

BILL NO. 5 OF 2021

A BILL

FOR AN ACT TO AMEND THE PUBLIC HEALTH ACT 1935

ENACTED by the Parliament of the Republic of Fiji—

Short title and commencement

1.—(1) This Act may be cited as the Public Health (Amendment) Act 2021.

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

Part 7 amended

2. Part 7 of the Public Health Act 1935 is amended after section 82 by inserting the following—

“Division 5—Infringement Notices

Interpretation of this Division

82A. In this Division, unless the context otherwise requires—

“authorised officer” means a police officer or any other person authorised by the Minister for the purposes of this Division;

“fixed penalty” means a penalty specified in, and payable on receipt of, an infringement notice; and

“infringement notice” means a notice prescribed by regulations and issued by an authorised officer pursuant to section 82B.

Infringement notices

82B.—(1) Subject to this Division, if an authorised officer has reason to believe that a person has committed an offence under this Part or any subsidiary legislation made under this Part for which a fixed penalty is payable, the authorised officer may issue an infringement notice to the person.

(2) The infringement notice must—

- (a) name the person to whom the infringement notice is issued;
- (b) specify the particulars of the offence;
- (c) specify the fixed penalty that the person named on the infringement notice is required to pay; and
- (d) specify any other information prescribed by regulations.

Regulations for the issuance of infringement notices

82C. The Minister may make regulations prescribing matters that are required to be prescribed or are necessary or convenient to be prescribed for the issuance of infringement notices, including—

- (a) the offences for which infringement notices may be issued;
- (b) the fixed penalties for prescribed offences;
- (c) the manner, form and timeframes for which infringement notices are to be issued;
- (d) the actions a person may undertake on receipt of an infringement notice; and
- (e) other penalties that a person to whom an infringement notice has been issued may be liable to, including—
 - (i) a late payment fee; and
 - (ii) notwithstanding anything contained in any other written law, the closure of businesses.

Division 6—Regulations”.

June 2021

PUBLIC HEALTH (AMENDMENT) BILL 2021

EXPLANATORY NOTE

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

1.0 BACKGROUND

- 1.1 Part 7 of the Public Health Act 1935 (**‘Act’**) provides for all matters relating to infectious diseases.
- 1.2 With the recent outbreak of COVID-19 in Fiji this year, the Minister for Health and Medical Services (**‘Minister’**) and the Permanent Secretary for Health and Medical Services (**‘Permanent Secretary’**) have been issuing orders pursuant to sections 69(1)(c) and 69(3) of the Act respectively for the protection of public health and enforcement of COVID-safe measures.
- 1.3 The Public Health (Amendment) Bill 2021 (**‘Bill’**) seeks to amend Part 7 of the Act to provide for a more efficient regulatory framework, which allows for the issuance of infringement notices for offences committed under Part 7 of the Act or any subsidiary legislation made under Part 7 of the Act. This streamlines the enforcement of COVID-safe measures and orders issued by the Minister and Permanent Secretary.

2.0 CLAUSES

- 2.1 Clause 1 of the Bill provides for the short title and commencement. If passed by Parliament, the amending legislation will come into force on a date appointed by the Minister by notice in the Gazette.
- 2.2 Clause 2 of the Bill amends Part 7 of the Act by inserting a new Division 5 to provide for the issuance of infringement notices and the payment of fixed penalties for any offences committed under Part 7 of the Act or any subsidiary legislation made under Part 7 of the Act for which a fixed penalty is payable. These offences may include the failure to wear an appropriate face covering or present the careFIJI mobile application on entering business premises, or the failure to comply with mandatory curfews, physical distancing requirements and capacity restrictions for gatherings, events, public service vehicles and businesses.

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2.3 Clause 2 of the Bill also sets out other penalties that the Minister may prescribe by regulations, including late payment fees and the closure of businesses. The latter is to ensure that despite the operation of other written laws relating to businesses in Fiji, such businesses may still be shut down due to the failure to comply with COVID-safe measures and orders.

3.0 MINISTERIAL RESPONSIBILITY

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

A. SAYED-KHAIYUM
Attorney-General