

Health Amendment Act 2006

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Health Amendment Act 2006.

2 Commencement

(1) Section 8 comes into force on the earlier of—

- (a) a date appointed by the Governor-General by Order in Council;
- (b) the day 12 months after the date on which this Act receives the Royal assent.

(2) The rest of this Act comes into force on the day after the date on which it receives the Royal assent.

3 Principal Act amended

This Act amends the Health Act 1956.

4 Interpretation

- (1) Section 2(1) is amended by repealing the definition of **quarantinable disease** and inserting the following definitions in their appropriate alphabetical order:

“**craft** means an aircraft, ship, or other device or machine, that can be used to carry or transport people or goods—

“(a) by air; or

“(b) on or under water

“**epidemic management notice** means a notice under section 8(1) of the Epidemic Preparedness Act 2006

“**epidemic notice** means a notice under section 5(1) of the Epidemic Preparedness Act 2006

“**passenger**, in relation to a craft means any person in or on it who is not a member of its crew

“**quarantinable disease** means a disease stated in Part 3 of Schedule 1”.

- (2) Section 2 is amended by adding the following subsection:

“(3) The Governor-General may, by Order in Council, amend Part 3 of Schedule 1 by adding or omitting the name of a disease, or substituting a new name for a disease.”

- (3) The Part set out in the Schedule to this Act is added to Schedule 1.

- (4) The definition of **quarantinable disease** in regulation 2 of the Health (Quarantine) Regulations 1983 is consequentially revoked.

5 Special powers of Medical Officer of Health

- (1) Section 70(1) is amended by inserting “or while an epidemic notice is in force” after “the Civil Defence Emergency Management Act 2002”.

- (2) Section 70(1) is amended by inserting the following paragraph after paragraph (e):

“(ea) if the spread of the disease would be a significant risk to the public, require people to report, or submit themselves for medical testing, at stated times and places.”

- (3) Section 70(1)(f) is amended by omitting “ships, animals, and things” and substituting “ships, vehicles, aircraft, animals, or things”.

- (4) Section 70(1) is amended by inserting the following paragraph after paragraph (f):
- “(fa) if the spread of the disease would be a significant risk to the public, require people, places, buildings, ships, vehicles, aircraft, animals, or things to be tested as he or she thinks fit.”.
- (5) Paragraphs (g) and (i) of section 70(1) are amended by omitting “ships, animals, or things” and substituting “ships, vehicles, aircraft, animals, or things”.
- (6) Section 70(1)(h) is amended by omitting “Forbid persons to leave” and substituting “require people to remain in”.
- (7) Section 70(1) is amended by repealing paragraphs (m) to (o) and substituting paragraphs:
- “(la) by written order to the person appearing to be in charge of the premises concerned, do either or both of the following:
- “(i) require to be closed immediately, until further order or for a fixed period, any premises within the health district (or a stated area of the district):
- “(ii) require to be closed immediately, until further order or for a fixed period, any premises within the health district (or a stated area of the district) in which infection control measures described in the order are not operating:
- “(m) by order published in a newspaper circulating in the health district or by announcement broadcast by a television channel or radio station that can be received by most households in the health district, do any of the following:
- “(i) require to be closed, until further order or for a fixed period, all premises within the district (or a stated area of the district) of any stated kind or description:
- “(ii) require to be closed, until further order or for a fixed period, all premises within the district (or a stated area of the district) of any stated kind or description in which infection control measures described in the order are not operating:
- “(iii) forbid people to congregate in outdoor places of amusement or recreation of any stated kind or description (whether public or private) within the district (or a stated area of the district):

- “(iv) forbid people to congregate in outdoor places of amusement or recreation of any stated kind or description (whether public or private) within the district (or a stated area of the district) in which infection control measures described in the order are not operating.”
- (8) Section 70 is amended by inserting the following subsections after subsection (1):
- “(1A) An order under paragraph (la) or (m) of subsection (1) does not apply to—
- “(a) any premises that are, or any part of any premises that is, used solely as a private dwellinghouse; or
 - “(b) any premises within the parliamentary precincts (within the meaning of section 3 of the Parliamentary Service Act 2000); or
 - “(c) any premises whose principal or only use is as a courtroom or judge’s chambers, or a court registry; or
 - “(d) any premises that are, or are part of, a prison (within the meaning of section 3(1) of the Corrections Act 2004).
- “(1B) An order under paragraph (la) or (m) of subsection (1) may exempt people engaged in necessary work in the premises to which it relates.
- “(1C) If the Medical Officer of Health publishes an order under subsection (1)(m) in a newspaper circulating in the health district, he or she must also make reasonable efforts to have the contents or gist of the order published by announcement broadcast by a television channel or radio station that can be received by most households in the health district.
- “(1D) The Medical Officer of Health may publish in any other manner he or she thinks appropriate an order under paragraph (la) or (m) of subsection (1) or its gist.”
- (9) Section 70 is amended by adding the following subsection:
- “(4) If satisfied that it is desirable in the circumstances to do so, the Director-General may authorise a Medical Officer of Health to operate in a stated area outside his or her district; and in that case, this section and section 71 apply as if the area is part of both his or her district and the district of which it is in fact part.”

6 Powers of Medical Officer of Health on outbreak of infectious disease

- (1) Section 71(1) is amended by inserting “or while an epidemic notice is in force” after “the Civil Defence Emergency Management Act 2002”.
- (2) Section 71(1) is amended by repealing paragraphs (a) and (b) and substituting the following paragraphs:
- “(a) by requisition in writing served on its owner or occupier, take possession of, occupy, and use any land or building (whether public or private) that in his or her opinion is required for the accommodation and treatment of patients:
- “(ab) by requisition in writing served on the owner, occupier, or other person for the time being in charge of it, take possession of, occupy, and use any land, building, vehicle, or craft (other than an aircraft), whether public or private, that in his or her opinion is required for the storage or disposal of bodies:
- “(b) by requisition in writing served on the owner or other person for the time being in charge of it, take possession of and use any vehicle or craft, whether public or private, that in his or her opinion is required for the transport of—
- “(i) patients, medical personnel, medicine, medical equipment or devices, food, or drink; or
- “(ii) clothing, bedding, or tents or other temporary facilities or structures; or
- “(iii) personnel involved in loading, moving, unloading, distributing, erecting, or otherwise dealing with anything transported or to be transported under subparagraph (i) or subparagraph (ii):”.

7 New sections 71A and 72 substituted

Section 72 is repealed and the following sections are substituted:

“71A Power of members of police to assist Medical Officer of Health in relation to infectious diseases

- “(1) A member of the police may do any thing reasonably necessary (including the use of force)—
- “(a) to help a Medical Officer of Health or any person authorised by a Medical Officer of Health in the exercise

- or performance of powers or functions under section 70 or 71; or
- “(b) to help a person to do a thing that a Medical Officer of Health or any person authorised by a Medical Officer of Health has caused or required to be done in the exercise or performance of powers or functions under section 70 or 71; or
 - “(c) to prevent people from obstructing or hindering a Medical Officer of Health or any person authorised by a Medical Officer of Health in the exercise or performance of powers or functions under section 70 or 71; or
 - “(d) to prevent people from obstructing or hindering a person doing a thing that a Medical Officer of Health or any person authorised by a Medical Officer of Health has caused or required to be done in the exercise or performance of powers or functions under section 70 or 71; or
 - “(e) to compel, enforce, or ensure compliance with a requirement made by a Medical Officer of Health or any person authorised by a Medical Officer of Health in the exercise or performance of powers or functions under section 70 or 71; or
 - “(f) to prevent, or reduce the extent or effect of, the doing of a thing that a Medical Officer of Health or any person authorised by a Medical Officer of Health has forbidden or prohibited in the exercise or performance of powers or functions under section 70 or 71.
- “(2) A member of the police acting under subsection (1) may at any time do any or all of the following things:
- “(a) enter into or on any land, building, aircraft, ship, or vehicle:
 - “(b) inspect any land, building, aircraft, ship, or vehicle, and any thing in or on it:
 - “(c) whether for the purposes of paragraph (a) or (b) (or both) or in the exercise of a power conferred by subsection (1),—
 - “(i) stop a ship or vehicle, or a taxiing aircraft; or
 - “(ii) prevent a stationary aircraft, ship, or vehicle from moving; or

- “(iii) prevent an aircraft or ship from departing.
- “(3) Subsection (2) does not limit the generality of subsection (1).
- “(4) A member of the police may do a thing authorised by subsection (1) or (2) whether or not a Medical Officer of Health has asked him or her to do so.
- “(5) Subsections (2) to (6) of section 314B, and sections 314C and 314D, of the Crimes Act 1961, with any necessary modifications, apply to the powers conferred by subsection (2)(c)—
- “(a) as if they were a statutory search power within the meaning of section 314A of that Act; but
- “(b) as if a ship or taxiing aircraft were a vehicle.
- “(6) A member of the police does not incur any personal liability by reason of anything done by him or her in good faith in the exercise or intended exercise of a power conferred by this section.

“**72 Offences relating to obstructing Medical Officer of Health or people assisting Medical Officer of Health**

A person commits an offence and is liable to imprisonment for a term not exceeding 6 months, a fine not exceeding \$4,000, or both who in any way (directly or indirectly, by act or default)—

- “(a) threatens, assaults, or intentionally obstructs or hinders a Medical Officer of Health or any person authorised by a Medical Officer of Health in the exercise or performance of powers or functions under section 70 or 71; or
- “(b) threatens, assaults, or intentionally obstructs or hinders a member of the police acting under section 71 A; or
- “(c) does anything forbidden by a Medical Officer of Health or any person authorised by a Medical Officer of Health under section 70 or 71; or
- “(d) fails or refuses to comply with, or delays complying with, a direction or requirement of a Medical Officer of Health or any person authorised by a Medical Officer of Health given in the exercise of powers or functions under section 70 or 71; or
- “(e) does, or delays ceasing to do, a thing prohibited or forbidden by a Medical Officer of Health or any person authorised by a Medical Officer of Health in the exercise of powers or functions under section 70 or 71.”

8 New section 74AA inserted

The following section is inserted after section 74:

“74AA Medical laboratories to give notice of cases of notifiable disease

- “(1) The person in charge of a medical laboratory must take all reasonably practicable steps to ensure that there are in place in it efficient systems for reporting to him or her (or to any other person for the time being in charge of it) the results of a test or other procedure undertaken in it that indicate that a person or thing is, has been, or may be or have been, infected with a notifiable disease.
- “(2) The person for the time being in charge of a medical laboratory to whom results are reported under subsection (1) (or who himself or herself becomes aware of results of a kind to which that subsection applies) must immediately tell the health practitioner for whom the test or other procedure concerned was undertaken, and the Medical Officer of Health, of the infectious nature of the disease concerned.
- “(3) A person who fails to comply with subsection (2)—
- “(a) commits an offence against this Act; and
 - “(b) is liable to a fine not exceeding \$10,000 and, if the offence is a continuing one, to a further fine not exceeding \$500 for every day on which it has continued.”

9 New sections 74B to 74D inserted

The following sections are inserted before section 75:

“74B Medical laboratories may be required to give notice of cases of disease during epidemic

- “(1) Before the commencement of section 8, an epidemic management notice may provide for this Act to have effect as if section 74AA (as to be inserted by that section) were already in force, but in relation only to the disease stated in the notice.
- “(2) Unless the notice provides that section 74AA is to apply to medical laboratories in stated parts of New Zealand only, the section applies to medical laboratories throughout New Zealand.
- “(3) While the notice is in force, every provision of this Act (other than this section) has effect—

- “(a) as if section 74AA were in force; but
 - “(b) as if the references in that section to a notifiable disease were references to the quarantinable disease stated in the notice (or, if 2 or more notices are in force, to the quarantinable diseases stated in the notices).
- “(4) The fact that the notice has expired does not affect any criminal or civil liability arising while it was in force.

“**74C Priorities for medicines**

- “(1) The Director-General may at any time devise policies determining the priorities with which supplies of medicines that are under the control of the Crown or a Crown entity are to be dispensed during outbreaks of quarantinable diseases.
- “(2) While an epidemic notice is in force,—
- “(a) the Director-General may, if satisfied that there is or is likely to be a shortage of medicines because of the outbreak of the disease stated in the epidemic notice, in accordance with a policy devised under subsection (1) for the medicines, by notice in the *Gazette* require persons administering, dispensing, prescribing, or supplying stated medicines that are under the control of the Crown or a Crown entity to administer, dispense, prescribe, or supply them in accordance with priorities, and subject to any conditions, stated in the notice; and
 - “(b) every person administering, dispensing, prescribing, or supplying medicines stated in the notice that are under the control of the Crown or a Crown entity must—
 - “(i) comply with the priorities; and
 - “(ii) comply with any conditions, stated in the notice.
- “(3) A notice under subsection (2) must state whether it applies to—
- “(a) all persons administering, dispensing, prescribing, or supplying the medicines concerned; or
 - “(b) particular classes of person administering, dispensing, prescribing, or supplying the medicines concerned; or
 - “(c) particular persons administering, dispensing, prescribing, or supplying the medicines concerned.

- “(4) A notice under subsection (2) may relate to any medicine, whether or not it can be used in relation to the disease stated in the epidemic notice.
- “(5) The Director-General must publish every policy; but may do so by making it available on the Internet.
- “(6) In this section, **medicine** means any substance used or capable of being used to prevent, treat, or palliate a disease, or the symptoms or effects of a disease.

“74D Redirection of aircraft

- “(1) While an epidemic management notice providing for Medical Officers of Health to do so is in force, a Medical Officer of Health may by written or oral notice (in the case of an oral notice, whether given face-to-face or by radio) require the pilot in charge of an aircraft that has landed at a place in New Zealand to travel, as soon as practicable, to another stated place in New Zealand.
- “(2) The Medical Officer of Health must not give the notice unless satisfied—
- “(a) that—
- “(i) the disease stated in the epidemic management notice has or is likely to have broken out in a place the aircraft has come from (whether directly, or via other places); or
- “(ii) the disease has or is likely to have broken out in the place where the aircraft has landed; or
- “(iii) the aircraft is or is likely to be carrying people infected with the disease; and
- “(iv) the aircraft or anything in it is or is likely to be contaminated with the disease; and
- “(b) measures necessary to deal with the situation can more practicably be carried out at the other place.”

10 New sections 97 to 97G substituted

- (1) Section 97 is repealed and the following sections are substituted:

“97 People liable to quarantine

- “(1) A person is liable to quarantine if he or she is on board, or disembarks from, a craft that is liable to quarantine.
- “(2) This subsection applies to a person liable to quarantine if the Medical Officer of Health believes or suspects, on reasonable grounds,—
- “(a) that he or she is infected with a quarantinable disease; or
 - “(b) that, within the 14 days before he or she arrived in New Zealand, he or she has been exposed to a disease that (whether or not it was a quarantinable disease at the time of the believed or suspected exposure) is a quarantinable disease.

“97A People liable to quarantine to comply with directions and supply information

- “(1) A person who is liable to quarantine—
- “(a) must comply with all directions, requirements, or conditions given, made, or imposed by the Medical Officer of Health or a person authorised by the Medical Officer of Health under this Part; and
 - “(b) must, on request by the Medical Officer of Health or a person authorised by the Medical Officer of Health, give any information the officer believes on reasonable grounds to be necessary to enable the management of risks to public health.
- “(2) In the case of people arriving in New Zealand by craft, the Medical Officer of Health or a person authorised by the Medical Officer of Health may request information under subsection (1)(b) by requiring the person appearing to the officer to be in charge of the craft to collect or supply some or all of it—
- “(a) by requiring the person to distribute and collect cards or forms for passengers and crew to fill in; or
 - “(b) in any other reasonable manner the officer may require.
- “(3) A person required under subsection (2) to collect or supply information must take all reasonably practicable steps to do so promptly.
- “(4) For the purposes of subsection (1)(b), the information that may be requested from a person includes—

- “(a) his or her name; and
 - “(b) his or her recent travel history; and
 - “(c) his or her recent activities; and
 - “(d) his or her previous and present addresses, and proposed routes, destinations, and addresses; and
 - “(e) his or her movements during the 14 days before his or her arrival; and
 - “(f) whether he or she is experiencing or has recently experienced particular symptoms.
- “(5) Subsection (2) does not limit subsection (1).
- “(6) The Medical Officer of Health or a person authorised by the Medical Officer of Health may obtain from the department of State responsible for keeping it (and the department may supply to the Medical Officer of Health or a Health Protection Officer) any information about a person who is liable to quarantine that the officer believes on reasonable grounds to be necessary to obtain in order to trace the person’s movements or discover the contacts the person has had with other people.
- “(7) Subsection (1)(b) does not limit the generality of subsection (1)(a).

“97B Detention of craft and people

- “(1) The Medical Officer of Health, a Health Protection Officer, or a person acting under the written directions of the Medical Officer of Health or a Health Protection Officer, may direct that a craft and its passengers and crew be detained for inspection if—
- “(a) the craft has arrived in New Zealand; and
 - “(b) it appears to the officer that, during the voyage of the craft,—
 - “(i) a person on it has died, or become ill, from a quarantinable disease; or
 - “(ii) death not attributable to poison or other measures for destruction has occurred among birds, insects, or rodents on the craft.
- “(2) The Medical Officer of Health or Health Protection Officer must tell the person in charge of the airport or port concerned of any direction he or she gives under subsection (1); and that person must not allow the craft concerned to leave the airport

or port until given written notice under section 97C of the lifting of the detention of the craft.

“97C Lifting of detention of craft

The detention of a craft under section 97B ceases when the Medical Officer of Health or a Health Protection Officer gives the person in charge of the airport or port written notice to that effect.

“97D Powers and duties of Medical Officer of Health or Health Protection Officer in relation to quarantinable diseases

“(1) If a craft arrives in New Zealand carrying a person to whom section 97(2) applies, the Medical Officer of Health or a Health Protection Officer may—

- “(a) require the person to be examined:
- “(b) require to be taken from the person any bodily sample the officer may reasonably require:
- “(c) require to be taken from the craft or any thing in or on it any reasonable sample the officer may require:
- “(d) require the captain of the craft to take or help take any steps that, in the opinion of the Medical Officer of Health or Health Protection Officer, are reasonably necessary—
 - “(i) to prevent the spread of infection by the person; or
 - “(ii) to destroy birds, insects, or rodents; or
 - “(iii) to remove or abate conditions on the craft likely to convey infection, including conditions that might facilitate the harbouring of vermin.

“(2) A person whom subsection (1) empowers the Medical Officer of Health or a Health Protection Officer to examine or take a sample from must allow the officer to examine him or her or (as the case requires) take the sample.

“97E Surveillance of certain people liable to quarantine

- “(1) This subsection applies to a person if—
- “(a) section 97(2) applies to him or her; or
 - “(b) he or she is liable to quarantine and has been quarantined under section 70(1)(f).

- “(2) A person to whom subsection (1) applies must (whether or not he or she is detained under subsection (3)(a) or kept under surveillance at large under subsection (3)(b)) give to the Medical Officer of Health all information he or she reasonably requires to enable the management of risks to public health.
- “(3) The Medical Officer of Health or a Health Protection Officer may cause a person to whom subsection (1) applies—
- “(a) to be removed to a hospital or other suitable place and detained under surveillance until the Medical Officer of Health or a Health Protection Officer is satisfied that he or she—
 - “(i) is not infected with the disease concerned; or
 - “(ii) is not able to pass that disease on; or
 - “(b) to be kept under surveillance at large.
- “(4) Detention under subsection (3)(a)—
- “(a) must not continue for more than 28 days; and
 - “(b) must not continue for more than 14 days unless the Medical Officer of Health or a Health Protection Officer has considered the latest information available on the disease concerned, and is satisfied that the person is infected with it and still likely to be able to pass it on.
- “(5) Before being placed under surveillance at large, a person must give an undertaking, in a form prescribed by regulations made under this Act, that he or she will report to the Medical Officer of Health or a medical practitioner at the times and places required.
- “(6) While kept under surveillance at large, a person must—
- “(a) present himself or herself for and submit to any medical examination or testing required by the Medical Officer of Health in whose district he or she may be:
 - “(b) give to the Medical Officer of Health all information he or she reasonably requires to enable the management of risks to public health:
 - “(c) if instructed to do so by the Medical Officer of Health, do either or both of the following:
 - “(i) report on arrival in any district to the Medical Officer of Health or to a medical practitioner nominated by the Medical Officer of Health:

“(ii) report in person daily or at stated intervals to the Medical Officer of Health or a medical practitioner nominated by the Medical Officer of Health:

“(d) if he or she leaves for another place, tell the Medical Officer of Health, or the medical practitioner nominated by the Medical Officer of Health, and give details of the address to which he or she is going.

“97F Children and people under disability

Every person who has the custody or charge of a child or the role of providing day-to-day care for a child, or has charge of a person who is under disability,—

“(a) must comply with every direction, requirement, or condition given, made, or imposed in respect of the child or person under disability under any of sections 97A to 97E; and

“(b) must give in respect of the child or person under disability all information required under any of those sections.

“97G Offences against this Part

Every person who fails or refuses to comply with any of sections 97A(1), 97A(2), 97B(2), 97D(2), 97E(5), 97E(6), or 97F commits an offence against this Act”.

(2) The Health (Quarantine) Regulations 1983 are consequentially amended by—

(a) omitting from regulation 22(2) “subclause (1) of this regulation” and substituting “section 97B(1) of the Act”; and

(b) revoking regulations 23 to 26, and subclauses (1) and (3) of regulation 22.

11 New sections 109 and 110 substituted

Sections 109 and 110 are repealed and the following sections are substituted:

“109 Infected baggage, cargo, or stores

“(1) If the Medical Officer of Health or a Health Protection Officer believes that a quarantinable disease is likely to be spread by any baggage, bedding, cargo, clothing, drink, equipment,

food, linen, luggage, stores, water, or other substance or thing that is on or has been removed from a craft, he or she may do any thing, and give any directions, in respect of it prescribed by regulations under this Act.

- “(2) Subsection (1) does not empower the Medical Officer of Health or a Health Protection Officer to enter a private dwellinghouse.
- “(3) A person who fails to comply with a direction under subsection (1)—
- “(a) commits an offence against this Act; and
 - “(b) is liable to a fine not exceeding \$10,000 and, if the offence is a continuing one, to a further fine not exceeding \$500 for every day on which it has continued.

“110 Disinfection and fumigation of craft

- “(1) The Medical Officer of Health or a Health Protection Officer may, if he or she believes that a craft is in an insanitary condition or in a condition favourable to the outbreak or spread of an infectious disease, sign and give to the master or pilot a written order requiring the craft to be cleansed, fumigated, disinfected, or treated, in a manner, within a time, and at a place stated in the order.
- “(2) The order may be given whether or not the craft is liable to quarantine.
- “(3) If the order is not complied with,—
- “(a) the master or pilot commits an offence, and is liable to a fine not exceeding \$10,000; and
 - “(b) the Medical Officer of Health or a Health Protection Officer may have the craft cleansed, fumigated, disinfected, or treated (whether in accordance with the order or otherwise).
- “(4) All expenses incurred by the Crown in acting under subsection (3)(b) are recoverable from the owner or agents of the craft as a debt due to the Crown.
- “(5) No action taken in respect of a craft under paragraph (b) of subsection (3) limits the liability of its master or pilot under paragraph (a) of that subsection.

- “(6) Regulations made under this Act may give the Medical Officer of Health and Health Protection Officers powers in respect of the destruction of birds, rodents, or insects on ships.
- “(7) Subsection (6) does not limit the general powers given by this section.”

12 New section 112AA inserted

The following section is inserted after section 112:

“112AA Sections 70 and 71 and this Part operate independently

The powers conferred by sections 70 and 71 and the powers conferred by this Part may be used in respect of the same situation; and—

- “(a) nothing in section 70 or 71 limits or affects the powers conferred by this Part; and
- “(b) nothing in this Part limits or affects the powers conferred by section 70 or 71.”

Schedule

s 4(3)

New Part 3 of Schedule 1

“3

“Quarantinable infectious diseases

“

- “1 avian influenza (capable of being transmitted between human beings)
- “2 cholera
- “3 plague
- “4 yellow fever.”

Legislative history

6 December 2006

Divided from Law Reform (Epidemic

Preparedness) Bill (Bill 39-2) as Bill 39-3B

12 December 2006

Third reading
