infectious disease,is or has recently been present.
- (2) If a carrier of a notifiable infectious disease has accidentally transmitted an infection to another person, the head of health services or health practitioner may issue a test order to a person referred to in subsection (1)(a) to (c) for the purpose of ascertaining whether the person is suffering or has recently suffered from a notifiable infectious disease.

## 9. Medical examination of persons suspected to be suffering from notifiable infectious diseases

A health practitioner authorised by the chief health officer or a head of health services may at a reasonable time enter a premises contemplated in section 8 for the purpose of medical examination of a person contemplated in that section.

## 10. Provision of isolation and other facilities

- (1) A local authority may, and, if required by the Minister after consultation with the local authority, must, provide and maintain either separately or jointly with another local authority -
  - (a) suitable hospitals or places of isolation for the accommodation and treatment of persons suffering from notifiable infectious diseases;
  - (b) mortuaries or places for the reception of human remains pending the carrying out of a post-mortem examination ordered by a lawful authority, but provision must be made for the separate storage of infectious human remains until removal for interment;
  - (c) vehicles for the transport of persons suffering from a notifiable infectious disease or for the removal of a infected bedding, clothing or other articles;
  - (d) disinfecting and cleansing stations, plant and equipment for the cleansing of persons and the disinfection of bedding, clothing, vehicles or other articles which have been exposed to, or are believed to be contaminated with, the infection of a notifiable infectious disease, or which are contaminated or harmful; or
  - (e) other accommodation, equipment or articles required for dealing with a outbreak of a notifiable infectious disease.
- (2) A private hospital may, and, if required by the Minister after consultation with the private hospital, must, provide and maintain either separately or jointly with another private hospital or state hospital -
  - (a) suitable places of isolation for the accommodation and treatment of persons suffering from notifiable infectious diseases;
  - (b) mortuaries or places for the reception of human remains pending the carrying out of a post-mortem examination ordered by a lawful authority, but that provision must be made for the separate storage of infectious human remains until removal for interment;
  - (c) vehicles for the transport of persons suffering from a notifiable infectious disease or for the removal of a infected bedding, clothing or other articles;
  - (d) disinfecting and cleansing stations, plant and equipment for the cleansing of persons and the disinfection of bedding, clothing, vehicles or other articles which have been exposed to, or are believed to be contaminated with, the infection of a notifiable infectious disease, or which are contaminated or harmful; or
  - (e) other accommodation, equipment or articles required for dealing with an outbreak of a notifiable infectious disease.

## 11. Removal and isolation of infected persons

- (1) If, in the opinion of a head of health services, a person certified by a medical practitioner to be suffering from a notifiable infectious disease is not accommodated or is not being treated or nursed in the manner as adequately to guard against the spread of the disease, the person may, on the order of the head of health services, be removed to a suitable hospital or place of isolation and be detained until the head of health services or a medical practitioner authorised in writing by the local authority or by the Minister, is satisfied that the person is free from infection or can be discharged.
- (2) The cost of the removal of a person contemplated in subsection (1) and of his or her maintenance at the hospital or place of isolation must be borne by the local authority or State.

## 12. Infected persons transferred for treatment from other areas

If a patient suffering from a notifiable infectious disease is transferred from an area to another local authority or state hospital or state health service for isolation and treatment in a hospital or place of isolation maintained by the local authority or the state, the local authority, state hospital or state health service to whom the patient has been transferred may recover from the local authority or state hospital or state health service who ordered the transfer of the patient the cost of -

- (a) maintenance of the patient;
- (b) nursing and treatment of the patient; and
- (c) burial in the event of the death of the patient.

## 13. Local authority to prevent transmission of notifiable infectious diseases

If a person suffers from a notifiable infectious disease within the local authority area of a local authority, it is the duty of the local authority to ensure that adequate measures are taken -

- (a) for preventing the spread of the disease, including if necessary, provision for -
  - (i) the accommodation;
  - (ii) the maintenance;
  - (iii) nursing and medical treatment of the patient in a hospital or place of isolation, until the patient has recovered or is no longer a danger to the public health; or
- (b) in the event of the death of the patient, for the removal and burial of the human remains.

## 14. Disinfection of premises or article

- (1) If it appears from the certificate of the head of health services or a health practitioner that the cleansing or disinfection of a premises or article is necessary for -
  - (a) preventing the spread or eradicating the infection of a notifiable infectious disease; or
  - (b) preventing danger to health,the head of health services or chief health officer, must in writing notify the owner or occupier of the premises or the owner or person in charge of the article that the premises or article will be disinfected.
- (2) If an article dealt with by the head of health services or the chief health officer under this section is of a nature that it cannot be disinfected, the head of health services or the chief health officer may destroy or cause to be destroyed, on the order of the chief executive officer concerned or the chief health officer, the article and no compensation is payable in respect of an article so destroyed.
- (3) If an article is damaged during disinfection, no compensation is payable by the local authority or the Ministry if suitable methods of disinfection have been employed and due care and all reasonable precautions have been taken to prevent damage.
- (4) Compensation is not payable in respect of the deprivation of the occupation or use of a premises or the use of an article occasioned by disinfection, if no undue delay has occurred.

## 15. Removal to cleansing stations of dirty and verminous persons

If a cleansing station is provided within a local authority area or within a reasonable distance there from, a person within that local authority area certified by the head of health services or a health practitioner to be dirty or verminous may be removed, on the order of the head of health services, together with his or her clothing and bedding, to the cleansing station and be cleansed.



## 16. Removal orders

- (1) An order made under sections 11 and 15 may be addressed to an authorised staff member of a local authority or the Ministry of Health.
- (2) A person who obstructs the execution of, or fails or refuses to comply with, an order referred to in subsection (1) commits an offence and is liable to a fine not exceeding N\$100 000 or to imprisonment for a period not exceeding 10 years, or to both such fine and such imprisonment.

## 17. Exposure of infected persons or things

- (1) Subject to subsection (2), a person who -
  - (a) knowingly suffering from a notifiable infectious disease, or the other infectious disease as the Minister may classify by notice in the Gazette to be a disease for the purposes of this section, exposes himself or herself in the manner as to be likely or liable to spread the disease in a street, public place, public building, shop, accommodation establishment, church or other place used, frequented or occupied in common by persons other than the members of the family or household to which the infected person belongs;
  - (b) being in charge of a person, and knowing that the person is so suffering, so exposes the sufferer;
  - (c) knowingly gives, lends, sells, pawns, transmits, removes or exposes, or sends to or permits to be washed or exposed in a public wash-house or washing-place, or in a laundry or other place at which articles are washed, cleansed or dyed, without previous effective disinfection to the satisfaction of the local authority and in accordance with the regulations in force in its area, a clothing, bedding, rags or other articles or things of any kind which have been exposed to or are contaminated with the infection of the disease; or
  - (d) knowingly suffering from the disease contemplated in paragraph (a), handles, conveys or otherwise comes in contact with food, dairy produce, aerated water or other articles intended for consumption, or carries on a trade or occupation in the manner likely or liable to spread the disease,commits an offence and is liable to a fine not exceeding N\$100 000 or to imprisonment for a period not exceeding 10 years, or to both such fine and such imprisonment.
- (2) Nothing in this section applies to a person transmitting with proper precautions and in accordance with the instructions of the local authority a bedding, clothing or other articles or things for the purpose of having them disinfected.

## 18. Transport of infected persons or thing in public transport

- (1) A -
  - (a) person who knows that he or she is suffering from a notifiable infectious disease or other infectious disease which the Minister may classify by notice in the Gazette to be a disease for the purpose of this section may not enter a public transport;
  - (b) person in charge of -
    - (i) a person whom he or she knows to be suffering as contemplated in paragraph (a);
    - (ii) the human remains of a person who to his or her knowledge has died of a disease contemplated in paragraph (a); or

- (iii) an article which to his or her knowledge has been exposed to or is contaminated with the infection of the disease,

may not place in a public transport the person, human remains or an article which to his or her knowledge has been so exposed or is so contaminated (except in the case of a hearse used for the removal of human remains), without first informing the owner or driver or conductor of the transport of the fact of the infection and obtaining his or her consent but subject to subsection (2).

- (2) The owner, driver or conductor of the public transport referred to in subsection (1) must as soon as possible after the transport been so used and before permitting the use by another person, cause it to be disinfected under the supervision and satisfaction of the head of health services or the chief health officer and in accordance with a regulations in force in the local authority area concerned.
- (3) For the purposes of this section “public transport”, includes a railway coach, cab, motor car or a vehicle, a boat, other vessel, or an aircraft if the transport solicits for hire or is used by members of the public.
- (4) A person who contravenes or fails or refuses to comply with subsection (1) or (2) commits an offence and is liable to a fine not exceeding N\$100 000 or to imprisonment for a period not exceeding 10 years, or to both such fine and such imprisonment.

## **19. Infected dwellings not to be evacuated or let without previous disinfection**

- (1) A person may not cease to occupy or may not let a dwelling or premises or part in which to the knowledge of the person there is or has recently been a person suffering from a notifiable infectious disease without having the dwelling, premises or part and all articles which are liable to retain infection disinfected to the satisfaction of the local authority or the chief health officer and in accordance with the regulations in force in the local authority area concerned.
- (2) Subsection (1) applies to the owner or keeper of an accommodation establishment.

## **20. Removal and burial of human remains of persons who have died of notifiable infectious disease**

- (1) In every case of death from a notifiable infectious disease the occupier of the premises in which the death has occurred, must immediately make the best arrangements practical, pending the removal of the human remains and the carrying out of disinfection, for preventing the spread of the disease.
- (2) The occupier of the premises who keeps human remains of the person who has died of a notifiable infectious disease -
  - (a) in a room in which a person lives, sleeps or works or in which food is kept or prepared or eaten; or
  - (b) for more than 24 hours in a place other than a mortuary or other place set apart for the keeping of human remains,unless he or she has obtained the written approval of the local authority in whose local authority area the human remains occurred, commits an offence.
- (3) A person who removes the human remains of a person who has died of a notifiable infectious disease from a dwelling or room, except for the purpose of burial, commits an offence.
- (4) A person who removes the human remains of a person who has died of a notifiable infectious disease from a room or dwelling, must take those human remains direct to the place of interment for burial.
- (5) Nothing in this section is considered to prevent the removal by due authority of a human remains from a hospital to a mortuary.

- (6) A person who has been convicted of contravening or failure to comply with subsection (1), (2) or (3) is liable to a fine not exceeding N\$100 000 or to imprisonment for a period not exceeding 10 years, or to both such fine and such imprisonment.

## **21. Post-mortem examinations of human remains of persons who have died of notifiable infectious disease**

- (1) The corpse of a person who has died of a notifiable infectious disease is not subject to a post-mortem examination, unless the cause of death need to be established, if -
- (a) the corpse is retained in a room in which -
    - (i) another person lives;
    - (ii) this same deceased person sleeps or works; or
    - (iii) in which food is kept or prepared or eaten;
  - (b) the corpse is retained without the written approval of the local authority concerned for more than 24 hours elsewhere than in a mortuary or other place reserved for the keeping of corpse;
  - (c) the corpse is retained in a dwelling or place in circumstances which, in the opinion of the local authority, are likely to endanger health; or
  - (d) the corpse is found within a local authority area and is unclaimed, or no competent person undertakes to bury it.
- (2) If any of the circumstance in subsection (1)(a) to (d) has occurred, a chairperson of a regional council, chief regional officer, magistrate, justice of the peace, head of health services or member of the Namibian police of above the rank of inspector -
- (a) may direct, on a certificate signed by a medical practitioner, that the corpse concerned be removed to a mortuary and be buried within a time to be specified in the certificate; or
  - (b) if the human remains is of a person certified to have died of a notifiable infectious disease, may order that the corpse be buried immediately without removal to a mortuary.
- (3) Unless the friends or relatives of the deceased referred to in subsection (2) undertake to, and do, bury the corpse so specified, the local authority may bury the corpse and the cost of so doing be defrayed by the local authority concerned and be recovered by the local authority by action in a court of competent jurisdiction from a person legally liable to pay the expenses of interment.
- (4) A person who obstructs the execution of a directive or order given under subsection (2) commits an offence and is liable to a fine not exceeding N\$100 000 or to imprisonment for a period not exceeding 10 years, or to both such fine and such imprisonment.

## **22. Formidable epidemic diseases**

- (1) For the purposes of this Act, unless otherwise indicated plague, cholera, epidemic influenza, diarrhoea with blood (dysentery), malaria, measles, meningitis, poliomyelitis (acute flaccid paralysis), schistosomiasis, tuberculosis, viral hemorrhagic fever, yellow fever, emerging pandemic influenza disease e.g. avian flu, SARS and swine Flu (H1N1) Anthrax, small pox, pneumonic plague, ebola, viral haemorrhagic fever, dengue fever and rift valley fever are considered to be formidable epidemic diseases.
- (2) The Minister may by notice in the Gazette declare a disease to be a formidable epidemic disease for purposes of this Act.

**23. Notification of suspected cases of formidable epidemic diseases**

- (1) A medical practitioner, principal or head of a learning institution, head of a family or a household, employer, owner or occupier of land or premises, chief or headman must report to the nearest health facility or local authority health services, together with particulars of the patient and his or her symptoms, the occurrence of a case of illness or death coming to his or her notice and suspected to be due to a formidable epidemic disease, or with a history or presenting symptoms or post-mortem appearances which might reasonably give grounds for the suspicion.
- (2) A person who, is aware of any of the diseases referred to in subsection (1), and who fails to comply with subsection (1) commits an offence and is liable to a fine not exceeding N\$100 000 or to imprisonment for a period not exceeding 10 years, or to both such fine and such imprisonment.

**24. Notification of sickness or mortality in animals**

- (1) A person who becomes aware of unusual sickness, behaviour or mortality among rats, mice, cats, dogs or other animals susceptible to plague or other epidemic disease, not due to poison or other obvious cause, must immediately report the fact to a chief, headmen, councillors, local authority, head of health services, state veterinarian or member of the Namibian police.
- (2) A person who contravenes, refuses or fails to comply with subsection (1) commits an offence and is liable to a fine not exceeding N\$100 000 or to imprisonment for a period not exceeding 10 years, or to both such fine and such imprisonment.

**25. Local authority to report notification of formidable epidemic diseases and execution of speedy communications**

A local authority must -

- (a) immediately report to the chief health officer by fax, telephone, e-mail or other expeditious means particulars of every notification received by it of a case or suspected case of a formidable epidemic disease, or of unusual sickness, behaviour or mortality in animals reported under section 24; and
- (b) do and provide all the acts, matters and things within its means as may be necessary for mitigating the disease.

**26. Powers of Minister if local authority fails to adequately deal with formidable epidemic disease**

- (1) If, upon a report of the chief health officer it appears to the Minister that an outbreak of a formidable epidemic disease or a disease suspected of being a formidable epidemic disease -
  - (a) has occurred or is threatening within the area of a local authority; and
  - (b) is not being investigated or dealt with efficiently and so as adequately to safeguard public health,despite other provision of this Act, the Minister may inform the local authority of the measures which the Minister is taking.
- (2) If the local authority concerned fails or is for a reason unable to forthwith carry out the measures concerned to the satisfaction of the Minister, the Minister may authorise the chief health officer or another local authority to take all necessary steps for dealing with the outbreak.
- (3) If the Minister has authorised the chief health officer or another local authority as contemplated in subsection (2), the chief health officer or the authorised local authority possesses for the purpose concerned all rights and powers of the local authority in default, including the obligations attaching to the exercise of the powers.

- (4) A portion of expenditure incurred by virtue of subsection (1) which is payable by the authorised local authority may be recovered from the local authority in default in the manner provided for in section 29(3) of the National Health Act.

## **27. Requisition of buildings, equipment or other articles**

- (1) If an outbreak of a formidable epidemic disease exists or is threatening, the Minister may require from or may authorise a local authority to require from a person owning or having charge of -
  - (a) a land or a building not occupied as dwellings; or
  - (b) tents, transport bedding, hospital equipment, drugs, food or other appliances, materials or articles urgently required in connection with the outbreak,to hand over the use of the land, building or to supply or make available article, subject to the payment of a reasonable amount as hire or purchase price.
- (2) A person who contravenes or fails to comply with this section commits an offence and is liable to a fine not exceeding N\$100 000 or to imprisonment for a period not exceeding 10 years, or to both such fine and such imprisonment.

## **28. Declaration of public health emergency**

- (1) If the Minister is satisfied that the occurrence or threatened outbreak of a formidable epidemic disease constitutes a health emergency in Namibia which threatens the life of and well-being of the nation, the Minister may in writing advise the President to declare a public health emergency as contemplated in Article 26 of the Namibian Constitution.
- (2) A declaration of public health emergency contemplated in subsection (1) must specify -
  - (a) the nature of the emergency;
  - (b) the affected area;
  - (c) the commencement date, as well as the period during which the declaration is to remain in force; and
  - (d) the conditions relating to the conduct of the response to the emergency.
- (3) The President may extend, on the recommendation of the Minister, the period during which the declaration is to remain in force.

## **29. Powers of Minister regarding public health emergency or occurrence or threatened outbreak of formidable epidemic disease**

- (1) If the President has declared a public health emergency as contemplated in section 28(1) or if the occurrence or threatened outbreak of a formidable epidemic disease necessitates it, the Minister may in writing issue directives or make regulations as he or she considers to be necessary or desirable to alleviate the public health emergency, occurrence or threatened outbreak of a formidable epidemic disease, including directives or actions to be taken in relation to -
  - (a) the reduction or removal of a threat to public health;
  - (b) the segregation or isolation of a person in an area;
  - (c) the evacuation or permission of access to an area;
  - (d) the control of the movement to and from the affected area;
  - (e) the imposition and enforcement of quarantine and the regulation and restriction of public traffic and of the movements of persons;

- (f) the closing of schools and the restriction of school attendance and a other learning institutions;
- (g) the closing of churches and Sunday schools and the restriction of gatherings or meetings for the purpose of public worship;
- (h) the closing of a place of public entertainment, recreation or amusement, or where intoxicating liquor is sold;
- (i) if considered necessary, the prohibition of the convening, holding or attending of entertainments, assemblies, meetings or other public gatherings;
- (j) the prevention and remedying of overcrowding or the keeping of a dwelling, other building or the contents in a dirty or in a sanitary or a verminous condition;
- (k) the medical examination of -
  - (i) a person who is suspected of being infected with, or who may have recently been exposed to the infection of, the disease; or
  - (ii) a person about to depart from a infected area;
- (l) the disinfection of the baggage and personal effects of a person contemplated in paragraph (k);
- (m) the detention of persons until they have after the examination been certified to be free from a infectious disease and until their baggage and personal effects have been disinfected;
- (n) the keeping under medical observation or surveillance or the removal, detention and isolation, of persons who may have recently been exposed to the infection, and who may be in the incubation stage of the disease;
- (o) the detention and isolation of persons until released by due authority;
- (p) the use of guards and force for that purpose;
- (q) in case of absolute necessity, the use of firearms or other weapons and the arrest without warrant of a person who has escaped from the detention or isolation facilities;
- (r) the establishment of isolation facilities;
- (s) the removal and isolation of persons who are or are suspected to be suffering from a disease;
- (t) the accommodation, classification, care and control of persons and their detention until discharged by due authority as recovered and free from infection;
- (u) the establishment, management and control of convalescent homes or similar institutions for the accommodation of persons who have recovered from the disease;
- (v) the making of enquiries into the cause of death of a person, apart from a inquiry by a competent court under a other law;
- (w) the ordering, if considered necessary, of post-mortem examinations or of exhumations;
- (x) the prohibition in special circumstances of the burial of a human remains, except on a certificate by a medical officer appointed to grant the certificates or after compliance with a other specified conditions, including the mode of disposal, the times and places of burial of human remains and the manner of conducting removals and burials;
- (y) the restriction and prohibition of the removal of merchandise or a article or thing into, out of or within a specified or defined area;
- (z) the mandatory provision of information for the purpose of investing, preventing, controlling or abating a disease;

- (aa) the instruction to a person to take action that is reasonably required to prevent control or abate a disease;
  - (ab) the disinfecting of plant and equipment and the disinfection, or if disinfection is impossible, the destruction of an article or thing or the disinfection of a premises which are believed to be infected;
  - (ac) the inspection of premises and articles and remedying of sanitary or other defects likely to favour the spread or render difficult the eradication of the disease;
  - (ad) the evacuation, closing, alteration or, if considered necessary, the demolition or destruction of a premises the occupation or use of which is considered likely to favour the spread or render more difficult the eradication of the disease;
  - (ae) the description of the circumstances under which compensation may be paid in respect of a premises so demolished or destroyed and the manner of determining compensation;
  - (af) in the case of plague, the destruction of rodents and the removal or rectifying of the conditions likely to favour the harbourage or multiplication of rodents and the disposal of the carcasses of rodents or other animals believed or suspected to have died of plague;
  - (ag) the relief, during the continuance of the epidemic of acute distress including the maintenance of children whose parents or guardians are suffering from or have died of the disease;
  - (ah) the manner of requisitioning accommodation, equipment or other articles under clause 27 and the manner of fixing rates of hire or purchase price and the conditions of payment; and
  - (ai) the other matters as the Minister may consider necessary for preventing the occurrence of the disease or limiting or preventing the spread of the disease or for the eradication of the disease, and, generally for better carrying out and attaining the objects and purposes of this Part.
- (2) The directives issued or regulations made under subsection (1) also apply to persons about to depart from Namibia or entering Namibia in the course of a journey to another state or territory.
- (3) A person who contravenes or fails to comply with a directive issued or regulations made under subsection (1) commits an offence and is liable to a fine not exceeding N\$100 000 or to imprisonment for a period not exceeding 10 years, or to both such fine and such imprisonment.

### **30. Powers of authorised persons during declared public health emergency**

- (1) While a declaration of public health emergency is in force a person authorised in writing by the Minister may -
- (a) enter, using the reasonable force and assistance as is necessary, a place to -
    - (i) prevent injury to a person; or
    - (ii) rescue an endangered person;
  - (b) prevent access to a place;
  - (c) close pedestrian, vehicular traffic, a roadway, path or a other thoroughfare;
  - (d) in respect of a licence, permit or certificate over which an environmental health practitioner has authority under this Act, suspend or vary the license, permit or certificate concerned, without providing to the holder thereof a remedy or opportunity to dispute the suspension or variation concerned;
  - (e) conduct an inspection at a time with or without a warrant, including a private dwelling; or
  - (f) collect, use or disclose for purposes of this Act, information, including personal information.

- (2) While a declaration of public health emergency is in force, the Minister or an authorised person contemplated in subsection (1) may in writing authorise a staff member to -
  - (a) exercise a power or perform a function in a geographic area for which the person has not been designated for; and
  - (b) exercise a power or perform a function that is not normally permitted by the designation of the person.
- (3) A staff member who has been authorised as contemplated in subsection (2) must act in accordance with the authorisation until the Minister or the authorised person terminates the authorisation.
- (4) A person who -
  - (a) hinders an authorised person or an authorised staff member in the exercise, performance or carrying out of his or her powers or functions; or
  - (b) prevents the person or staff member to exercise, perform or carry out his or her powers or functions as contemplated in subsections (1) and (2),commits an offence and is liable to a fine not exceeding N\$100 000 or to imprisonment for a period not exceeding 10 years, or to both such fine and such imprisonment.

### **31. Appointment of emergency management and response committees**

- (1) If it is considered necessary for the purpose of co-ordinating effort or otherwise for more effectively dealing with or preventing an outbreak of a formidable epidemic disease, the Minister may -
  - (a) constitute, by notice in the Gazette, a committee to be known as an emergency management and response committee for a defined area to -
    - (i) discharge the functions in connection with the outbreaks; and
    - (ii) administer so much of this Act,as may be specified in the notice; and
  - (b) make regulations regarding -
    - (i) the appointment of members of the committees;
    - (ii) the conduct of proceedings of the committees;
    - (iii) the manner in which accounts must be kept; or
    - (iv) other matter relative to the committee.
- (2) If an area defined as contemplated in subsection (1) includes wholly or partly the area or areas of one or more local authorities, the -
  - (a) composition of an emergency management and response committee; and
  - (b) manner of allocating and defraying expenditure incurred by the committee,are as may be mutually agreed in advance between the Minister and the local authority or local authorities concerned, or failing the agreement, as the Minister may, subject to this Act, determine.
- (3) In the event of the occurrence or threatened outbreak of a formidable epidemic disease in a local authority area for which a chairperson of a regional council is the local authority, the Minister may constitute an advisory committee of three or more persons resident in the local authority area concerned to advise and assist the chairperson of a regional council.



### 32. Advances to local authorities

- (1) On the terms and conditions as the Minister, in concurrence with the Minister responsible for finance, may determine, the Minister may authorise the making of advances to a local authority or emergency management and response committee for the purpose of dealing with an outbreak of an infectious disease.
- (2) The Minister may enter into an agreement with a local authority concerned which regulate the repayment of the advance.
- (3) In default of repayment of an advance made to a local authority, the Minister may recover the amount concerned from the local authority in the manner provided for in section 29(3) of the National Health Act.
- (4) The Minister, in concurrence with the Minister responsible for finance, may determine and authorise the making of advances to a local authority to enable the local authority to pay a proportion of the capital expenditure incurred by the local authority in providing suitable hospitals or places of isolation for persons suffering from a infectious disease, and may recover, in the manner provided for in section 29(3) of the National Health Act, the advances so made.
- (5) A certificate by the Minister is conclusive proof of the amount of money advanced to or expended on behalf of a local authority under this section.

### 33. Refunds to local authorities

The Minister may authorise -

- (a) the refund of 50% of the approved net cost actually and necessarily incurred by a local authority or by two or more local authorities acting jointly, in providing and equipping an isolation hospital or other isolation accommodation for -
  - (i) persons suffering from a infectious disease; or
  - (ii) detained under medical observation because of exposure to the infection of a formidable epidemic disease,but the Minister must approve the strategy as a whole and the plan of actions, specifications of equipments and supplies and cost estimates before the expenditure or a liability is incurred;
- (b) the refund of 50% of the approved net cost actually and necessarily incurred by a local authority, or by two or more local authorities acting jointly, in connection with -
  - (i) the management and maintenance of an isolation hospital or other isolation accommodation; or
  - (ii) the maintenance and treatment in a other hospital or place of isolation of persons suffering or suspected to be suffering from a infectious disease or of persons detained under medical observation because of exposure to the infection of an epidemic disease,the net costs being determined after deduction of a revenue; or
- (c) the refund of 50% of the approved net cost actually and necessarily incurred by a local authority, or by two or more local authorities acting jointly or by an emergency management and response committee, in preventing, investigating, dealing with or suppressing an outbreak of a formidable epidemic disease or an outbreak suspected on reasonable grounds to be of such disease, including, if necessary, the provision of temporary isolation hospital accommodation.

## Part 4 – SEXUALLY TRANSMITTED INFECTIONS

### 34. Application of Part

This Part applies to all sexually transmitted infections, except the infections as the Minister may specify by notice in the Gazette.

### 35. Duties of medical practitioners and other health practitioners relating to sexually transmitted infections

- (1) A medical practitioner or other health practitioner who attends to or advises a patient in respect of a sexually transmitted infection from which the patient is infected, must -
  - (a) direct the attention of the patient to the infectious nature of the disease and to the penalties prescribed by this Act for infecting other persons with the infection;
  - (b) warn the patient against contracting marriage unless and until the patient has been cured of the infection or is free from the infection in a communicable form; and
  - (c) give to the patient the printed information, including posters and pamphlets, relating to the treatment of a sexually transmitted infection and to the duties and responsibilities of persons infected as may be supplied to the medical practitioner or other health practitioner by the chief health officer, relevant stakeholder or partner.
- (2) A medical practitioner or other health practitioner who knows or has reason to believe that a person is infected with a sexually transmitted infection in a communicable form and -
  - (a) is not under treatment by a medical practitioner or other health practitioner; or
  - (b) is not undergoing medical treatment regularly and as prescribed by the medical practitioner or other health practitioner,must report the matter in writing to the chief executive officer of the local authority concerned and to the regional director of health concerned.
- (3) The chief executive officer and the regional director referred to in subsection (2) and other staff members in their respective offices must exercise confidentiality regarding the status of persons infected with sexually transmitted infections, and may not disclose such information to any other person, except in the scope of their employment or when it is required by or under this Act, any other law or a court order.
- (4) A person who fails to comply with subsection (3) commits an offence and is liable to a fine not exceeding N\$50 000 or to imprisonment for a period not exceeding five years, or to both such fine and such imprisonment.

### 36. Duties of heads of health services and government health practitioners to report and powers of chairperson of regional council

- (1) A head of health services or a health practitioner in the employment of the State in his or her official capacity who knows or has reason to believe that a person is infected with a sexually transmitted infection in a communicable form and that the person concerned is not -
  - (a) under treatment by a medical practitioner or other health practitioner; or
  - (b) undergoing medical treatment regularly and as prescribed by the medical practitioner or other health practitioner,must give written notice to the person of the requirements of this Act in regard to attendance for treatment of persons infected with a sexually transmitted infection, and if thereafter the person

does not comply with those requirements, must report the matter to the chairperson of the regional council concerned.

- (2) Upon receipt of a report referred to in subsection (1), the chairperson of the regional council must -
- (a) make or cause to be made further inquiry;
  - (b) give or cause to be given an order or orders; or
  - (c) institute or cause to be instituted the proceedings,
- as he or she may consider necessary for the proper enforcement and for the attainment of the objects of this Part.
- (3) An order given under subsection (2) may require the person so named to -
- (a) furnish a certificate by a medical practitioner or other health practitioner as to whether he or she is or is not infected with a sexually transmitted infection in a communicable form;
  - (b) attend at a specified time and place for examination by a medical practitioner or other health practitioner named in the order;
  - (c) attend regularly for medical treatment at times and at a place specified in the order;
  - (d) proceed or be removed to and to remain or be detained under treatment in a special hospital or place of accommodation provided or established under this Part, either for a specified time or until cured or free from the infection in a communicable form; or
  - (e) comply with the other requirements as the chairperson of a regional council may consider necessary for the proper safe-guarding of the health of the person and of the public health.
- (4) A person who contravenes or fails to comply with this section commits an offence and is liable on conviction to a fine not exceeding N\$100 000 or to imprisonment for a period not exceeding 10 years, or to both such fine and such imprisonment.
- (5) The head of health services and the health practitioner referred to in subsection (1) and other staff members in their respective offices must exercise confidentiality regarding the status of persons infected with sexually transmitted infections, and may not disclose such information to any other person, except in the scope of their employment or when it is required by or under this Act, any other law or a court order.
- (6) A person who fails to comply with subsection (5) commits an offence and is liable to a fine not exceeding N\$50 000 or to imprisonment for a period not exceeding five years, or to both such fine and such imprisonment.

### **37. Transmission of infection**

A person who, knowing that he or she is infected with a sexually transmitted infection -

- (a) wilfully or negligently infects another person; or
  - (b) wilfully or negligently permits or acts in a way likely to lead to the infection of another person,
- commits an offence and is liable to a fine not exceeding N\$100 000 or to imprisonment for a period not exceeding 10 years, or to both such fine and such imprisonment.

### **38. Proceedings to be in camera and reports not to be published**

- (1) Despite anything to the contrary contained in other law, inquiries and proceedings before a chairperson of a regional council or a court of law under this Part is secret and must be conducted in camera, and the records must be kept in the manner and form prescribed.

- (2) A person who -
  - (a) publishes or reveals -
    - (i) the name of a person dealt with under this Part;
    - (ii) the nature of the charge or evidence or the results of an inquiry or proceedings or the contents of a report, certificate, document or order; or
    - (iii) other matter coming to his or her knowledge under this Part to an unauthorised person; and
  - (b) without lawful justification or excuse, falsely alleges that a person is or has been infected with a sexually transmitted infection, commits an offence and is liable to a fine not exceeding N\$100 000 or to imprisonment for a period not exceeding 10 years, or to both such fine and such imprisonment.

### **39. Detention in hospital of infected person**

- (1) If a person sentenced to imprisonment under this Act or other law is infected with a sexually transmitted infection in a communicable form, the -
  - (a) Inspector-General of the Namibian Police in the case of a trial awaiting prisoner; or
  - (b) Commissioner of Prisons in the case of a prisoner, must order the removal of the person to a special health facility or place of accommodation provided under this Part to undergoes treatment until cured.
- (2) The chairperson of a regional council may order, on the representation of a head of health services, a medical practitioner or other health practitioner treating the person, and if satisfied that -
  - (a) the public health cannot otherwise adequately be safeguarded; and
  - (b) that the person when released, is unlikely to undergo treatment of a medical practitioner or other health practitioner for the disease,

that the person be detained in the special health facility or place of accommodation concerned either for a specified period after the expiry of his or her sentence or until he or she is cured or free from the infection in a communicable form.
- (3) A person so detained in a special health facility or other place of accommodation who escapes or attempts to escape commits an offence and is liable to a fine not exceeding N\$100 000 or to imprisonment for a period not exceeding 10 years, or to both such fine and such imprisonment.

### **40. Rights of persons detained in hospital or other place of accommodation**

- (1) A person detained in a hospital or other place of accommodation under this Part is entitled to arrange, at his or her own expense, for his or her examination by a medical practitioner or other health practitioner.
- (2) The medical practitioner or other health practitioner referred to in subsection (1) must furnish a report of his or her examination to the chairperson of a regional council concerned, who may cause to be made further examination which the chairperson may consider necessary.

### **41. Publication of advertisements of cures**

- (1) A person may not publish an advertisement or statement intended to promote the sale of a medicine, appliance or article for the alleviation or cure of a sexually transmitted infection or infection affecting the generative organs or functions, or of sexual impotence, or of a complaint or infirmity arising from or relating to sexual intercourse.

- (2) A person who -
- (a) publishes, advertises or makes a statement referred to in subsection (1) by -
    - (i) printing it in newspapers;
    - (ii) using of electronic means;
    - (iii) exhibiting it for public viewing;
    - (iv) delivering, offering or exhibiting it to a person in a street, public place or public transport; or
  - (b) who sells, offers or shows the advertisement, statement or sends it to a person, commits an offence and is liable to a fine not exceeding N\$100 000 or to imprisonment for a period not exceeding 10 years, or to both such fine and such imprisonment.
- (3) This section does not apply -
- (a) to publications -
    - (i) by the Ministry, by a local authority, public hospital or other public body in the discharge of its functions, or
    - (ii) by a society or person acting with the authority of the Minister; or
  - (b) to books, documents or papers published in good faith for the advancement of medical science.

## **Part 5 – CONTROL AND PREVENTION OF NON-COMMUNICABLE DISEASES OR CONDITIONS AND VECTOR BORNE DISEASES**

### **42. Control and prevention of non-communicable diseases or conditions**

In order to control and prevent non-communicable diseases or conditions like cancers, diabetes, obesity, chronic respiratory diseases and cardiovascular diseases, the Minister may adopt World Health Organisation policies, develop appropriate policies and guidelines.

### **43. Control and prevention of vector borne diseases**

In order to control and prevent vector borne diseases, the Minister must develop appropriate policies and guidelines to ensure the implementation of increased access to comprehensive preventative and vector control measures -

- (a) in the case of malaria, by applying the measures such as -
  - (i) indoor residual house spraying;
  - (ii) the use of long lasting insecticide treated nets;
  - (iii) case management and effective treatment;
  - (iv) environmental management and manipulation; and
  - (v) community involvement and public awareness; and
- (b) in the case of vector-borne diseases, by applying measures as considered appropriate in order to curb or minimize the burden of the disease.

## **Part 6 – CONTROL AND PREVENTION AND NOTIFICATION OF MATERNAL, ANTE-NATAL AND NEO-NATAL DEATHS**

### **44. Control and prevention and notification of maternal, ante-natal and neo-natal deaths**

- (1) In order to control and prevent maternal, ante-natal and neo- natal deaths, the Minister must develop appropriate policies and guidelines to increase comprehensive and evidence based prevention and maternal management processes such as -
  - (a) encouraging women to give birth with the assistance of skilled birth attendants such as qualified midwives, doctors and nurses with midwifery skills; and
  - (b) community mobilisation and awareness raising on the importance of ante-natal care, post-natal care and neo-natal care.
- (2) A person who becomes aware of a maternal death, ante-natal death or neo-natal death must as soon as practical notify the local authority concerned or the chief health officer.
- (3) A person who contravenes or fails to comply with subsection (2) commits an offence and is liable to a fine not exceeding N\$8 000 or to imprisonment for a period not exceeding two years, or to both such fine and such imprisonment.

## **Part 7 – WATER AND FOOD SAFETY**

### **45. Duty of local authority to furnish potable water supplies**

A local authority must provide and maintain or cause to be provided and maintained, as far as may be reasonably possible, a sufficient supply of potable water for drinking and domestic purposes, whether the supplies be derived from sources within or beyond the local authority area.

### **46. Water works, purification and water quality**

- (1) A local authority must provide to the chief health officer -
  - (a) full details regarding a new application in respect of methods of disposal of sludge, waste product, water purification or water treatment; and
  - (b) records and results in respect of -
    - (i) water samples taken; and
    - (ii) water quality for irrigation purposes in the local authority area.
- (2) Sewage water, liquid waste, night soil or reclaimed products originating from residential, industrial or commercial premises or other premises must be disposed of or used in accordance with applicable legislation of the water or reclaimed products.

### **47. Powers to inspect water supply**

- (1) The chief health officer or a person authorised by him or her in writing may at all times enter a water works or gathering ground and inspect and examine a sources of water supply or water works, and take the sample of water as he or she may consider necessary.
- (2) A person who hinders or obstructs the chief health officer or an authorised person contemplated in subsection (1) commits an offence and is liable to a fine not exceeding N\$100 000 or to imprisonment for a period not exceeding 10 years, or to both such fine and such imprisonment.

#### 48. Powers to inspect food or articles of food

- (1) The chief health officer or a head of health services or a other person authorised in writing by the chief health officer or a head of health services may at a reasonable time enter upon the premises on or in which food or article of food is or is suspected to be manufactured, treated, graded, packed, marked, labelled, kept, stored, conveyed, sold, served or administered or on or in which other operation or activity with or in connection with food or article of food is or is suspected to be carried out, and may -
  - (a) inspect, search the premises, examine, extract, take and remove samples of food or article of food found in or upon the premises, or appliance, product, material, object or substance so found which is or is suspected to be used, or to be destined or intended for use or in connection with the manufacture, treatment, grading, packing, marking, labelling, storage, conveyance, serving or administering of food or article of food or in connection with other operation or activity with or in connection with food or article of food, or open a package or container of the food or article of food, product, material, object or substance;
  - (b) demand information regarding food or food article, appliance, product, material, object or substance from the person in whose possession or charge the food is or from the owner or person in charge of the premises;
  - (c) weigh, count, measure, mark or seal food or food article, appliance, product, material, object or substance or its package or container, or lock, secure, seal or close a door or opening giving access to it;
  - (d) examine or make copies of, or make extracts from books, statements or other document found in or upon the premises and which refers, or is suspected to refer, to the food or article of food, appliance, product, material, object or substance;
  - (e) demand from the owner or the person in charge of the premises or from a person in whose possession or charge a book, statement or other document is, or an explanation of an entry in it;
  - (f) inspect the operation or process carried out in or upon the premises in connection with the activities referred to in paragraph (a);
  - (g) demand information regarding the operation or process from the owner or person in charge of the premises or from a person carrying out, or in charge of carrying out, the operation or process; or
  - (h) seize food or article of food, appliance, product, material, object, substance, book, statement or document which appears to provide proof of a contravention of a provision of this Act.
- (2) The chief health officer, a head of health services or other person authorised by the chief health officer or a head of health services must produce the written authority by virtue of which he or she is authorised to act as contemplated in subsection (1), to a person affected by the exercise or performance of a power or function concerned under this Act.

#### 49. Disposal of food unfit for human consumption

- (1) A person may not -
  - (a) sell, prepare, keep, donate, transmit or expose for sale or donate food which is unfit for human consumption; and
  - (b) collect, prepare, manufacture, keep, transmit or expose for sale food without taking adequate measures to guard against or prevent an infection or contamination.
- (2) A person who contravenes or fails to comply with subsection (1) commits an offence and is liable to a fine not exceeding N\$100 000 or to imprisonment for a period not exceeding 10 years, or to both such fine and such imprisonment.

## **Part 8 – INFANT NUTRITION**

### **50. Manufacture and disposal of infant food**

- (1) A person may not manufacture, prepare, sell, import, export, transmit, exchange, donate or dispose of infant food or dairy products which is unfit for consumption by infants.
- (2) In order to promote breastfeeding in accordance with the “International Code of Marketing of Breast-milk Substitutes”, the Minister must adopt or develop appropriate policies and guidelines.

## **Part 9 – INTEGRATED WASTE MANAGEMENT**

### **51. Waste collection, disposal and recycling**

A local authority must ensure -

- (a) that all waste generated within its local authority area is -
  - (i) collected;
  - (ii) disposed of; and
  - (iii) recycled,in accordance with the requirements of all laws governing the management of the different waste streams;
- (b) efficient, affordable and sustainable access of the collection, disposal and recycling of waste to the community;
- (c) for reasons of health safety and environmental protection that waste collection is done in an appropriate manner; and
- (d) that approved receptacles of waste must be kept in -
  - (i) a clean and hygienic condition to prevent the breeding of flies or a other health risk; and
  - (ii) accordance with requirements of laws governing a particular waste stream.

### **52. Waste generation and storage**

- (1) A person who intends to conduct on a premises activities which generate special, industrial, hazardous or infectious waste must be registered for that purpose with the local authority concerned.
- (2) A local authority which intends to conduct on premises activities which generate special, industrial, hazardous or infectious waste must be registered for that purpose by the chief health officer.
- (3) A person or local authority engaged in activities contemplated in subsection (1) or (2) must ensure that the waste generated on the premises concerned is kept and stored -
  - (a) under conditions that causes no harm to human health or damage to the environment; and
  - (b) in accordance with applicable laws.
- (4) All waste contemplated in this section must be stored in approved containers and for the maximum period determined by the head of health services or the chief health officer.
- (5) Generators and transporters of hazardous and infectious waste must ensure that containers -
  - (a) are properly labelled in English with universal biohazard symbol signs; and



- (b) stored in accordance with applicable laws.

### **53. Waste disposal**

- (1) Waste must only be disposed of at a waste disposal site, including an incinerator approved by the local authority concerned.
- (2) A person who intends to operate a waste disposal site for business, household, industrial, hazardous and infectious waste must apply for registration with the local authority concerned as contemplated in this Act.
- (3) A waste disposal site must be -
  - (a) adequately fenced off to prevent illegal entry and windblown litter; and
  - (b) kept at all times in the manner as to prevent fly breeding or other public health risk.
- (4) A person may not burn waste either in a public or private place or at a waste disposal site.
- (5) A local authority must regulate the transportation of different waste streams to the waste disposal site in accordance with the applicable laws to prevent environmental pollution and public health risks.

### **54. Sanitation**

A local authority must -

- (a) prevent the spread of waterborne diseases by constructing public sanitation facilities in its local authority area and also by hygiene promotion; and
- (b) ensure efficient and affordable public sanitation facilities in its local authority area.

### **55. Offences relating to this Part**

A person who contravenes or fails to comply with this Part commits an offence and is liable to a fine not exceeding N\$100 000 or to imprisonment for a period not exceeding 10 years, or to both such fine and such imprisonment.

## **Part 10 – HEALTH NUISANCES**

### **56. Health nuisances**

A person may not cause a health nuisance or may not permit to exist on a land or premises owned or occupied by him or her, or of which he or she is in charge, a health nuisance or other condition liable to be injurious or dangerous to health.

### **57. Local authority to maintain cleanliness and prevent health nuisances**

A local authority must take all lawful, necessary and reasonable practical measures to -

- (a) maintain its local authority area at all times in a clean and sanitary condition; and
- (b) prevent the occurrence of or for remedying or causing to be remedied, a health nuisance or condition liable to be injurious or dangerous to health,

and must take proceedings at law against a person causing or responsible for the continuance of a health nuisance or condition.

**58. Local authority to prevent or remedy danger to health arising from unsuitable dwelling**

A local authority must take all lawful, necessary and reasonably practicable measures to prevent or cause to be prevented or remedied all conditions liable to be injurious or dangerous to health arising from -

- (a) the erection of or occupation of unhealthy dwellings or premises;
- (b) the erection of dwellings or premises on unhealthy sites or on sites of insufficient extent;
- (c) overcrowding; or
- (d) the construction, condition or manner of use of a factory or business premises,

and must take proceedings at law against a person causing or responsible for the continuance of the condition.

**59. What constitutes health nuisance**

The following is considered to be health nuisances which can be offensive, injurious or dangerous to health and liable to be dealt with in the manner provided in this Part, a -

- (a) dwelling or premises which is or is constructed in a poor state or is situated in contaminated area or so dirty or so verminous or so liable to favour the spread of a notifiable infectious disease;
- (b) stream, pool, lagoon, ditch, gutter, watercourse, sink, cistern, sanitary convenience, urinal, cesspool, cesspit, drain, sewer, dungpit, slop-tank, ashpit or manure heap so foul or in a state or so situated or constructed, or a collection of water which may serve as a breeding place for mosquitoes or other vector;
- (c) well or other source of water supply or a cistern or other receptacle for water, whether public or private, the water from which is used or is likely to be used by humans for drinking or domestic purposes or in connection with a dairy or milk-shop, or in connection with the manufacture or preparation of a article of food intended for human consumption which is polluted or otherwise liable to render the water injurious or dangerous to health;
- (d) stable, kraal, cow-shed or other building or premises used for the keeping of animals or birds which is so constructed, situated, used or kept as to be offensive or injurious or dangerous to health;
- (e) accumulation or deposit of refuse, offal, manure or other matter which is offensive or which is injurious or dangerous to health;
- (f) dwelling which -
  - (i) is so overcrowded; or
  - (ii) does not conform with applicable laws in force in the area with regard to -
    - (aa) air space or floor space;
    - (bb) lighting or ventilation;
    - (cc) sanitary conveniences;
    - (dd) ablution facilities; or
    - (ee) cooking facilities;
- (g) public building which is so situated, constructed, used or kept as to be unsafe;
- (h) excessive noise that infringes the right of others;
- (i) occupied dwelling for which a proper, sufficient and wholesome water supply is not available within a reasonable distance as is under the circumstances possible to obtain;

- (j) factory or business premises not kept in a cleanly state and free from offensive smells arising from a drain, sanitary convenience or urinal, or not ventilated so as to destroy or render harmless and inoffensive as far as practicable, gases, vapours, dust or other impurities generated, or so overcrowded or so badly lighted or ventilated as to be injurious or dangerous to the health of the employees;
- (k) factory or business premises causing or giving rise to smells or effluvia which are offensive or which are injurious or dangerous to health;
- (l) area of land kept or permitted to remain in the a state as to be offensive or liable to cause a notifiable infectious, communicable or preventable disease;
- (m) chimney, sending forth smoke in the quantity or in the manner as to be offensive or injurious or dangerous to health;
- (n) cemetery, burial place or place of sepulchre so situated or so crowded or otherwise so conducted as to be offensive or injurious or dangerous to health; or
- (o) other condition which is offensive, injurious or dangerous to health.

## **60. Notice to remove health nuisance**

- (1) Subject to subsection (2), a local authority, if satisfied of the existence of a health nuisance, must serve a notice on the author of the health nuisance, or if the author cannot be found, then on the occupier or owner of the dwelling or premises on which the health nuisance arises or continues -
  - (a) requiring him or her to remove the health nuisance within the time specified in the notice and to carry out works and do the things as may be necessary for that purpose; and
  - (b) if the local authority considers it desirable, specifying works to be carried out to prevent a recurrence of the health nuisance concerned.
- (2) If the -
  - (a) health nuisance arises from a want or defect of a structural character or if the dwelling or premises are unoccupied, the notice must be served on the owner; or
  - (b) author of the health nuisance cannot be found and it is clear that the health nuisance does not arise or continue by the act or default or sufferance of the occupier or owner of the dwelling or premises, the local authority must itself remove the health nuisance, and may do what is necessary to prevent the recurrence.
- (3) For the purposes of this Act, “author of the health nuisance” means the person by whose act, default or sufferance the health nuisance is caused, exists or is continued, whether he or she is an owner or occupier or both owner and occupier, or other person.

## **61. Procedure if person fails to comply with notice**

- (1) If -
  - (a) a person on whom a notice to remove a health nuisance has been served as contemplated in section 62 fails to comply with the requirements of the notice within the time specified; or
  - (b) if the health nuisance, although removed since the service of the notice, is in the opinion of the local authority likely to recur on the same premises, the local authority must cause a complaint relating to the health nuisance to be made before a magistrate and the magistrate must issue a summons requiring the person on whom the notice was served to appear before the court.
- (2) Subject to subsection (4), if the court is satisfied that -
  - (a) the alleged health nuisance exists; or

- (b) although removed, it is likely to recur on the same premises, the court must make -
  - (i) an order on the author, occupier or owner of the dwelling or premises, requiring the author, occupier or owner -
    - (aa) to comply with all or some of the requirements of the notice;
    - (bb) otherwise to remove the health nuisance within a time specified in the order and to do works necessary for that purpose;
  - (ii) an order prohibiting the recurrence of the health nuisance and directing the execution of works necessary to prevent the recurrence; or
  - (iii) an order both requiring the removal and prohibiting the recurrence of the health nuisance.
- (3) Subject to subsection (4), the court may also by order impose a fine not exceeding N\$5 000 on the person on whom the order is made and may also give directions as to the payment of all costs incurred up to the time of the hearing or making of the order for the removal or prohibition of the health nuisance.
- (4) Before making an order the court may, if it thinks fit, adjourn the hearing or further hearing until an inspection, investigation or analysis in respect of the alleged health nuisance has been made by a competent person designated by the court.
- (5) If the health nuisance proved in the judgement of the court, renders a dwelling unfit for human habitation, the court may -
  - (a) issue a closing order prohibiting the use of a dwelling until the dwelling is fit for that purpose; and
  - (b) further order that no rent is due or payable by or on behalf of the occupier of that dwelling in respect of the period in which the closing order exists.
- (6) If the court is satisfied that the dwelling concerned has again been rendered fit for use as a dwelling, the court may terminate the closing order and by a further order declare the dwelling habitable from the date of the order.
- (7) Despite an order referred to in subsection (6), further proceedings may be taken in accordance with this section in respect of the same dwelling in the event of a health nuisance occurring or of the dwelling being again found to be unfit for human habitation.

## **62. Local authority to execute works in certain cases**

If a local authority is satisfied that the person by whose act or omission the health nuisance arises or that the owner or occupier of the premises is not known or cannot be found, the local authority may at once execute or cause to execute the works to remove the health nuisance and the cost of executing the works concerned is a charge on the property on which the health nuisance concerned exists.

## **63. Investigation of premises**

The head of health services or a staff member authorised by him or her in writing may -

- (a) at all reasonable times enter a building or premises for the purpose of investigating as to the existence of a health nuisance; and
- (b) if necessary, open up the ground of the premises and cause the drains to be tested or other works to be done as may be necessary for the effectual investigation of the premises,

but if no health nuisance is found to exist, the local authority must restore the premises at its own expense.

**64. Person making complaint of health nuisance**

- (1) Subject to subsection (2), a person who alleges that a health nuisance exists in a local authority area may notify the allegation to the local authority.
- (2) An allegation referred to in subsection (1) must be supported by -
  - (a) certificates of two medical practitioners or environmental health practitioners, if two or more medical practitioners or environmental health practitioners are resident in the local authority area;
  - (b) a certificate of one medical practitioner or environmental health practitioner, if only one medical practitioner or environmental health practitioner is resident in the local authority area; or
  - (c) other person who can substantiate the allegation.
- (3) If the local authority concerned fails within a reasonable period to cause the health nuisance to be removed, the person who has notified the allegation may serve the notice referred to in section 62 and the like proceedings must be had with the like incidents and consequences as to -
  - (a) making of orders;
  - (b) penalties for disobedience of orders; and
  - (c) otherwise as in the case of a complaint relating to a health nuisance made by the local authority,as contemplated in section 61.
- (4) A court concerned may authorise a member of the Namibian Police or other authorised person to -
  - (a) do all the necessary acts for executing an order made under this section; and
  - (b) recover the expenses from the person on whom the order is made in a summary manner.
- (5) A member of the Namibian Police or other person authorised under this section has the powers as if he or she were a staff member of the local authority.
- (6) If the court is satisfied that the person making a complaint under this section had reasonable grounds for doing so, the court may, when making an order for the removal of the health nuisance, also order the local authority to pay expenses or costs incurred by the person instead of ordering the author of the health nuisance to pay the same.
- (7) The court may likewise order a person whose complaint appears to it to be frivolous or vexatious to pay the costs and expenses incurred by the person who has answered the complaint.

**65. Demolition of unfit dwellings**

- (1) If under section 60 a health nuisance is proved to exist with respect to a dwelling and the court is satisfied that the dwelling is -
  - (a) dilapidated;
  - (b) defectively constructed; or
  - (c) situated in a wrong place,that repairs to or alterations of the dwelling are not likely to remove the health nuisance and make the dwelling fit for human habitation, the local authority may by court order instruct the owner to -
  - (i) demolish the dwelling and other structures on the premises on or before a specified day, being at least 30 days from the date of issuing the notice; and

- (ii) complete the demolition and to remove the materials from the site.
- (2) The court must give notice to the occupier of a dwelling in respect of which an order under subsection (1) has been issued requiring him or her to move from the dwelling within a time specified in the notice.
- (3) A person who fails to comply with a notice given under subsection (2) or who enters the dwelling or premises after the date determined by the court for the demolition of the dwelling, except for the purpose of demolition, commits an offence and is liable to fine not exceeding N\$100 000 or to imprisonment for a period not exceeding 10 years, or to both such fine and such imprisonment.
- (4) If a person fails to comply with an order for demolition, the local authority may -
  - (a) cause the dwelling and other structures on the premises to be demolished; and
  - (b) recover from the owner the expense incurred in doing so after deducting the net proceeds of the sale of the materials which the local authority may sell by auction.
- (5) No compensation is payable by a local authority to the owner or occupier of a dwelling or other structure in respect of the demolition provided in this section, and from the date of the demolition order, no rent is due or payable by or on behalf of the occupier in respect of the dwelling or structure.

## 66. Prohibitions in respect of dwellings and rooms without adequate ventilation

- (1) A person may not within a local authority area -
  - (a) erect a room intended to be used as a dwelling which is not sufficiently lighted by a window or windows of a total area of not less than one-twelfth of the floor area, and sufficiently ventilated by two or more ventilation openings or by windows capable of being wholly or partly opened to secure through or cross ventilation;
  - (b) erect a dwelling on a ground containing street sweepings, refuse, rubbish or other matter liable to decomposition until the approval of the local authority has been obtained and until also the measures for safeguarding health have been taken as the local authority may require; or
  - (c) let or use for habitation a dwelling erected in contravention of paragraph (a) or (b).
- (2) A person who contravenes or fails to comply with subsection (1) commits an offence and is liable to a fine not exceeding N\$5 000 and to a further fine not exceeding N\$200 for every day during which the contravention continues after the day determined in a notice by the local authority.

## 67. Penalties in relation to health nuisances

- (1) A person who fails to obey an order to comply with the requirements of the local authority or otherwise to remove a health nuisance, commits an offence, unless he or she satisfies the court that he or she has used all diligence to carry out the order, and is liable on conviction to a fine not exceeding N\$500 for every day during which the default continues.
- (2) A person wilfully acting in contravention of a closing order issued under section 61(5) commits an offence and is liable to a fine not exceeding N\$500 for every day during which the failure continues.
- (3) The local authority concerned may in the case of subsections (1) and (2) -
  - (a) enter the premises to which an order relates;
  - (c) remove the health nuisance and comply with the order; and

[the Gazette incorrectly has two (c) provisions rather than (b) and (c)]

- (c) recover in a competent court the expenses incurred from the person on whom the order is made.

## **Part 11 – PUBLIC AND ENVIRONMENTAL HEALTH PLANNING AND REPORTING**

### **68. Minister may require preparation of public and environmental health plans**

- (1) The Minister may require in writing, after consultation with the local authority, a local authority to prepare and submit to him or her, within the period determined by the Minister, a public and environmental health plan in respect of a specific issue or geographic area.
- (2) The Minister may specify one or more of the following to be addressed in the public and environmental health plan, the -
  - (a) identification and addressing of the health needs of particular groups within the population;
  - (b) monitoring and assessing of the status of the health of the population, including through public health surveillance and monitoring indicators, factors influencing the health of the population;
  - (c) prevention and mitigation of the adverse effects of diseases and disabilities, syndromes, psychosocial disorders, injuries and health hazards;
  - (d) identification, prevention and mitigation of the adverse effects of health implements;
  - (e) facilitation or planning of the delivery of core public health functions; and
  - (f) achieving of a prescribed purpose.
- (3) A request referred to in subsection (1) may include a requirement to comply with a written agreement in respect of public and environmental health plans entered into between the chief health officer and the local authority.
- (4) The local authority concerned must consult each regional council, regional health board and district health board having jurisdiction in the geographic area to which the public and environmental health plan applies with regard to the proposed public and environmental health plan.
- (5) The Minister may in writing extend the time for preparation and submission of the public and environmental health plan, whether or not the period determined under subsection (1) has expired.
- (6) If a local authority concerned does not submit the public and health plan concerned within the period or extended period concerned, the Minister may prepare or cause to be prepared the plan on behalf of the local authority and may further recover the costs from the local authority.

### **69. Approval of public and environmental health plan**

- (1) A local authority who has been required to prepare and submit a public and environmental health plan must -
  - (a) submit the plan to the Minister for approval;
  - (b) revise the plan according to the directions of the Minister, and
  - (c) once the Minister has approved the plan, publish the plan in the Gazette.
- (2) A local authority who contravenes or fails to comply with this section commits an offence and is liable to a fine not exceeding N\$50 000.

**70. Reporting on public and environmental health plan**

The Minister may in writing require a regional health board or a district health board to monitor the implementation of a public and environmental health plan in the geographic area in respect of which the board concerned has jurisdiction, and to report in the manner required by the Minister on -

- (a) the measures that have been taken to give effect to the plan;
- (b) compliance with the objectives of the plan; and
- (c) other matter relevant to the implementation of the plan.

**71. Review and revision of public and environmental health plan**

- (1) The Minister may in writing require the review of a public and environmental health plan in accordance with the terms determined by the Minister.
- (2) The Minister may in writing vary the terms of a public and environmental health plan and if the terms are varied, the local authority concerned must revise the plan to the satisfaction of the Minister.
- (3) If a public and environmental health plan that has been approved by the chairperson of a regional council concerned under section 69 is revised, the Minister must either -
  - (a) place the revised public and environmental health plan before the chairperson of the regional council concerned for approval; or
  - (b) request the chairperson of the regional council concerned to cancel the approval of the public and environmental health plan before it was revised.

**Part 12 – INTERNATIONAL HEALTH REGULATIONS****72. Publication of international health regulations and amendments**

The chief health officer must -

- (a) after the commencement of this Act publish in the Gazette the International Health Regulations 2005 which came into effect on 15 June 2007; and
- (b) publish in the Gazette subsequent amendment of the International Health Regulations to which Namibia becomes a party.

**73. Power to carry out and apply International Health Regulations**

- (1) The Minister may by notice in the Gazette -
  - (a) designate a port of entry in Namibia as a sanitary port and may cancel the designation of a port; and
  - (b) do other acts as he or she may consider necessary or expedient to give effect to the International Health Regulations or regulations which have been applied to notifiable infectious diseases to which the International Health Regulations do not apply.

**74. Regulations by Minister**

- (1) The Minister may make regulations -
  - (a) as appears to the Minister necessary or expedient for the carrying out of and giving effect to the International Health Regulations; or



- (b) subject to the International Health Regulations, imposing fees and providing for the recovery of expenditure incurred in giving effect to the International Health Regulations.
- (2) A regulation made under subsection (1) may prescribe penalties not exceeding a fine of N\$10 000 or imprisonment for a period not exceeding two years, or both such fine and such imprisonment.

## **75. Power to apply regulations to notifiable infectious disease**

The Minister, by notice in the Gazette, may apply the regulations made under this Act relating to notifiable infectious diseases to a notifiable infectious disease to which International Health Regulations do not apply, subject to the exceptions, adaptations and modifications as the Minister may consider necessary or expedient and as may be specified in the notice.

## **76. Jurisdiction**

An offence under a regulation contemplated in this Part is considered, with regard to the jurisdiction of a court to try the offence, to have been committed in a place where the accused happens to be.

# **Part 13 – GENERAL**

## **77. Regulations**

- (1) The Minister may make regulations relating to the -
  - (a) notification of notifiable infectious diseases;
  - (b) notification of vaccine preventing notifiable infectious diseases;
  - (c) notification of infectious diseases not classified as notifiable infectious diseases;
  - (d) duties of owners or occupiers of land, owners or managers of mines, employers of labour and all chiefs or headmen or other persons in regard to reporting the occurrence of a notifiable infectious disease;
  - (e) duties of medical practitioners and other health practitioners with regard to the reporting or notification of a notifiable infectious disease;
  - (f) circumstances in which notification of particular diseases may not be required;
  - (g) duties of local authorities, medical practitioners and other health practitioners in respect of the keeping of registers and records of the notifications;
  - (h) duties of registrars of deaths in respect of furnishing the chief health officer and local authorities with notification of returns of deaths notified with the registrars;
  - (i) forms to be used and the particulars to be furnished by local authorities and other persons when transmitting reports to the chief health officer;
  - (j) imposition and enforcement of quarantine or of medical observation and surveillance in respect of persons suffering or suspected to be suffering from notifiable infectious diseases who are not removed to a hospital or place of isolation;
  - (k) premises in which the persons are accommodated, those in charge of or in attendance of the persons, and other persons living in or visiting the premises or who may otherwise have been exposed to the infection of a disease;
  - (l) duties of owners or occupiers of land, owners or managers of mines, employers of labour and all chiefs or headmen or other persons to prevent the spread of notifiable infectious diseases when having a person suffering or suspected to be suffering from the disease;

- (m) measures to be taken for preventing the spread of or eradicating cholera, typhoid fever, plague, acute poliomyelitis, tuberculosis (TB), multi drug resistance TB (MDR) and extensive multi drug resistance TB (XMDR), viral influenza or other notifiable infectious disease requiring to be dealt with in a special manner;
- (n) transportation of persons suffering from, or the human remains of persons who have died of a notifiable infectious disease;
- (o) prevention of rabies, glanders, anthrax, plague, tuberculosis, trichinosis or other disease communicable by a animal, or the carcass or product of a animal or to human being;
- (p) prevention of the spread and the eradication of malaria;
- (q) destruction of mosquitoes and the removal or improvement of conditions permitting or favouring the multiplication or prevalence of mosquitoes;
- (r) provision and proper upkeep of mosquito nets in the sleeping apartments of accommodation establishments;
- (s) prevention of direct or indirect spread of disease by flies or other insects and the destruction and the removal or improvement of conditions permitting or favouring the prevalence or multiplication of the insects;
- (t) destruction of rodents and other vermin and the removal or improvement of conditions permitting or favouring the harbourage or multiplication;
- (u) prevention of the spread of, Schistosomiasis (bilharzias) or other disease in man caused by a animal or vegetable parasite;
- (v) prevention of the spread of an infectious, contagious or loathsome disease by the carrying on of a business, trade or occupation;
- (w) prevention of the spread of a notifiable infectious disease by persons who, though not at the time suffering from the disease, are “carriers” and is liable to spread the infection, the keeping under medical surveillance and the restriction of the movements of the persons;
- (x) prohibition of spitting, urinating and defecating in public places or in public transport, except into receptacles provided for the purpose;
- (y) restriction of a trade or occupation causing danger to the health of the persons involved, whether from notifiable infectious disease or otherwise, and the institution of measures for preventing or limiting the danger;
- (z) cleaning the premises and dirty or verminous persons;
- (aa) disinfection or fumigation of premises, clothing or other articles which have been exposed to or are believed to be contaminated with the infection of a notifiable infectious disease, or which are dirty or verminous, and prohibiting the carrying out of a fumigation which involves the use of hazardous chemical substance except under licence;
- (ab) rag flock manufacture, and the trade in rags, bones and in second-hand clothing, bedding or similar article, and requiring the disinfection of an article before its importation, removal, sale or exposure for sale, or use in a manufacturing process;
- (ac) disposal of a refuse, waste matters or other matter or thing which has been contaminated with or exposed to the infection of a notifiable infectious disease;
- (ad) restriction and removal, if considered necessary, and the prohibition, of the keeping, transmission or use within, or the transport or transmission into or out of, Namibia of cultures or preparations of pathogenic micro- organisms or other material capable of causing disease;

- (ae) compulsory giving of a information or the mandatory reports of information or the production of a document, including the analysis of other evidence required for the purpose of tracing the source or preventing the spread of notifiable infectious disease;
- (af) state or other laboratories, to carry out bacteriological or other laboratory examinations for the purpose of determining whether a person is infected with or is cured of a sexually transmitted infection, or is free from the infection in a communicable form, provides that the examinations will be free of charge;
- (ag) free treatment and, if necessary, the accommodation and maintenance of persons infected with a sexually transmitted infection, and the provision must as far as practicable be made in connection with general or isolation hospitals or similar institutions by arrangement with the Minister or the hospital, local or other authority concerned;
- (ah) supply, free of charge, of the remedies specified from time to time in the Gazette for use in the treatment of persons infected with a sexually transmitted infection who are treated as free patients at a public institution;
- (ai) forms of certificates, notices, orders or returns and books or record to be used in connection with sexually transmitted infection;
- (aj) information to be furnished;
- (ak) furnishing and manner of use by chairpersons of regional councils and chief regional officers, government medical officers, local authorities, medical officers of health and others;
- (al) conferring of powers and the imposition of duties in connection with sexually transmitted infection on chairpersons of regional councils, chief regional officers, government medical or other officers, local authorities, medical officers of health, employers of labour and chiefs or headmen;
- (am) management, maintenance and inspection of hospitals or other institutions for the purposes of Part 4 and the appointment and duties of persons employed therein or otherwise in connection with the carrying out or enforcement of Part 4;
- (an) precautions to be taken by persons infected with or attending on or having the care or charge of persons infected with a sexually transmitted infection;
- (ao) prevention measure and support system for HIV patients;
- (ap) classification, if non-communicable diseases or conditions becoming a serious threat to the public, of the a disease or condition to be notifiable;
- (aq) control of a specific non-communicable disease or condition and the publication of these control measures in the Gazette;
- (ar) prevention of breeding sites for mosquitoes by companies constructing roads and buildings and to close excavations after completion of the project concerned;
- (as) provision of proper screening for windows and doors not to let mosquitoes in or out in the case of private dwellings, buildings, accommodation establishments or a place of residence;
- (at) covering of all swimming pools in order to minimize and avoid mosquito breeding sites;
- (au) all maternal deaths to be classified as a notifiable event;
- (av) establishment of maternal, neo-natal, ante-natal and death review committees to investigate death during pregnancy, child birth, post natal and neo-natal periods at national, regional and community levels;
- (aw) collection of data for statistical purposes of all maternal deaths caused by direct and indirect causes at health facilities and community levels;

- (ax) appointment of a national committee to execute confidential enquiries into maternal, neo-natal and ante-natal deaths;
- (ay) notification of a maternal, neo-natal or ante-natal death to the relevant authority stated therein within seven days of the deaths;
- (az) investigation and report by the Maternal and Neo-natal Death Review Committee within 21 days after receipt of a notification contemplated in paragraph (ba);
- (ba) keeping by the relevant authorities of maternal and neo-natal registers for recording, reporting and notifying the ante-natal care, delivery and post natal services;
- (bb) prohibition of bathing in, and the prohibition or regulation of the washing of clothes or other articles or of animals in, or in a place draining into, a the water supply referred to in section 45;
- (bc) prohibition or regulation of the erection of dwellings, sanitary facilities, stables, cattle kraals, pig sties, ostrich pens, dipping tanks, factories or other works likely to cause risk of harmful pollution of water supply;
- (bd) prohibition or regulation of the deposit in the vicinity of, or in a place draining into, a the water supply of a manure, filth or noxious or offensive matter or thing;
- (be) establishment of standards relating to the quality of natural mineral water, bottled water and water bottling plants;
- (bf) establishment of standards relating to the quality of portable water;
- (bg) prevention of the pollution of a source of water supply so as not to endanger the health of the public within its local authority area and for purifying a water supply which has become so polluted;
- (bh) inspection of slaughter-houses, factories, stores, shops and other places where food is manufactured, prepared, kept or sold for human consumption;
- (bi) taking and examination of samples of food;
- (bj) removal or detention, pending examination or inquiry, of food which are suspected to be unfit for human consumption;
- (bk) seizure and destruction or treatment or disposal of food which is intended, offered or exposed for sale or donation for human consumption;
- (bl) taking of samples, examination, detention and destruction of a food suspected not fit for human consumption;
- (bm) prohibition of the importation into Namibia of food which is unfit for human consumption and the seizure and disposal by destruction or otherwise of food;
- (bn) inspection, examination and supervision of the manufacture, preparation, storage, keeping and transmission of a food intended for sale or for export purpose, excluding meat, and the prohibition of the manufacture, preparation, storage, keeping, transmission, sale, donation or export of a the food which is unfit for human consumption;
- (bo) preparation, manufacture or importation and the storage and sale of or trade of food which are packed in air-tight receptacles or otherwise preserved, and the marking of article with the date of manufacture or preparation;
- (bp) prohibition of the importation, sale, possession or use of vessels which are intended to contain milk or a liquid or semi-solid food and which are rusty or defectively soldered or are made of material containing in a part lead or other poisonous or injurious substance in the proportion as to be likely to cause injury or danger to health, and fixing the maximum proportions of the substances which may be used in vessels;

- (bq) requirements regarding lot or batch identification, labelling, food additive, date marking, storage conditions, ingredient, nutrition claim and language;
- (br) medical examination and other conditions to be met by food handlers at food industries, catering services and other institutions handling and preparing food;
- (bs) control, restriction or prohibition of use of a premises for a purpose connected with the handling, processing, manufacturing or packing of food; and
- (bt) provision of a sewerage and drainage system for, and water, washing, sanitary facilities, illumination, ventilation at the premises;
- (bu) structural requirements to which a building on premises referred to in paragraph (bs) must conform and the material to be used for the construction;
- (bv) standards and requirements to which apparatus, equipment, storing places and working surfaces in buildings referred to in paragraph (bu) must conform to;
- (bw) standard and manner of transport of various food or article of foods and the containers in which food is stored, processed and displayed;
- (bx) regulation, control, restriction or prohibition of the use of food selling automatons, including the packaging material, storing, dating and the transport of food to the automatons;
- (by) bacteriological and chemical quality of food, inclusive food sold on street as well as examination and analysis requirements;
- (bz) veterinary inspection of dairy cattle, as well as inspections of dairies, milk sheds, milk shops, milk vessels and duties of dairymen and purveyors of milk;
- (ca) inspection fees relating to meat;
- (cb) standards of composition, quality or other properties of a infant food or feeding article, which standards may be prescribed by reference to a publication or document, whether published inside or outside Namibia;
- (cc) sampling and testing of infant food and feeding articles;
- (cd) regulation or restriction of the marketing and sale of infant food and feeding articles, and in that regards -
  - (i) regulating the packages in which form a infant food or feeding article may be sold;
  - (ii) regulating the labels that may be attached to or marked on packages of a infant food or feeding article, and prescribing the matter to be or not to be contained on the labels;
  - (iii) regulating, restricting or prohibiting the marketing of a infant food or feeding article to the public generally or a section of the public;
  - (iv) restricting or prohibiting a method of marketing a infant food or feeding article;
  - (v) regulating, restricting or prohibiting the giving or distribution of donations or samples of infant food or feeding articles;
- (ce) regulation, restriction or prohibition of the production, sale, distribution or display of informational or educational material relating to infant food, feeding articles or the feeding and nutrition of infants;
- (cf) regulation or restriction of the promotion by health practitioners or staff members of the use of an infant food or feeding article;

- (cg) regulation, restriction or prohibition of -
  - (i) offering or giving, directly or indirectly, by manufacturers or sellers of infant food or feeding articles, of salaries, wages, gifts or other benefits to health practitioners and staff members; and
  - (ii) receipt by health practitioners or staff members of salaries, wages, gifts or benefits referred to in subparagraph (i);
- (ch) establishment of one or more committees to approve labels, packages, informational, educational or promotional material and other matter or thing that may be regulated or restricted in terms of Part 8;
- (ci) prohibition of the marketing, sale or use of label, package, informational, educational or promotional material, matter or thing that has not been so approved;
- (cj) furnishing of returns, particulars and other information by persons who manufacture, market or sell infant food or feeding articles;
- (ck) generally all matter which, in the opinion of the Minister, will encourage and promote the proper feeding and nutrition of infants;
- (cl) standards, procedures and requirements to which all businesses must comply with in order to qualify for registration to conduct business;
- (cm) standards and quality of the production process; (cn) renewal of business registration;
- (co) inspection fees relating to businesses for registration purposes and fees and charges relating to traveling costs, the issuing of certificates and the rendering of services;
- (cp) the classification of businesses as -
  - (i) formal and non-formal food businesses;
  - (ii) food processing plants;
  - (iii) accommodation establishments;
  - (iv) business dealing in obnoxious and offensive trade;
  - (v) retailers;
  - (vi) industries;
  - (vii) businesses dealing in waste management, re-use and recycling;
  - (viii) pharmaceutical trades;
  - (ix) funeral services;
  - (x) waste disposal sites;
  - (xi) professional services; and
  - (xii) other business,according to nature of the building and the premises, type of activities to be carried on by the business, environmental health conditions and public health impact;
- (cq) waste disposal sites and waste management;
- (cr) waste incineration plants and waste incineration;
- (cs) waste management of different kind of waste streams;
- (ct) air emission limit values of waste incineration plants;

- (cu) construction of sewerage pools and septic tanks only after the inspection and approval from local authorities or environmental health practitioners as designated by the Minister;
- (cv) proper siting, construction, use and hygienic conditions of toilets;
- (cw) proper storage, removal, transport and disposal of night soil, and refuse.
- (cx) inspection of land, dwellings and buildings for securing the keeping of the same clean and free from health nuisance so as not to endanger the public health;
- (cy) prohibition or regulation of the construction of buildings, including matters relating to -
  - (i) proper lighting and ventilation;
  - (ii) measures for excluding insects and vermin;
  - (iii) sanitary conveniences;
  - (iv) submission and approval of building plans;
  - (v) other matters necessary or desirable to safeguard the health of the inmates or the public health;
- (cz) prevention of overcrowding in a dwelling or building, including the prohibition of the use of a dwelling or building or a part of a dwelling or building for sleeping purposes;
- (da) regulation, prohibition or control of the cooking, preparation or storage of food in a building or part of a building where the facilities are inadequate;
- (db) drainage of land or premises, the disposal of offensive liquids and the removal and disposal of rubbish, refuse, manure and waste matters;
- (dc) standards of purity of a effluent liquid containing waste, sewage or other offensive matters which might be a danger to the public health and the conditions where under the effluent may be used for domestic, agricultural, industrial or other purposes so as not to endanger the public health;
- (dd) keeping of animals or birds and the construction, cleanliness and drainage of places where animals or birds are kept;
- (de) establishment and carrying on of factories or business premises which are liable to cause offensive smells or effluvia or to discharge liquid or other material liable to cause the smells or effluvia or to pollute streams or which are otherwise liable to be a health nuisance or injurious or dangerous to health;
- (df) prohibition of the establishment or carrying on of the factories or business premises in unsuitable localities or so as to be a health nuisance or injurious or dangerous to health;
- (dg) powers of entry, search, seizure, inspection and investigation for the purposes of preventing, detecting or investigating offences in terms of the regulations;
- (dh) after consultation with the local authority or local authorities concerned, matters as the Minister may consider expedient to give force and effect to section 4, and the regulations may provide for all or some of the following matters -
  - (i) the membership of a health committee, taking into account the importance of inter-sectoral collaboration, including the number of members to be appointed and the method of appointment of members by the local authority concerned or, in the case of a health committee referred to in subsection 4(2), by each local authority concerned and, if the State is a party to the establishment of the health committee, by the Minister;
  - (ii) power of a health committee to co-opt persons with special knowledge or skill to serve on the committee;

- (iii) method of financing the activities of a health committee;
  - (iv) powers of a health committee;
  - (di) environmental health plans;
  - (dj) adoption of Codex Food International Standards provided by the Codex Alimentarius Commission;
  - (dk) enforcement of the hazard analysis critical control point ("HACCP") system;
  - (dl) burials relating to persons who have died of notifiable infectious diseases;
  - (dm) ancillary or incidental administrative or procedural matter that is necessary to be prescribed for the proper implementation or administration of this Act; and
  - (dn) other matter required or permitted to be prescribed in terms of this Act in order to achieve the objects of this Act.
- (2) Regulations made under paragraphs (be) to (bl) are made with due regard to the interests of agricultural, food or other industries.
- (3) A regulation made in terms of subsection (1) may prescribe penalties for -
- (a) contravention or failure to comply with the regulation, of a fine not exceeding N\$10 000 or to imprisonment for a period not exceeding two years, or to both such fine and such imprisonment; or
  - (b) in the case of a continuing offence, a fine not exceeding N\$500 for every day during which the offence continues after the accused has been found guilty of the offence concerned.

## **78. Contributions to cost of laboratories and voluntary associations concerned with public health**

- (1) The Minister may, subject to the conditions as he or she may in each case determine -
- (a) contribute towards the cost of construction, equipment or maintenance of laboratories or other institutions engaged in carrying out researches or investigations regarding human diseases or towards the cost of researches or investigations; or
  - (b) contribute towards the costs incurred by a local authority or educational institution or a public voluntary society or association in connection with -
    - (i) maternity welfare or child welfare;
    - (ii) training of public and environmental health practitioners; and
    - (iii) instruction in first aid or home nursing or other matter relating to public health.

## **79. Delegation of powers and assignment of duties or functions by Minister and chief health officer**

- (1) The Minister may in writing -
- (a) delegate powers conferred upon the Minister by this Act, excluding the power to make regulations and to determine appeal under this Act, to the chief health officer or a staff member in the Ministry; or
  - (b) assign function imposed upon the Minister by this Act to the chief health officer or a staff member in the Ministry.



- (2) The chief health officer may in writing -
  - (a) delegate powers conferred upon the chief health officer by this Act to a staff member in the Ministry; or
  - (b) assign functions imposed upon the chief health officer by this Act to a staff member in the Ministry.
- (3) The Minister or chief health officer -
  - (a) is not divested of a power delegated or a function assigned under subsection (1) or (2);
  - (b) may, without prejudice of a right, vary or set aside a decision made under the power so delegated, or perform a function so assigned; and
  - (c) may withdraw the delegation of a power or the assignment of a function.
- (4) If a decision varied or set aside under subsection (3)(b) relates to a person, that person may, within 14 days after the variation or setting aside of the decision, make written representation to the Minister or the chief health officer regarding the variation or setting aside.

#### **80. Reciprocal notification and consultation between Ministry and veterinary division of Directorate of Agriculture**

- (1) There must be between the Ministry and the veterinary division of the Directorate of Agriculture in the Ministry responsible for agriculture a system of -
  - (a) reciprocal notification as to outbreaks or threatened outbreaks of diseases liable to affect both human beings and animals; and
  - (b) consultation as to the making of regulations.
- (2) If it is under this Act necessary to determine the presence or absence of a disease in a live animal otherwise than by the bacteriological examination of secretions, discharges or other material, only the certificate of a veterinary surgeon appointed by the Permanent Secretary of the Ministry responsible for agriculture, serves as evidence.

#### **81. Contracts in respect of dwellings not to be affected**

Except as specially provided in subsection (5) of section 61 and subsection (5) of section 65, nothing in this Act prejudices the remedies of an owner or occupier of a dwelling or premises for the breach, non-observance or non-performance of a contract entered into by an owner or occupier in respect of which dwelling or premises an order has been made by the court or a local authority under this Act.

#### **82. Savings as to recovery of damage**

Subject to section 83, nothing in this Act is construed as depriving a person of a right which he or she may possess to institute legal proceedings and to obtain damages in a court of law for loss or injury sustained through the neglect of a local authority or a person to perform a function imposed by this Act.

#### **83. Protection of Ministry and local authorities**

- (1) If in the exercise of a power conferred or in the performance of a function imposed upon the Minister, the chief health officer or a staff member of the Ministry or a local authority or a staff member under this Act or other law relating to public health, he or she or it is alleged to -
  - (a) have caused injury to a person or damage to a property; or

- (b) otherwise to have detrimentally affected the rights of a person, whether in respect of property or otherwise,

it is a defence in a legal proceedings founded on an allegation and brought against the Minister, the chief health officer or staff members of the Ministry or a local authority or its staff members that the defendant or respondent has used the best known or the only or most practicable and available methods in the exercise of the power or the performance of the functions.

- (2) In the case of proceedings referred to in subsection (1) against the Minister or a local authority a certificate signed by the chief health officer or the head of health services that the defendant or respondent has, if regard had to all the circumstances, used the best known or the only or most practicable and available methods must be accepted by the court as prima facie evidence of that fact.

#### **84. Protection of staff members**

No report made or action taken or thing done by the Minister or by an authorised staff member of the Ministry or local authority in the exercise of a power conferred or the performance of a function imposed by this Act may subject the Minister or the staff member concerned in his or her personal capacity to a legal proceedings, if the report was made or action was taken or thing was done in good faith and without negligence.

#### **85. Powers of entry and inspection of premises**

- (1) A magistrate or a member of the Namibian Police or other person or staff member, whether in Government or a local authority, generally or specially authorised in writing by the Minister may at reasonable time, enter the land or premises to -
  - (a) make an inspection;
  - (b) perform any work; or
  - (c) do anything,

which he or she is required or authorised by this Act or other law to do, if the inspection, work or thing is necessary for or incidental to the performance of his or her functions or the exercise of his or her powers.

- (2) A person who -
  - (a) fails to give or refuses access to an authorised person referred to in subsection (1) if he or she requests entrance on a land or premises;
  - (b) obstructs or hinders the authorised person in the execution of his or her duties under this Act;
  - (c) fails or refuses to give information that he or she may lawfully be required to give to the authorised person;
  - (d) gives to the authorised person false or misleading information knowing it to be false or misleading; or
  - (e) prevents the owner or his or her employees from entering a land or dwelling or premises for the purpose of complying with a requirement under this Act,

commits an offence and is liable to a fine not exceeding NS100 000 or to imprisonment for a period not exceeding 10 years, or to both such fine and such imprisonment.

**86. Penalties for fraudulent conduct in connection with certificates under this Act**

A person who -

- (a) for the purpose of obtaining a certificate under this Act, makes a false statement or is a party to a false pretence or conduct, knowing it to be false;
- (b) forges or falsified a certificate under this Act or utters a forged or falsified certificate, knowing it to be forged or falsified; or
- (c) uses or attempts to use a document as a certificate under this Act, knowing it to be a forged or falsified document or certificate,

commits an offence and is liable to the penalties prescribed by law for the crime of fraud.

**87. Defect in form not to invalidate**

No defect in the form of a notice given or order made under this Act -

- (a) invalidates or renders unlawful the administrative action; or
- (b) is a ground for exception to a legal proceedings which may be taken in the matter to which the notice or order relates,

if the requirements are substantially and intelligibly set forth.

**88. Service of notices**

- (1) If under this Act a notice, order or other document is required to be given to a person, the notice is considered to be sufficiently served if -
  - (a) sent by registered post addressed to the person at the last known place of abode of the person; or
  - (b) left with the person personally or with some adult inmate,and in the case of a notice, order or other document required to be given to an owner or occupier of land or premises whose abode, after inquiry, is unknown, the same is considered to be sufficiently served if posted up in some conspicuous place on the land or premises.
- (2) It is not necessary in a notice, order or other document given to an owner or occupier of land or premises to name the owner or occupier, but the notice, order or document must describe him or her as the owner or occupier of the land or premises.

**89. Certificate of fitness**

The Minister may prescribe the form of a fitness certificate and manner and procedures for the issuing of fitness certificate as contemplated in the Local Authorities Act and other laws regulating the registration of businesses.

**90. Powers of local authority outside its local authority area**

Nothing in a law governing a local authority is construed as preventing a local authority from exercising a power or performing function under this Act by reason only that in exercising the power or performing the function it may do some act or thing or incur expenditure outside its area.

**91. Conflict of Act with other laws**

If any other law is in conflict or inconsistent with this Act, this Act prevails.

**92. Scope and application of subordinate legislation**

- (1) A regulation, notice or order issued under this Act may be expressed to be in addition to or in substitution for a like document issued by a local authority.
- (2) A regulation, notice or order issued under this Act may be expressed to apply throughout Namibia or a specified part of Namibia.

**93. Application of Act to State**

- (1) Nothing in this Act contained is construed as conferring powers or imposing duties upon a local authority in respect of -
  - (a) land or premises owned or occupied by the State for naval or military purposes; or
  - (b) land or premises owned or occupied by the State for public purposes;but in respect of land or premises referred to in paragraph (b), the Minister may exercise all the powers and must perform all the duties which by this Act are conferred or imposed upon local authorities in respect of other land or premises.
- (2) The Permanent Secretary of a ministry, office or agency occupying land or premises for public purposes is regarded as the owner and if under this Act powers are conferred or duties are imposed upon an employer, the permanent secretary of a ministry, office or agency in which a person is employed is regarded for the purpose of this Act as employer of such person.
- (3) A dwelling or premises belonging to the State and occupied as official residence or quarters by a person under the terms of his or her employment by the State is, for the purposes of this Act, regarded as occupied for public purposes.

**94. Savings and transitional provision**

Anything done under a law repealed by section 95 and which could have been done under a corresponding provision of this Act is deemed to have been done under this Act.

**95. Laws repealed**

The laws set out in the Schedule to this Act are repealed.

**96. Short title and commencement**

This Act is called the Public and Environmental Health Act, 2013, and comes into operation on a date determined by the Minister by notice in the Gazette.

**Schedule****LAWS REPEALED*****(Section 95)***

No. and Year of Law	Short Title	Short Title
Act <a href="#">No. 36 of 1919</a>	Public Health Act	Repealed as a whole
Proclamation No. 36 of 1920	Public Health Proclamation	Repealed as a whole
Ordinance No. 50 of 1957	Public Health Ordinance	Repealed as a whole
Ordinance No. 35 of 1958	Public Health Amendment Ordinance	Repealed as a whole
Ordinance No. 10 of 1964	Public Health Amendment Ordinance	Repealed as a whole
Ordinance No. 2 of 1971	Public Health Amendment Ordinance	Repealed as a whole

[The heading of the third column should be “Extent of Repeal”.]