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THE PUBLIC HEALTH ACT

CAP. 242

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Public Health Act

Cap. 242

Legislation as at 31 December 2022

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An Act of Parliament to make provision for securing and maintaining health

Part I – PRELIMINARY

1. Short title

This Act may be cited as the Public Health Act.

2. Interpretation

In this Act, unless the context otherwise requires—

"adult" means a person of eighteen years of age or over;

"approved" and "prescribed" means respectively approved or prescribed by the Cabinet Secretary or the board or by the appointed officers or by the regulations framed under this Act as the case may be;

"basement" means any cellar, vault or underground room;

"board" means the Central Board of Health constituted under section 3;

"building" includes any structure whatsoever for whatever purpose used;

"burial" means burial in earth, interment or any other form of sepulture, or the cremation or any other mode of disposal of a dead body, and "buried" has a corresponding meaning;

"child" means a person under eighteen years of age;

"commercial area" means any area in any municipality, township or district which the Cabinet Secretary may, by order, define;

"dairy" means any farmhouse, cow-shed, milk-shop, milk-store or other place from which milk is supplied on, or for, sale, or in which milk is kept or used for purposes of sale or in which only surplus milk is manufactured into butter or cheese, or in which vessels used for the sale of milk are kept, but does not include premises from which milk is not supplied otherwise than in receptacles which are properly closed and sealed on delivery to the premises and which remain properly closed and sealed during the whole time from their delivery to the premises until their removal by the purchaser;

"dairyman" includes any cow-keeper, purveyor of milk or occupier of a dairy, and, in cases where a dairy is owned by a corporation or company, the secretary or other person actually managing the dairy;

"drain" means any drain used for the drainage of one building only, or of premises within the same curtilage and made merely for the purpose of communicating therefrom with a cesspool or other like

receptacle for drainage, or with a sewer into which the drainage of two or more buildings or premises occupied by different persons is conveyed;

"drainage authority" means the Ministry of Works or any other authority that the Cabinet Secretary may appoint for any particular area;

"dwelling" means any house, room, shed, hut, cave, tent, vehicle, vessel or boat or any other structure or place whatsoever, any portion whereof is used by any human being for sleeping or in which any human being dwells;

"factory" means any building or part of a building in which machinery is worked by steam, water, electricity or other mechanical power, for the purposes of trade;

"food" means any article used for food or drink other than drugs or water, and any article intended to enter into or be used in the preparation of such food, and flavouring matters and condiments;

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

"health authority", in relation to the area of a municipality, means the municipal council of the municipality concerned, and, in relation to any other area, means the Cabinet Secretary;

"infected" means suffering from, or in the incubation stage of, or contaminated with the infection of, any infectious or communicable disease;

"infectious disease" means any disease (not including any venereal disease except gonorrhoeal ophthalmia) which can be communicated directly or indirectly by any person suffering therefrom to any other person;

"isolation" means the segregation and the separation from and interdiction of communication with others, of persons who are or are suspected of being infected; "isolated" has a corresponding meaning;

"keeper of a lodging-house" means any person licensed to keep a lodging- house;

"land" includes any right over or in respect of immovable property;

"latrine" includes privy, urinal, earth-closet and water-closet;

"lodging-house" means a building or part of a house including the veranda thereof, if any, which is let or sublet in lodgings or otherwise, either by storeys, by flats, by rooms or by portions of rooms;

"magistrate" means any magistrate empowered to hold a subordinate court of the first, second or third class;

"meat inspector" means any person employed by a health authority to inspect any meat;

"medical officer of health" means—

(a) the Director-General for health; and

(b) in relation to the area of any municipality, the duly appointed medical officer of health of the municipality including a public officer seconded by the Government to hold such office; and

(c) in relation to any other area a medical officer of health appointed by the Cabinet Secretary for that area;

"medical observation" means the segregation and detention of persons under medical supervision;

"medical surveillance" means the keeping of a person under medical supervision; persons under such surveillance may be required by the medical officer of health or any duly authorized officer to remain within a specified area or to attend for medical examination at specified places and times;

"the Cabinet Secretary" means the Cabinet Secretary for the time being responsible for matters relating to Health;

"occupier" includes any person in actual occupation of land or premises without regard to the title under which he occupies and in case of premises subdivided and let to lodgers or various tenants the person receiving the rent payable by the lodgers or tenants whether on his own account or as an agent for any person entitled thereto or interested therein;

"offensive trade" includes the trades of blood-boiler, bone-boiler, fell- monger, soap-boiler, tallow-melter and tripe-boiler, and any other noxious or offensive trade, business or manufacture whatsoever;

"this Act" includes any rules or order made thereunder;

"owner", as regards immovable property, includes any person, other than the Government, receiving the rent or profits of any lands or premises from any tenant or occupier thereof or who would receive such rent or profits if such land or premises were let whether on his own account or as agent for any person, other than the Government, entitled thereto or interested therein; the term includes any lessee or licensee from the Government and any superintendent, overseer or manager of such lessee or licensee residing on the holding;

"parent" means the father and the mother of a child, whether legitimate or not;

"premises" includes any building or tent together with the land on which the same is situated and the adjoining land used in connexion therewith, and includes any vehicle, conveyance or vessel;

"public building" means a building used or constructed or adapted to be used either ordinarily or occasionally as a place of public worship or as a hospital, college, school, theatre, public hall or as a public place of assembly for persons admitted by ticket or otherwise, or used or adapted to be used for any other public purpose;

"public latrine" means any latrine to which the public are admitted on payment or otherwise;

"rules" includes regulations and by-laws made or deemed to be made under this Act;

"slaughterhouse" means any premises set aside for the purpose of the slaughter of animals for human consumption;

"stock" means all domesticated animals of which the flesh or milk is used for human consumption;

"street" means any highway, road or sanitary lane, or strip of land reserved for a highway, road or sanitary lane, and includes any bridge, footway, square, court, alley or passage whether a thoroughfare or not, or a part of one;

"trade premises" means any premises (other than a factory) used or intended to be used for carrying on any trade or business;

"veranda" includes any stage, platform or portico projecting from the main wall of any building;

"veterinary officer" means a veterinary surgeon in the employment of the Government;

"workshop" means any building or part of a building in which manual labour is exercised for purposes of trade.

[L.N. 187/1956, Sch., L.N. 172/1960, Sch., Act No. 28 of 1961, Sch., Act No. 36 of 1962, Sch., L.N. 256/1963, 4th Sch., Act No. 21 of 1966, First Sch., L.N. 41/1970, Sch., Act No. 21 of 2017, s. 70.]

Part II – ADMINISTRATION

3. Central Board of Health

(1) There shall be established a Central Board of Health (hereinafter referred to as the board), having its seat at Nairobi, which shall consist of the Director-General for health (who shall be Chairperson), a sanitary engineer, or such person as may be appointed by the Cabinet Secretary to perform the duties of sanitary engineer, a secretary, and such other person or persons not exceeding six (three of whom shall be medical practitioners) as are appointed from time to time by the Cabinet Secretary.

(2) In the absence of the Director-General for health the board shall elect a Chairperson from the members present.

[L.N. 187/1956, Sch., L.N. 172/1960, Sch., Act No. 21 of 2017, s. 70.]

4. Appointments to be gazetted

The names of all members appointed to the board shall be forthwith notified in the *Gazette* and any number of the *Gazette* containing a notice of any such appointment shall be deemed sufficient evidence thereof for all purposes.

5. Filling vacancies

The Cabinet Secretary shall, as soon as possible, fill up vacancies occurring in the board, but the board shall continue to exercise its powers as long as there shall remain on the board at least five members of whom the Director-General for health is one.

[L.N. 187/1956, Sch., L.N. 172/1960, Sch., Act No. 21 of 2017, s. 70.]

6. Substitute members

If any member of the board is at any time prevented by absence or other cause from acting, the Cabinet Secretary may appoint some other person to replace such member until he returns or is able to resume his functions.

[L.N. 187/1956, Sch., L.N. 172/1960, Sch.]

7. Rules as to meetings of board, etc.

The Cabinet Secretary may make rules as to the convening and holding meetings of the board, the quorum thereof, the procedure thereat, allowances payable to members thereof and the circumstances in which any member shall vacate his membership.

[L.N. 188/1956, Sch., L.N. 173/1960, Sch.]

7A. Committees

The board may appoint committees, whether of its own members or otherwise, to carry out general or specific functions as may be specified by the board and may delegate to any such committee such of its powers as the board may deem appropriate.

[Act No. 15 of 1990, s. 2.]

7B. Establishment of district health management boards

(1) There shall be established a district health management board in each district which shall be charged with responsibility of overseeing the running of Government health institutions in that district.

(2) The Cabinet Secretary may make rules as to the composition of the district health management boards, the convening and holding of meetings of the boards, the procedure thereat, allowances payable to members thereof and the circumstances in which any member shall vacate his membership.

[Act No. 15 of 1990, s. 2.]

8. Functions of board

The functions of the board shall be to advise the Cabinet Secretary upon all matters affecting the public health, and particularly upon all matters mentioned in subsection (2) of section 10.

[Act No. 28 of 1961, Sch., L.N. 256/1963, 4th Sch.]

9. Appointment and duties of officers

(1) There shall from time to time be appointed a Director-General for health, a Deputy Director-General for health, assistant directors of medical services, medical officers of health, assistant medical officers of health, medical officers, pathologists, health inspectors, port health officers and such other officers as may be deemed necessary.

(2) Notwithstanding subsection (1), any municipal council may, with the approval of the Cabinet Secretary, and shall if so directed by the Cabinet Secretary for the time being responsible for Local Government with the approval of the Cabinet Secretary, appoint for its area a medical officer of health and such deputy and assistant medical officers of health and such health inspectors as it may deem necessary.

(3) The Cabinet Secretary, in consultation with the Cabinet Secretary for the time being responsible for Local Government, may prescribe the qualifications to be held by, the mode and terms of engagement of, and the duties to be performed by, all or any of the officers and inspectors referred to in subsection (1).

(4) Every medical officer and every medical officer of health appointed under this section shall be a medical practitioner.

(5) The officers appointed under this section shall carry out such duties in relation to public health as the Director-General for health may respectively assign to them.

(6) The Director-General for health or Deputy Director-General for health or any assistant director of medical services, medical officer of health, assistant medical officer of health, port health officer or health inspector acting on his authority and behalf shall also make any necessary inquiries and inspections in regard to or advise local authorities on any matter incidental to public health.

[Act No. 44 of 1962, Sch., L.N. 365/1964, Sch., L.N. 41/1970, Sch., Act No. 21 of 2017, s. 70.]

10. Functions of Medical Department

(1) There shall be a department, to be known as the Medical Department, which shall be under the control of the Director-General for health.

(2) The functions of the Medical Department shall be, subject to the provisions of this Act, to prevent and guard against the introduction of infectious disease into Kenya from outside; to promote the public health and the prevention, limitation or suppression of infectious, communicable or preventable disease within Kenya; to advise and direct local authorities in regard to matters

affecting the public health; to promote or carry out researches and investigations in connexion with the prevention or treatment of human diseases; to prepare and publish reports and statistical or other information relative to the public health; and generally to carry out in accordance with directions the powers and duties in relation to the public health conferred or imposed by this Act.

(3) It shall be the duty of the department to obtain and publish periodically such information regarding infectious disease and other health matter in Kenya, and such procurable information regarding epidemic disease in territories adjacent to Kenya or in other countries, as the interests of the public health may require.

[Act No. 21 of 2017, s. 70.]

11. Power to direct inquiries

The Cabinet Secretary may, on the advice of the board or of the Medical Department, cause to be made such inquiries as he may see fit in relation to any matters concerning the public health in any place.

[Act No. 28 of 1961, Sch.]

12. Powers of persons directed to make inquiries

When an inquiry is directed to be made by the Cabinet Secretary, the person directed to make the same shall have free access to all books, plans, maps, documents and other things relevant to the inquiry, and shall have in relation to witnesses and their examination and the production of documents similar powers to those conferred upon magistrates by the Criminal Procedure Code (Cap. 75), and may enter and inspect any building, premises or place the entry or inspection whereof appears to him requisite for the purpose of such inquiry.

[Act No. 28 of 1961, Sch.]

13. General duties of health authorities

It shall be the duty of every health authority to take all lawful, necessary and, under its special circumstances, reasonably practicable measures for preventing the occurrence or dealing with any outbreak or prevalence of any infectious, communicable or preventable disease, to safeguard and promote the public health and to exercise the powers and perform the duties in respect of the public health conferred or imposed on it by this Act or by any other law.

[L.N. 256/1963, 4th Sch., L.N. 41/1970, Sch.]

14. Proceedings on complaint to board of municipal councils

(1) Whenever complaint is made to the board that the public health in any locality is endangered by the failure or refusal on the part of any municipal council to exercise its powers or perform the duties devolving upon it under this Act or any other Act which it is its duty to enforce, the Cabinet Secretary on the recommendation of the board, if satisfied after due inquiry that the municipal council has been guilty of the alleged default, may make an order directing the municipal council to perform its duty in the matter of such complaint, and prescribing a time for such performance.

(2) If the duty is not performed within the time prescribed in the order, the Cabinet Secretary may appoint some person to perform the duty, and shall by order direct that the expense of performing the same, together with a reasonable remuneration to the person appointed for superintending such performance, and amounting to a sum specified in the order, shall be paid by the municipal council in default, and any order made for the payment of such expenses and costs may be recovered in a court of competent jurisdiction.

(3) Any person appointed under this section to perform the duty of a defaulting municipal council shall, in the performance and for the purposes of that duty, have all the powers of such municipal council, other than the powers of levying rates vested in any municipal council pursuant to the

provision of any Act in that behalf; and the Cabinet Secretary may from time to time by order change any person so appointed.

[L.N. 187/1956, Sch., L.N. 172/1960, Sch., Act No. 28 of 1961, Sch., L.N. 256/1963, 4th Sch., L.N. 41/1970, Sch.]

15. Cabinet Secretary to be consulted over municipal council by-laws

The Cabinet Secretary for the time being responsible for Local Government shall, before approving any by-law made by a municipal council affecting public health, obtain the agreement of the Cabinet Secretary for the time being responsible for Health.

[L.N. 187/1956, Sch., L.N. 172/1960, Sch., L.N. 256/1963, 4th Sch., L.N. 41/1970, Sch.]

16. Provisions of Act in relation to other Acts

(1) Except as is specially provided in this Act, the provisions of this Act shall be deemed to be in addition to and not in substitution for any provisions of any other Act which are not in conflict or inconsistent with this Act.

(2) If the provisions of any earlier Act are in conflict or inconsistent with this Act, the provisions of this Act shall prevail.

Part III – NOTIFICATION OF INFECTIOUS DISEASES

17. Application of Part

(1) The provisions of this Act, unless otherwise expressed, shall, so far as they concern notifiable infectious diseases, apply to smallpox, plague, cholera, scarlatina or scarlet fever, typhus fever, diphtheria or membranous croup, measles, whooping-cough, erysipelas, puerperal fever (including septicaemia, pyaemia, septic pelvic cellulitis or other serious septic condition occurring during the puerperal state), enteric or typhoid fever (including para-typhoid fever), epidemic cerebro-spinal meningitis or cerebro-spinal fever, acute poliomyelitis, leprosy, anthrax, glanders, rabies, malta fever, sleeping sickness or human trypanosomiasis, beri-beri, yaws and all forms of tuberculosis which are clinically recognizable apart from reaction to the tuberculin test.

(2) The Cabinet Secretary may, by notice in the *Gazette*—

(a) declare that any infectious disease other than those specified in subsection (1) shall be notifiable diseases under this Act;

(b) declare that only such provisions of this Act as are mentioned in such notice shall apply to any notifiable infectious disease;

(c) restrict the provisions of this Act, as regards the notification of any disease, to any area defined in such notice.

[L.N. 187/1956, Sch., L.N. 172/1960, Sch., L.N. 41/1970, Sch.]

18. Notification of infectious diseases

(1) Where an inmate of any building used for human habitation is suffering from any notifiable infectious disease, unless such building is a hospital in which persons suffering from any notifiable infectious disease are received, the following provisions shall have effect—

(a) the head of the family to which such inmate (in this Act referred to as the patient) belongs, and in his default the nearest relatives of the patient present in the building or in their default the person in charge of or in attendance on the patient, and in default of any such person the occupier of the building, shall, as soon as he becomes aware that the patient is

suffering from any notifiable infectious disease to which this Act applies, send notice thereof to the nearest medical officer of health;

(b) every medical practitioner attending on or called in to visit the patient shall forthwith on becoming aware that the patient is suffering from any notifiable infectious disease to which this Act applies send the nearest medical officer of health a certificate stating the name of the patient, the situation of the building and the notifiable infectious disease from which, in the opinion of such medical practitioner, the patient is suffering; and shall also inform the head of the household or the occupier of the premises or any person in attendance on such patient of the infectious nature of the disease and the precautions to be taken to prevent its conveyance to others;

(c) in any case in which a medical practitioner has been called in, the obligation to notify an infectious disease shall rest on such medical practitioner only;

(d) every medical practitioner who becomes aware, by post-mortem examination or otherwise, that any person has died of a notifiable infectious disease shall immediately furnish a written certificate thereof to the nearest medical officer of health, and shall also inform the head of the household or the occupier of the premises or any person who has been in attendance on such diseased person of the infectious nature of the disease and the precautions to be taken to prevent its conveyance to others.

(2) Every person required by this section to give a notice or certificate and who fails to give the same shall be guilty of an offence and liable to a fine not exceeding eighty shillings:

Provided that if a person is not required to give notice in the first instance, but only in default of some other person, he shall not be guilty of an offence if he satisfies the court that he had reasonable cause to suppose that the notice had been duly given.

19. Fees for certificates

The health authority shall pay to every medical practitioner, other than a Government medical officer, for each certificate duly sent by him in accordance with this Act a fee of four shillings if the case occurs in his private practice.

[L.N. 256/1963, 4th Sch., L.N. 41/1970, Sch.]

20. Manner of sending notices and certificates

A notice or certificate to be sent to a medical officer of health in pursuance of this Act may be sent by being delivered to the officer or being left at his office or residence, or may be sent by post addressed to him at his office or his residence.

Part IV – PREVENTION AND SUPPRESSION OF INFECTIOUS DISEASES

A—General Provisions

21. Inspection of infected premises and examination of persons suspected to be suffering from infectious disease

A medical officer of health may at any time enter and inspect any premises in which he has reason to believe that any person suffering or who has recently suffered from any infectious disease is or has recently been present, or any inmate of which has recently been exposed to the infection of any infectious disease, and may medically examine any person in such premises for the purpose of ascertaining whether such person is suffering or has recently suffered from any such disease.

22. Health authority to cause premises to be cleansed and disinfected

(1) Where any medical officer of health is of opinion that the cleansing and disinfecting of any building or part thereof, and of any articles therein likely to retain infection, would tend to prevent or check infectious disease, it shall be his duty to give notice in writing to the owner or occupier of such building or part thereof, specifying the steps to be taken to cleanse and disinfect such building or part thereof and articles within a time specified in such notice.

(2) If the person to whom notice is so given fails to comply therewith, he shall be guilty of an offence and liable to a fine not exceeding two hundred shillings for every day during which he continues to make default; and the health authority or medical officer of health may cause such building or part thereof and articles to be cleansed and disinfected, and may recover the expenses incurred from the owner or occupier in default as a civil debt recoverable summarily.

(3) Where the owner or occupier of any such building or part thereof is from poverty or otherwise unable, in the opinion of the health authority or the medical officer of health, effectually to carry out the requirements of this section, such authority may, without enforcing such requirements on such owner or occupier, with or without his consent, enter, cleanse and disinfect such building or part thereof and articles, and defray the expenses thereof.

[L.N. 256/1963, 4th Sch., L.N. 41/1970, Sch.]

23. Destruction of infected bedding, etc.

Any health authority may direct the destruction of any building, bedding, clothing or other articles which have been exposed to infection from any infectious disease, or in the opinion of the medical officer of health are infected, and may give compensation for the same.

[L.N. 256/1963, 4th Sch., L.N. 41/1970, Sch.]

24. Provision of means of disinfection

Any health authority may provide a proper place, with all necessary apparatus and attendance, for the disinfection of bedding, clothing or other articles which have become infected, and may cause any articles brought for disinfection to be disinfected free of charge, and any such direction shall be sufficient authority for a medical officer of health or sanitary inspector or person authorized thereto to destroy the same.

[L.N. 256/1963, 4th Sch., L.N. 41/1970, Sch.]

25. Provision of conveyance for infected persons

Any health authority may provide and maintain a carriage or carriages suitable for the conveyance of persons suffering from any infectious disease, and may pay the expenses of conveying therein any person so suffering to a hospital or other place of destination.

[L.N. 256/1963, 4th Sch., L.N. 41/1970, Sch.]

26. Removal to hospital of infected persons

Where, in the opinion of the medical officer of health, any person certified by a medical practitioner to be suffering from an infectious disease is not accommodated or is not being treated or nursed in such manner as adequately to guard against the spread of the disease, such person may, on the order of the medical officer of health, be removed to a hospital or temporary place which in the opinion of the medical officer of health is suitable for the reception of the infectious sick and there detained until such medical officer of health or any medical practitioner duly authorized thereto by the local authority is satisfied that he is free from infection or can be discharged without danger to the public health.

[L.N. 256/1963, 4th Sch., L.N. 41/1970, Sch.]

27. Isolation of persons who have been exposed to infection

Where, in the opinion of the medical officer of health, any person has recently been exposed to the infection, and may be in the incubation stage, of any notifiable infectious disease and is not accommodated in such manner as adequately to guard against the spread of the disease, such person may, on a certificate signed by the medical officer of health, be removed, by order of a magistrate and at the cost of the local authority of the district where such person is found, to a place of isolation and there detained until, in the opinion of the medical officer of health, he is free from infection or able to be discharged without danger to the public health, or until the magistrate cancels the order.

28. Penalty for exposure of infected persons and things

Any person who—

(a) while suffering from any infectious disease, wilfully exposes himself without proper precautions against spreading the said disease in any street, public place, shop, inn or public conveyance, or enters any public conveyance without previously notifying the owner, conductor or driver thereof that he is so suffering; or

(b) being in charge of any person so suffering, so exposes such sufferer; or

(c) gives, lends, sells, transmits or exposes, without previous disinfection, any bedding, clothing, rags or other things which have been exposed to infection from any such disease,

shall be guilty of an offence and liable to a fine not exceeding thirty thousand shillings or to imprisonment for a term not exceeding three years or to both; and a person who, while suffering from any such disease, enters any public conveyance without previously notifying the owner or driver that he is so suffering shall in addition be ordered by the court to pay such owner and driver the amount of any loss and expenses they may incur in carrying into effect the provisions of this Act with respect to disinfection of the conveyance:

Provided that no proceedings under this section shall be taken against persons transmitting with proper precautions any bedding, clothing, rags or other things for the purpose of having the same disinfected.

[Act No. 2 of 2002, Sch.]

29. Penalty for failing to provide for disinfection of public conveyance

Every owner or driver of a conveyance shall immediately provide for the disinfection of such conveyance after it has to his knowledge conveyed any person suffering from an infectious disease; and if he fails to do so he shall be guilty of an offence and liable to a fine not exceeding forty thousand shillings; but no such owner or driver shall be required to convey any persons so suffering until he has been paid a sum sufficient to cover any loss or expenses incurred by him in carrying into effect the provisions of this section.

[Act No. 2 of 2002, Sch.]

30. Penalty for letting infected house

(1) Any person who knowingly lets for hire any dwelling or premises or part thereof in which any person has been suffering from an infectious disease without having the same and all articles therein liable to retain infection efficiently disinfected to the satisfaction of a medical officer of health as testified by a certificate signed by him shall be guilty of an offence and liable to a fine not exceeding eighty thousand shillings.

(2) This section shall apply to any owner or keeper of an hotel or boarding- house who lets any room or part thereof to any person.

[Act No. 2 of 2002, Sch.]

31. Duty of person letting house lately infected to give true information

Any person letting for hire or showing for the purpose of letting for hire any dwelling or premises or part thereof who, on being questioned by any person negotiating for the hire of such house as to the fact of there being or within six weeks previously having been therein any person suffering from any infectious disease, knowingly makes a false answer to such question shall be guilty of an offence and liable to a fine not exceeding one thousand shillings.

B—Hospitals

32. Power of municipal council to provide hospital

(1) Any municipal council with the sanction of the board may provide for the use of the inhabitants of its area hospitals or temporary places for the reception of the sick, and for that purpose may—

(a) themselves build such hospitals or places of reception; or

(b) contract for the use of any such hospital or part of a hospital or place of reception; or

(c) enter into any agreement with any person having the management of any hospital, for the reception of the sick inhabitants of their area, on payment of such annual or other sum as may be agreed on.

(2) *Deleted by L.N. 41/1970, Sch.*

[L.N. 41/1970, Sch.]

33. Recovery of cost of maintaining patient in hospital

Any expenses incurred by a municipal council in maintaining in a hospital, or in a temporary place for the reception of the sick (whether or not belonging to such hospital), a patient who is not a pauper shall be deemed to be a debt due from such patient to the municipal council, and may be recovered from him after his discharge from such hospital or place of reception, or from his estate in the event of his dying in such hospital or place.

[L.N. 41/1970, Sch.]

34. Power to provide temporary supply of medicine

Any municipal council may, with the sanction of the board, themselves provide or contract with any person to provide a temporary supply of medicine and medical assistance for the poorer inhabitants of their district, but may at their discretion charge for the same.

[L.N. 41/1970, Sch.]

C—Special Provisions Regarding Formidable Epidemic, Endemic or Infectious Diseases

35. Formidable epidemic, endemic or infectious diseases

The provisions of this Act, unless otherwise expressed, in so far as they concern formidable epidemic, endemic or infectious disease, shall be deemed to apply to smallpox, plague, Asiatic cholera, yellow fever, sleeping sickness or human trypanosomiasis and any other disease which the Cabinet Secretary may, by order, declare to be a formidable epidemic disease for the purpose of this Act.

[Act No. 28 of 1961, Sch.]

36. Rules for prevention of disease

Whenever any part of Kenya appears to be threatened by any formidable epidemic, endemic or infectious disease, the Cabinet Secretary may make rules for all or any of the following purposes, namely—

(a) the speedy interment of the dead;

(b) house to house visitation;

(c) the provision of medical aid and accommodation, the promotion of cleansing, ventilation and disinfection and guarding against the spread of disease;

(d) preventing any person from leaving any infected area without undergoing all or any of the following, namely, medical examination, disinfection, inoculation, vaccination or revaccination and passing a specified period in an observation camp or station;

(e) the formation of hospitals and observation camps or stations, and placing therein persons who are suffering from or have been in contact with persons suffering from infectious disease;

(f) the destruction or disinfection of buildings, furniture, goods or other articles, which have been used by persons suffering from infectious disease, or which are likely to spread the infection;

(g) the removal of persons who are suffering from an infectious disease and persons who have been in contact with such persons;

(h) the removal of corpses;

(i) the destruction of rats, the means and precautions to be taken on shore or on board vessels for preventing them passing from vessels to the shore or from the shore to vessels, and the better prevention of the danger of spreading infection by rats;

(j) the regulation of hospitals used for the reception of persons suffering from an infectious disease and of observation camps and stations;

(k) the removal and disinfection of articles which have been exposed to infection;

(l) prohibiting any person living in any building or using any building for any other purposes whatsoever, if in the opinion of the medical officer of health any such use is liable to cause the spread of any infectious disease; and any rule made under this paragraph may give the health officer or a medical officer of health power to prescribe the conditions on which such a building may be used;

(m) any other purpose, whether of the same kind or nature as the foregoing or not, having for its object the prevention, control or suppression of infectious diseases,

and may by order declare all or any of the rules so made to be in force within any area specified in the order, and such area shall be deemed an infected area, and to apply to any vessels, whether on inland waters or on arms or parts of the sea within the territorial jurisdiction of Kenya.

[Act No. 28 of 1961, Sch., L.N. 41/1970, Sch.]

37. Health authority to see to execution of rules

The health authority of any area within which or part of which any rules made under section 36 of this Act are in force shall do and provide all such acts, matters and things as may be necessary for mitigating any such disease, or aiding in the execution of such rules, or for executing the same, as the case may require; and the health authority or the medical officer of health may from time to time direct any prosecution or legal proceedings for or in respect of the wilful violation or neglect of any such rules.

[Act No. 28 of 1961, Sch., L.N. 256/1963, 4th Sch., L.N. 41/1970, Sch.]

38. Power of entry

The Director-General for health and his officers shall have power of entry on any premises or vessels for the purpose of executing or superintending the execution of any rules made under section 36 of this Act.

[Act No. 28 of 1961, Sch., Act No. 21 of 2017, s. 70.]

39. [Repealed by L.N. 41/1970, Sch.]

40. Notification of sickness or mortality in animals suspected of plague

(1) Every person who becomes aware of any unusual sickness or mortality among rats, mice, cats, dogs or other animals susceptible to plague or other formidable epidemic diseases not due to poison or other obvious cause shall immediately report the fact to the medical officer of health.

(2) Any person who fails so to report shall be guilty of an offence.

[L.N. 41/1970, Sch.]

41. Medical officers of health to report notification of formidable epidemic diseases by telegraph

Every medical officer of health shall immediately report to the Director-General for health by telegraph or other expeditious means particulars of every notification received by such medical officer of health of a case or suspected case of any formidable epidemic disease, or of any unusual sickness or mortality in animals made under section 40 of this Act.

[L.N. 41/1970, Sch., Act No. 21 of 2017, s. 70.]

42. Director-General for health may requisition buildings, equipment, etc.

(1) Where an outbreak of any formidable epidemic disease exists or is threatened, it shall be lawful for the Director-General for health to require any person owning or having charge of any land or any buildings or dwellings, not occupied, or any person owning or having charge of 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 any such land or building or to supply or make available any such article, subject to the payment of a reasonable amount as hire or purchase price.

(2) Any person who, without reasonable cause, fails or refuses to comply with any such requirement shall be guilty of an offence.

[Act No. 21 of 2017, s. 70.]

Part V – VENEREAL DISEASES

43. Venereal diseases

The provisions of this Act, unless otherwise expressed, in so far as they concern venereal diseases, shall be deemed to apply to syphilis, gonorrhoea, gonorrhoeal ophthalmia, soft chancre, venereal warts and venereal granuloma.

44. Persons suffering from venereal disease to have themselves treated until cured

(1) Every person who knows or has reason to believe that he is suffering from any venereal disease shall forthwith consult a medical practitioner with respect thereto, and shall place himself under

treatment by that medical practitioner or by some other medical practitioner, or shall attend for treatment at any hospital or other place available for the treatment of venereal diseases.

(2) Every person undergoing treatment for any venereal disease as aforesaid shall, until cured or free from such disease in a communicable form, continue to submit himself to treatment at such intervals as may be prescribed by any such medical practitioner.

(3) Any person who fails to comply with any provision of this section shall be guilty of an offence.

45. Duties of medical practitioners

Every medical practitioner who attends or advises any patient in respect of any venereal disease from which the patient is suffering shall—

(a) direct the attention of the patient to the infectious nature of the disease and to the penalties prescribed by this Act for infecting any other person with such disease;

(b) warn the patient against contracting marriage unless and until he has been cured of such disease or is free from such disease in a communicable form; and

(c) give to the patient such printed information relating to the treatment of venereal disease and to the duties of persons suffering therefrom, as may be supplied to the medical practitioner by the Medical Department.

46. Duties of parents or guardians of infected children

(1) Every parent or guardian of a child who knows or has reason to believe that such child is suffering from any venereal disease shall cause such child to be treated for such disease by a medical practitioner until such child is cured or free from such disease in a communicable form.

(2) Every parent or guardian of any such child who fails or neglects to have that child treated as aforesaid shall be guilty of an offence and liable to a fine not exceeding one thousand shillings or to imprisonment for a term not exceeding three months or to both.

47. Infection by employees

(1) Every person who, while suffering from any venereal disease in a communicable form, accepts or continues in employment in or about any factory, shop, hotel, restaurant, house or other place in any capacity entailing the care of children or the handling of food or food utensils intended for consumption or use by any other person shall be guilty of an offence, unless he proves that he did not know or suspect, and had no reasonable means of knowing or suspecting, that he was so suffering.

(2) Every person shall be guilty of an offence who employs or continues to employ any person suffering from any venereal disease in a communicable form if, by reason of such employment, such person is required or is permitted to have the care of children or to handle any food or food utensils intended for consumption or use by any person other than the person employed, unless the defendant proves that he did not know or suspect, and had no reasonable means of knowing or suspecting, that the person so employed by him was suffering from such disease.

48. Duties of medical officers of health and district surgeons to report, and powers of magistrates

(1) It shall be the duty of every medical officer of health in his official capacity and of every Government medical officer and district surgeon who knows or has reason to believe that any person is suffering from any venereal disease in a communicable form and is not under treatment by a medical practitioner or is not attending for medical treatment regularly and as prescribed by such medical practitioner to give notice to such person of the requirements of this Act in regard to attendance for treatment of persons suffering from venereal disease, and, if thereafter such person does not comply with those requirements, to report the matter to the magistrate.

(2) Upon receipt of any such report the magistrate shall make such further inquiry, or shall make such order or orders, or shall institute such proceedings, as he may deem necessary for the proper enforcement of the provisions and for the attainment of the objects of this Part.

(3) An order under this section may require the person named therein—

(a) to furnish a certificate by a medical practitioner as to whether he is or is not suffering from a venereal disease in a communicable form; or

(b) to attend at a specified time and place for examination by a medical practitioner named in the order; or

(c) to attend regularly for medical treatment at times and at a place specified in such order; or

(d) to 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 disease in a communicable form.

(4) Any person who fails to comply with any order made under this section, or who escapes or attempts to escape from any hospital in which he has been ordered to remain or to be detained, shall be guilty of an offence.

49. Conveyance of infection an offence

Every person who wilfully or by culpable negligence infects any other person with venereal disease or does or permits or suffers any act likely to lead to the infection of any other person with any such disease shall be guilty of an offence and liable to a fine not exceeding four thousand shillings or to imprisonment for a term not exceeding six months or to both.

50. Detention in hospital of infected person

(1) Where any person sentenced to imprisonment under this Act or any other law is suffering from a venereal disease in a communicable form, he may, by order of the magistrate, be removed to a special hospital or place of accommodation, and be detained under treatment therein until the expiry of his sentence, and the magistrate, on the representation of the medical practitioner treating such person, and if satisfied that the public health cannot otherwise adequately be safeguarded and that such person when released is unlikely to undergo treatment by a medical practitioner for such disease, may order that he be detained in such hospital or place either for a specified period after the expiry of his sentence or until he is cured or free from the disease in a communicable form.

(2) Any person so detained in a hospital or other place of accommodation who escapes or attempts to escape therefrom shall be guilty of an offence.

51. Medical examination of inhabitants of localities where venereal disease believed prevalent

(1) Where the Cabinet Secretary on a report by a medical officer has reason to believe that a person is suffering from venereal disease, he may issue an order requiring the examination by a medical practitioner of such person.

(2) Any person who refuses to comply with such order or with any lawful instructions given thereunder or who obstructs any medical practitioner or other duly authorized officer in the carrying out of such order shall be guilty of an offence.

[L.N. 187/1956, Sch., L.N. 172/1960, Sch.]

52. Examination of females

Where any order is made under this Part requiring the medical examination of any female and such female desires to be examined by a woman medical practitioner, such examination shall be made by a woman medical practitioner if one is reasonably available.

53. Rights of persons detained in hospital

(1) Any person detained in hospital under this Part shall be entitled to arrange, at his own expense, for his examination by any medical practitioner, and a report of such examination shall be furnished to the magistrate, who may thereupon cause to be made any further examination of such person which he may deem necessary.

(2) No person shall be detained in hospital under this Part who is not, or is no longer, suffering from a venereal disease in a communicable form.

54. Secrecy of proceedings

(1) Inquiries and proceedings before a magistrate or any court of law under this Part shall be secret and conducted in camera, and the records thereof shall be kept in the manner and form prescribed by rule, subject to the provisions of section 48 of this Act, anything to the contrary notwithstanding in any other law.

(2) Any person publishing or divulging the name of any person dealt with under this Part, or the nature, proceedings or contents of any report, certificate, document or order in connexion therewith or any other matter coming to his knowledge in connexion with anything arising under this Part to any unauthorized person, and any person who without lawful justification or excuse falsely alleges that any person is suffering or has suffered from venereal disease, shall be guilty of an offence.

55. Publication of advertisements of cures

(1) No person shall publish any advertisement or statement intended to promote the sale of any medicine, appliance or article for the alleviation or cure of any venereal disease or disease affecting the generative organs or functions, or of sexual impotence, or of any complaint or infirmity arising from or relating to sexual intercourse.

(2) Any person who publishes any such advertisement or statement by printing it in any newspaper or exhibiting it to public view in any place or delivering or offering or exhibiting it to any person in any street or public place or in any public conveyance, or who sells, offers or shows it or sends it by post to any person, shall be guilty of an offence.

(3) For the purposes of this section, "advertisement" and "statement" include any paper, document or book containing any such advertisement or statement, as the case may be.

(4) This section shall not apply to publications by the Medical Department or by any municipal council, public hospital or other public body in the discharge of its lawful duties or by any society or person acting with the authority of the Cabinet Secretary first obtained, or to any books, documents or papers published in good faith for the advancement of medical science.

(5) *Deleted by Act No. 14 of 1971, Sch.*

[Act No. 28 of 1961, Sch., L.N. 41/1970, Sch., Act No. 14 of 1971, Sch.]

Part VI – PORTS AND INLAND BORDERS OF KENYA

56. Interpretation of Part

For the purposes of this Part—

"master" in relation to any vessel means the person (other than a pilot) having at the time command or charge of that vessel;

"oversea vessel" means a vessel other than one plying only between ports or places in Kenya;

"port health officer" means any medical practitioner appointed by or acting as such under the authority and instructions of the Director-General for health.

[Act No. 21 of 2017, s. 70.]

57. Application of Act as regards vessels

The provisions of this Act as regards vessels, except where otherwise expressly stated, shall apply to every vessel of whatsoever kind anchoring off or arriving in any port or being elsewhere within territorial waters:

Provided that the Cabinet Secretary may, subject to such conditions or limitations as may be prescribed by him, exempt from any such provisions any warship of Kenya or of any foreign country, or any vessel engaged solely in the coasting trade and plying only between ports of Kenya.

[L.N. 187/1956, Sch., L.N. 172/1960, Sch., Act No. 21 of 1966, First Sch.]

58. No communication between vessels and shore before granting of *pratique*

(1) Except in case of danger, no master of a vessel arriving at any port or place in Kenya and no person on board thereof shall communicate or attempt to communicate with the shore or with any other vessel or any boat, and no person from the shore or from any other vessel or boat shall communicate with such vessel, otherwise than by signal, until pratique has been granted to such vessel in accordance with rules made under this Part:

Provided that nothing in this subsection shall prevent any port officer, pilot or other duly authorized officer from coming alongside or boarding any such vessel.

(2) No fee shall be payable in respect of the examination by the port health officer of, and the granting of pratique to, any vessel arriving at any port or place in Kenya.

59. Notification of infectious disease or death on board of vessel

(1) The provisions of this Act in respect of the notification of the occurrence of cases of infectious disease in man, or of sickness or mortality in rodents or other animals susceptible to plague, shall apply to every vessel at any port or place in Kenya, but, wherever it is therein required that notification be made to the health authority or medical officer of health, such notification shall be made to the port health officer.

(2) No fee shall be payable to any ship surgeon or other medical officer of a vessel or shipping company in respect of the notification of any case of infectious disease on board of any vessel.

(3) For all purposes of this Act, every vessel shall be deemed to be a dwelling or premises, and the master thereof shall be deemed to be the head of the household or the owner or occupier of the premises.

(4) It shall be the duty of the master to report to the port health officer the death of any person who has died from any cause whatever on the vessel during the voyage just completed, or while the vessel is in port, and also the cause of death.

[L.N. 41/1970, Sch.]

60. Powers of port health officer

(1) The port health officer may at any time board any vessel and inspect any part thereof or anything therein, and may medically examine any person on board and require any such person to answer any question for the purpose of ascertaining whether or not infection exists or has recently existed on board.

(2) Any person who refuses to allow any such officer to board any vessel or to make any inspection or medical examination as aforesaid, or otherwise obstructs or hinders any such officer in the execution of his duty, or who fails or refuses to give any information which he may lawfully be required to give, or who gives false or misleading information to any such officer knowing it to be false or misleading, shall be guilty of an offence and liable to a fine not exceeding two thousand shillings.

61. Notification to medical officers of health at ports

Upon the occurrence on any vessel of any case of or death from any notifiable infectious disease, or of such other disease as the Cabinet Secretary may prescribe, or of any sickness or mortality among rodents or other animals on any vessel or within the harbour area suspected to be due to any formidable epidemic disease, the port health officer shall forthwith inform the medical officer of health of the area in or adjoining which the port is situated of the occurrence and the measures taken or intended to be taken in connexion therewith.

[L.N. 187/1956, Sch., L.N. 172/1960, Sch., L.N. 256/1963, 4th Sch., L.N. 41/1970, Sch.]

62. Granting of restricted or conditional *pratique* to and quarantining of vessels

In the case of any vessel having, or suspected on reasonable grounds of having, on board in any person, animal or thing the infection of any infectious disease, the port health officer, acting in accordance with instructions and with rules made under this Part, may grant or continue *pratique* to such vessel subject to such conditions or restrictions as may be deemed necessary, or, if he deems it necessary so to do, may withhold or withdraw *pratique* and place the vessel in quarantine:

Provided that, when *pratique* restrictions are imposed or any vessel is placed in quarantine or when any person on board of or landed from any vessel is compulsorily detained, isolated or removed, the port health officer shall immediately report, by telegraph or other expeditious means, the action taken by him and the reasons therefor to the Director-General for health and the nearest medical officer of health.

[Act No. 21 of 2017, s. 70.]

63. Declaration of infected places, ports of entry, etc.

(1) The Cabinet Secretary may, by order—

(a) declare that any place beyond or within Kenya is infected with a formidable epidemic disease or that a formidable epidemic disease is liable to be brought or carried from or through that place, and thereupon, and for so long as such order remains in force, that place shall be a proclaimed place within the meaning of this Act;

(b) declare any port in Kenya to be a first port of entry for all or for any particular class or description of overseas vessels coming from a proclaimed place, and require masters of such vessels bound for Kenya to enter a port so declared before entering any other port of Kenya, except in case of danger or for other sufficient reason;

(c) prohibit, restrict or regulate the immigration or importation into Kenya of any person, animal, article or thing likely, in his opinion, to introduce any infectious disease, or impose restrictions or conditions as regards the examination, detention, disinfection or otherwise of any such animal, article or thing.

(2) Any person who contravenes or fails to comply with an order made under subsection (1) shall be guilty of an offence and liable to a fine not exceeding two thousand shillings.

[Act No. 28 of 1961, Sch.]

64. Master of vessel from proclaimed place to take precautionary measures

(1) The master of any vessel bound for any port or place in Kenya which comes from or calls or touches at any proclaimed place shall, while his vessel is at that place and during the voyage to Kenya, take in respect of the vessel and her crew, passengers and cargo all such precautionary measures as may be prescribed by the order.

(2) Any master of a vessel failing so to do and thereafter entering any port of Kenya shall, unless he satisfies the court that he was unaware of the measures required to be taken by him and that he took all reasonable means to ascertain whether it was his duty to take any such measures, be guilty of an offence and liable to a fine not exceeding two thousand shillings.

(3) Where a vessel has arrived from a proclaimed place and the prescribed precautionary measures have not been taken, any measures considered necessary by the port health officer, acting on the instructions of the Director- General for health, may be carried out with respect to the vessel and her crew, passengers and cargo, at the expense of the owner of the vessel.

[Act No. 28 of 1961, Sch., Act No. 21 of 2017, s. 70.]

65. Removal of quarantined vessels

Where a vessel has been placed in quarantine at any port or place in Kenya, the Cabinet Secretary may, for the purpose of more effectually dealing with the infection on board, require the master thereof to remove such vessel, at his own risk and expense, to any other port or place within territorial waters.

[L.N. 187/1956, Sch., L.N. 172/1960, Sch.]

66. Master of vessel may decline to submit to quarantine or removal

(1) Where the master of a vessel has been informed by the port health officer or other duly authorized officer of the intention of placing that vessel in quarantine or of requiring him to move that vessel in quarantine to another port or place in Kenya and where such master declines to submit to quarantine or refuses to remove the vessel as aforesaid, he shall immediately inform such officer accordingly and shall forthwith hoist the quarantine signal, as defined in rules made under this Part, on the vessel and remove the vessel from the neighbourhood of any wharf or landing place or any other vessel, and shall leave the port with all possible dispatch after notifying the port health officer of the next intended port of call of the vessel.

(2) Any vessel dealt with in the manner described in subsection (1) may, before leaving the port, take on board, subject to such precautions as may be prescribed by the port health or other duly authorized officer, any coal, water, provisions or stores.

67. Removal of patient from vessel and treatment on shore

(1) Where any person on board of any vessel is suffering from any infectious or other disease and, in the opinion of the port health officer, is not accommodated or is not being nursed or treated in such manner as to guard adequately against the spread of the disease or to promote recovery, the port health officer may cause such person to be removed to a hospital or place of isolation on shore and

there accommodated and treated for such period as may be considered necessary in the interests of the patient or to prevent spread of infection.

(2) All reasonable expenses necessarily incurred in dealing with a patient under this section shall be a charge against the master or agent of the vessel, and may be recovered from either or both of them by the Government.

68. Surveillance or isolation of persons who have been exposed to infection

(1) Where any person on board of any vessel is believed to have been recently exposed to the infection, and may be in the incubation stage of any notifiable infectious disease, the port health officer may require such person to remain on board such vessel, or alternatively to land and proceed direct to his place of destination and there report himself to the medical officer of health for medical surveillance by such medical officer of health until considered to be free from infection.

(2) Where in the opinion of the port health officer any such person cannot otherwise be properly kept under medical surveillance or the public health cannot be otherwise adequately safeguarded, such person may be removed to a place of isolation on shore and there detained until considered free from infection.

(3) The port health officer shall notify to the medical officer of health of the district in or adjoining which the port is situated, and to the medical officer of health of the district where such person's place of destination is, the fact that such person is believed to have been recently exposed to infection and has been allowed to land and proceed to his destination.

(4) Any person who refuses or fails to comply with, or wilfully obstructs the execution of, any requirement lawfully made under this section shall be guilty of an offence and liable to a fine not exceeding one thousand shillings or to imprisonment for a term not exceeding three months or to both.

69. Burial of the bodies of persons dying on board of vessel

Where there is any dead body on board any vessel at any port or place in Kenya, it shall be the duty of the master of such vessel to cause such body to be properly buried; any reasonable and necessary expenses thereby incurred may be recovered by the master from any person legally liable for the same.

70. Clearance papers may be withheld from vessels pending inquiry into offence

Whenever the port health officer has reasonable grounds for believing that the master of any vessel has committed an offence under this Act or fails or refuses to pay any charges lawfully made thereunder, the Commissioner of Customs and Excise or any officer authorized thereto by the Commissioner may, on the request of the port health officer, withhold clearance papers from such vessel pending the institution of proceedings in any competent court:

Provided that clearance papers shall not be withheld for more than thirty-six hours (Sundays and public holidays excepted), unless such proceedings have been commenced before the expiry of that period.

71. Powers to enforce precautions at frontiers

(1) When it is considered necessary for the purpose of preventing the introduction of infectious disease into Kenya, the Cabinet Secretary may, by order—

(a) regulate, restrict or prohibit the entry into Kenya at its inland borders or any part thereof or any persons, or of persons of any specified class or description or from any specified locality or area;

(b) regulate, restrict or prohibit the introduction into Kenya at its inland borders, or any specified part thereof, of any animal, article or thing;

(c) impose requirements or conditions as regards the medical examination, detention, quarantine, disinfection, vaccination, isolation or medical surveillance or otherwise of persons entering, or the examination, detention or disinfection or otherwise of such persons as aforesaid or of articles or things introduced into Kenya at its inland border or any part thereof;

(d) apply with or without modifications any particular provisions of this Part to persons, animals, articles or things entering or introduced into or departing or removed from Kenya by means of aircraft.

(2) Any person who contravenes or fails to comply with an order made under subsection (1) shall be guilty of an offence and liable to a fine not exceeding one thousand shillings or to imprisonment for a period not exceeding three months or to both.

[Act No. 28 of 1961, Sch.]

72. Agreements with either governments regarding reciprocal notification of outbreaks

(1) The Cabinet Secretary may enter into agreements with the Government of any foreign country, providing for the reciprocal notification of outbreaks of any formidable epidemic or other disease of any other matter affecting the public health relations of Kenya with other countries.

(2) The terms or a summary of every such agreement shall be notified in the *Gazette*.

[L.N. 365/1964, Sch., Act No. 21 of 1966, First Sch.]

73. Rules concerning port health matters

The Cabinet Secretary may make rules—

(a) prescribing the powers and duties of port health officers and the procedure to be followed in the examination of, and the granting of pratique to, vessels, and requiring every master of a vessel on arrival at any port or place in Kenya to furnish a declaration of health in respect of the existence or suspected existence on board, in any person, animal or thing, of any infectious disease, or any other disease which the Cabinet Secretary may notify in the *Gazette*, prescribing the form of declaration, and empowering any port health officer or other duly authorized officer to require the master of any vessel to verify upon oath the statements in the declaration and to administer the necessary oaths; such rules may prescribe modified requirements or procedure in respect of vessels arriving at a second or subsequent port of call in Kenya on the same voyage;

(b) requiring the master of any vessel having or suspected of having on board the infection of any infectious disease, or which has recently touched at any port or place which is a proclaimed place or is infected with any formidable epidemic disease or is situated near any place which is so infected, to furnish lists of passenger, crew or cargo, and prescribing the information to be given in any such list;

(c) prescribing the measures which shall be taken by masters of vessels to prevent the migration of rodents to or from vessels;

(d) prescribing the measures which shall be taken for the disinfection of, or the destruction of rats, mice or insects in, vessels, the disposal of bilge or other water on board, the cleansing of vessels, the provision of a supply of pure water on board, and for preventing the pollution of the water of the port with excreta and manure or any infective or offensive matter;

(e) as to the grant, refusal or withdrawal of pratique to vessels and the detention in quarantine of vessels having or suspected of having on board in any person, animal or thing, the infection of any infectious disease, or of persons suffering from, or who have recently been exposed to the infection of, any such disease;

(f) as to the prohibition or restriction of intercourse of persons on or from the land with vessels, where deemed necessary in order to prevent the spread of infectious disease;

(g) requiring the disinfection of any article or thing contaminated, or believed to be contaminated, with the infection of any infectious disease, on board of or landed from any vessel, or, if such article or thing is of such a nature that it cannot be so disinfected, prohibiting the landing or providing for the destruction thereof;

(h) requiring the vaccination, before landing from any vessel, of any person who may have recently been exposed to the infection of smallpox and who does not produce evidence to the satisfaction of the port health officer of successful vaccination during the five years immediately preceding;

(i) appointing such sanitary anchorages as may be necessary for the purposes of this Act:

Provided that until other provisions are made the sanitary station at Zanzibar shall be a sanitary station for the purposes of any rules made or deemed to be made under this Act;

(j) providing for the recovery from masters or owners or agents of vessels of all reasonable and necessary expenses incurred by the Government, or of charges in accordance with a prescribed tariff of charges, or for the furnishing by them of guarantees in respect of the payment of such expenses or charges—

(i) in dealing with any person who is on board or has recently been landed and who is suffering, or suspected to be suffering, from any infectious disease or from any other disease which the Cabinet Secretary may notify in the *Gazette*;

(ii) in connexion with the detention in quarantine of any vessel infected with, or the isolation, accommodation, care and treatment of any person suffering from, or who has been exposed to the infection of, any infectious disease, and the detention and repatriation of any such person if he is prohibited from entering Kenya under any law relating to immigration;

(iii) in eradicating the infection of any infectious disease in any vessel, or in any article or thing on board of any vessel, or in any article or thing which though landed therefrom, was infected before it was landed;

and the Cabinet Secretary may, by notice in the *Gazette*, prescribe tariffs of charges which shall be payable by masters or owners or agents of vessels in respect of any of the services aforesaid, but every such tariff, shall be fixed as nearly as may be on the basis of average cost;

(k) as to the departure from Kenya, whether by land or sea, of all persons or of persons of any specified class or description, or of persons from any specified locality or place, and as to the restrictions to be imposed on persons leaving Kenya, in relation to medical examination, disinfection or otherwise;

(l) as to the exportation or removal from Kenya, whether by land or sea, of any article or thing considered likely to convey the infection of any infectious disease, and the examination, detention, disinfection or otherwise of any such article;

(m) for securing and maintaining cleanliness and efficient sanitation and preventing or remedying any nuisance or danger to health from overcrowding or otherwise on board of any vessel or within any port or harbour;

(n) as to the inspection of food on board vessels or at any port of Kenya and the destruction or safe disposal of any diseased or unsound or unwholesome meat or food intended for human consumption, or of any article of food or drink likely to convey any infectious disease, if such article is on board any vessel or within any port or harbour, and providing for the recovery of any expense incurred by the Government in so doing;

(o) as to the disinfection of any second-hand clothing, bedding, rags or any similar article imported by sea, and the recovery from the owner thereof or his agent of all expenses incurred by the Government in connexion therewith,

and generally for better carrying out the provisions and attaining the objects and purposes of this Part.

[L.N. 187/1956, Sch., L.N. 188/1956, Sch., L.N. 172/1960, Sch., L.N. 173/1960, Sch.]

74. Orders, rules and penalties under Part

(1) Any order or rule made under this Part may provide exemptions therefrom, may define the disease to which any particular provision shall apply and may impose duties in connexion therewith on masters or owners or agents of vessels or on persons in charge of railway trains or of vehicles, or on employers of labour, labour recruiting agents or others.

(2) Any person contravening any provision of this Part, or of any order or rule thereunder, shall be guilty of an offence and liable, save as hereinbefore and in subsection (3) provided, to a fine not exceeding one thousand shillings or to imprisonment without the option of a fine for a term not exceeding three months or to both.

(3) If the master of a vessel contravenes any provision of this Act or any rule thereunder relating to pratique or quarantine, or makes any false statement or false answer to any question in any declaration of health, knowing the same to be false, he shall be guilty of an offence and liable to a fine not exceeding four thousand shillings or to imprisonment without the option of a fine for a term not exceeding twelve months or to both.

[Act No. 28 of 1961, Sch.]

75. Protection of Government

Wherever under this Part powers are exercised by the Cabinet Secretary or other officer in accordance therewith and with the rules, and by reason of the exercise of such powers—

(a) any vessel, person, article or thing is delayed or removed or detained; or

(b) any article or thing is damaged or destroyed; or

(c) any person is deprived of the use of any article or thing,

the Government shall not be liable to pay compensation, provided due care and reasonable precautions have been taken to avoid unnecessary delay or damage or destruction.

[Act No. 28 of 1961, Sch.]

Part VII – LEPROSY

76. Interpretation of Part

For the purposes of this Part—

"asylum" means any building or collection of buildings erected and established under section 77 and used for the treatment or detention of persons affected with leprosy, together with the land surrounding such buildings and set apart and defined under the said section for the occupation of such persons;

"leprosy" means all forms of disease caused by the Bacillus leprae of Hansen;

"specified area" means a local area specified in an order made by the Cabinet Secretary under section 77(3).

[Act No. 28 of 1961, Sch., L.N. 365/1964, Sch.]

77. Establishment of leper asylums

(1) It shall be lawful for the Cabinet Secretary to erect and establish from time to time asylums for the detention of persons removed thereto under this Act, and for the purpose of acquiring sites for the erection and establishment of asylums to appropriate and set apart any unalienated public land, and to order the fencing and enclosing of any land so appropriated and set apart.

(2) The establishment of any asylum and boundaries of any land appropriated and set apart for such purpose shall be notified and defined by notice in the *Gazette*.

(3) For the purpose of preventing the spread of leprosy, the Cabinet Secretary may, by order, direct that, from a date named therein until further order, all persons affected with leprosy found within any local area specified in such order shall be removed to and detained in an asylum.

[Act No. 28 of 1961, Sch., L.N. 365/1964, Sch.]

78. Duty to notify suspected case of leprosy within specified area

(1) Whenever it comes to the knowledge of any person that some other person within a specified area outside an asylum and not exempted under section 102 from the provisions of this Act is affected with or is suspected of being affected with leprosy, such first-named person shall forthwith report such fact or suspicion upon oath to a magistrate of the district in which he is residing.

(2) Any person who neglects to act in accordance with subsection (1) shall be guilty of an offence.

[L.N. 365/1964, Sch.]

79. Magistrate to isolate suspect on notification

Every magistrate to whom a report is made under section 78 shall issue an order requiring a police officer to take steps that the person mentioned in such report be detained in a place of isolation in a manner prescribed by rules under this Act until he has been examined as in section 80 provided.

80. Magistrate to arrange for medical examination

A magistrate who has issued such isolation order as aforesaid shall cause the person to be examined as soon as possible by two medical practitioners, one of whom shall if possible be a medical officer, and obtain a report from them of such examination.

81. Discharge of suspect if not affected

If such medical practitioners aforesaid report that the person alleged to be affected with leprosy is not so affected, the magistrate shall forthwith discharge him from detention in isolation.

82. Interim reception order in doubtful case

(1) If such medical practitioners aforesaid report that the person alleged to be affected with leprosy is so affected, or that it is doubtful whether he is so affected or not, the magistrate shall order him as in this section described to be removed to an asylum therein to be detained in accordance with the provisions of this Act.

(2) Any such order as is in this section described shall be termed an interim reception order and shall be addressed to the superintendent of some asylum, and shall be delivered to a police officer, together with the report mentioned in section 80.

(3) An interim reception order shall authorize any police officer to conduct the person named therein to the asylum named in such order, and shall further authorize the reception and detention of such person in such asylum until the Cabinet Secretary has transmitted to the superintendent of the asylum an order of further detention or discharge as hereinafter provided.

[Act No. 28 of 1961, Sch.]

83. Interim reception order and reports to be sent to Cabinet Secretary

Any superintendent who has received any person into an asylum under an interim reception order shall as soon thereafter as possible transmit to the Cabinet Secretary—

(a) the interim reception order;

(b) the reports of the medical practitioners mentioned in section 80.

[Act No. 28 of 1961, Sch.]

84. Voluntary submission to treatment of persons affected with leprosy

If any person within a specified area suspects that he is affected with leprosy and desires to submit himself to treatment therefor or to be placed in isolation in accordance with this Act, he may for such purpose present himself to a magistrate of the district in which he is residing, and such magistrate shall thereupon, having ordered such person to be detained in isolation as in section 79 is provided, require two medical practitioners (one of whom shall if possible be a medical officer) to examine such person; and if such medical practitioners report that such person is not affected with leprosy the provisions of section 81 of this Act shall apply in the case of such person; and if such medical practitioners report that such person is affected with leprosy or that it is doubtful whether such person is so affected or not the provisions of section 82 and 83 shall apply to such case.

[L.N. 365/1964, Sch.]

85. Where Cabinet Secretary is satisfied that person detained under interim reception order is affected with leprosy

(1) Whenever the Cabinet Secretary is satisfied that any person detained under an interim reception order as aforesaid is affected with leprosy, he shall make and sign an order (herein described as a detention order), which shall be addressed to the superintendent of some asylum.

(2) A detention order shall authorize the detention in accordance with this Act of the person named therein, and shall be in force until cancelled by the Cabinet Secretary.

(3) The medical officer appointed to an asylum shall, at least once a year, and more often if so required by the Cabinet Secretary, transmit to the Cabinet Secretary a report as to the condition of each person detained in the asylum, and if on consideration of such report the Cabinet Secretary considers further detention of any person unnecessary he may cancel the detention order and direct such person to be discharged.

[Act No. 28 of 1961, Sch.]

86. Where Cabinet Secretary not satisfied that person detained under interim reception order is affected with leprosy

(1) Whenever the Cabinet Secretary is not satisfied that a person detained under an interim reception order is affected with leprosy, he shall submit all medical reports transmitted to him under this Act concerning such person to the Director-General for health, and may direct any further medical examination he may consider necessary of such person.

(2) If on consideration of the report of the Director-General for health or of the further medical examination (if any) he is satisfied that such person is affected with leprosy, he shall make and sign a detention order as in section 85 provided.

(3) If on consideration of the report of the Director-General for health aforesaid or of the further medical examination (if any) he is not satisfied that a person detained under an interim reception

order is affected with leprosy, he shall transmit an order to the superintendent of the asylum in which such person is detained directing his discharge therefrom.

[Act No. 28 of 1961, Sch., Act No. 21 of 2017, s. 70.]

87. Cabinet Secretary may order discharge from asylum at any time

The Cabinet Secretary may, notwithstanding anything in this Act contained, at any time on sufficient reason to him appearing, issue an order to the superintendent of any asylum directing the discharge of any person from detention therein or the removal of any person detained therein to another asylum for detention under this Act, or, with the consent of such person, to a private asylum which has been named in a notice issued by the Cabinet Secretary under subsection (1) of section 102.

[Act No. 28 of 1961, Sch.]

88. Appointment of superintendent of asylum

(1) The Cabinet Secretary may appoint from time to time superintendents, who shall have the direction and management of any asylum to which they are respectively appointed but shall in carrying out their powers and duties be subject to the supervision and directions of the Director-General for health.

(2) The Director-General for health may from time to time, subject to any rules made under this Act, appoint medical officers, attendants, guards and other officers to any asylums and remove such officers.

[L.N. 365/1964, Sch., Act No. 21 of 2017, s. 70.]

89. Duties of superintendents

It shall be the duty of every superintendent to inspect from time to time in accordance with rules made hereunder the asylum to which he has been appointed and the persons detained therein, and to cause proper food and necessary comforts to be supplied to such persons, and to cause the premises to be properly and cleanly kept, and to perform such other duties and exercise such powers as may be imposed and conferred upon him by this Act or by any rules made thereunder.

90. Intercourse of persons detained in asylums

(1) No person shall be permitted to enter any asylum except in accordance with the rules made in that behalf under this Act.

(2) Except as in this Act provided and save as may be provided by any rules made thereunder, no communication or intercourse shall be allowed between persons detained in any asylum and any person not detained therein who is not an officer or attendant thereof.

91. Suspects and detained lepers deemed to be in lawful custody

(1) Every person placed in isolation or during the course of removal to or while detained in an asylum under this Act shall be deemed to be in lawful custody until discharged therefrom under this Act, and while in such custody shall be subject to the provisions of this Act any rules made thereunder.

(2) Any person who escapes from such lawful custody may be pursued, arrested without warrant and taken back into custody by any person whomsoever and wheresoever he may be found.

92. Visiting of persons detained

Every person detained in lawful custody under this Act shall be permitted to receive visits from relatives, friends or legal advisers at such reasonable times and subject to such restrictions as may be determined by rules made under this Act.

93. Cost of erection and maintenance of asylum to be defrayed out of public funds

The cost of the erection, establishment and maintenance of asylums, of the removal of persons thereto, of the maintenance of persons detained therein (save in so far as such cost of maintenance may be otherwise defrayed in accordance with section 94, of the salaries and wages of superintendents, attendants or other officers of asylums and of the disinfecting and cleansing of the residence of persons isolated and the maintenance of such persons during the period of isolation) shall be defrayed out of the moneys provided by Parliament.

94. Superintendent may recover certain sums from inmates and allow private building

It shall be lawful, subject to the approval of the Cabinet Secretary, for the superintendent in the case of any inmate of an asylum under this Part to receive or recover from such inmate the expense of his maintenance, and to allow such inmate or any other person to erect for the inmate (or contract for the erection of) a building within the limits of an asylum, and such superintendent may for such purpose enter into on behalf of the Government special agreements with such person or his lawful representative.

[L.N. 187/1956, Sch., L.N. 172/1960, Sch.]

95. Court may appoint manager of detained persons

(1) The High Court may appoint a manager for the temporary or permanent care and administration of any property of a person removed to an asylum for detention under this Act, and Part XII of the Mental Health Act (Cap. 248) shall *mutatis mutandis* apply for the purposes of such care and administration of the property of any such person.

(2) It shall be lawful for the Director of Public Prosecutions to lay any reports of evidence concerning the removal of a person for detention under this Act together with evidence as to any property possessed by such person before the High Court for its consideration, and the High Court may upon consideration of such reports and evidence appoint a manager for the care or custody of the property of any such person aforesaid, and, where it appears to the High Court desirable that temporary provision should be made for the maintenance or other necessary requirements of such person or any member of his family out of any money or available securities belonging to him in the hands of his bankers or of any other person, the High Court may authorize such banker or other person to pay to the manager such sums as may be deemed necessary and may give directions as to the application thereof for the benefit of such person aforesaid or for the relief of his family or any member thereof.

[Act No. 12 of 2012, Sch.]

96. Cleansing and disinfecting of residence of persons isolated

Whenever any person has been placed in isolation by order of a magistrate under section 79, the medical officer of health shall cause the residence of that person to be forthwith cleansed and disinfected.

97. Photographing of persons confined in asylums

(1) It shall be the duty of every person detained in an asylum under this Act to submit himself to be photographed from time to time as the superintendent shall think fit.

(2) Any such person who refuses to allow himself to be photographed as aforesaid, or obstructs any person entrusted with this duty in the execution of such duty, shall be guilty of an offence, punishable, on receipt of a report alone, in such manner as the Cabinet Secretary shall by rule prescribe.

(3) Any person who gives, supplies or exhibits any such photograph obtained under this section to any person to whom he is not expressly or by rule authorized to give, supply or exhibit such photograph shall be guilty of an offence.

[L.N. 187/1956, Sch., L.N. 172/1960, Sch.]

98. Penalties for contravention of Part

Any person who is guilty of an offence under this Part shall be liable to a fine not exceeding fifteen thousand shillings or to imprisonment for a term not exceeding one year or to both.

[Act No. 2 of 2002, Sch.]

99. Rules under Part

The Cabinet Secretary may make rules and prescribe the penalties for the breach thereof not exceeding the penalties mentioned in section 98—

(a) for the isolation, examination and removal to asylums of person affected or suspected of being affected with leprosy;

(b) for the appointment and duties of superintendents, medical officers, guards, attendants and other officers of asylums, and the removal of such officers;

(c) for the classification, treatment, instruction and employment of persons detained in asylums;

(d) as to the rations and clothing of persons detained in asylums;

(e) as to the intercourse of persons detained in an asylum with each other and with persons not so detained, and generally for the discipline and good order of persons so detained;

(f) for the removal to and detention within an asylum of any person serving or sentenced to a term of imprisonment if certified by a medical officer to be affected with leprosy;

(g) as to the setting apart of places within any asylum for the special confinement and punishment of persons convicted and sentenced during detention or whilst employed in an asylum, or of persons who have been convicted and sentenced for any offence by a court and removed to an asylum under this Act;

(h) for the appointment and duties of a visiting committee to any asylum, or otherwise providing for the visitation of asylums;

(i) prescribing forms to be used for the purposes of this Part.

[L.N. 188/1956, Sch., L.N. 173/1960, Sch.]

100. Examination and report of one medical practitioner to suffice temporarily where two not available

Notwithstanding anything in this Act contained, the examination and report of one medical practitioner shall suffice for the purpose of an interim reception order under this Act, whenever undue delay or inconvenience would result in obtaining an examination and report by two medical practitioners:

Provided that the results of an examination and the report of one medical practitioner shall be confirmed by another medical practitioner as soon as the same can conveniently be obtained.

101. Police officer to execute orders under Act

It shall be the duty of every police officer to execute any lawful order of the Cabinet Secretary or any magistrate issued under this Act, and any person resisting or obstructing any magistrate, medical

practitioner or other person charged with a duty under this Act in the execution of the duty shall be guilty of an offence.

[Act No. 28 of 1961, Sch.]

102. Private asylums

(1) If the Cabinet Secretary is satisfied that proper provision will be made for the care, comfort and custody of persons affected with leprosy, and for regulating intercourse between such persons and persons not so affected in any private leper asylum, he may by notice in the *Gazette* exempt from the provisions of this Act all persons affected with leprosy if and so long as they remain within the private leper asylum specified in such notice.

(2) The Cabinet Secretary may at any time, by notice in the *Gazette*, cancel any exemption made by him under subsection (1), either in respect of all the inmates of a private leper asylum specified in such notice or in respect of such inmate or inmates as may be specified in the notice.

(3) A medical officer may at any time enter any private leper establishment specified in any notice under subsection (1), and inspect the same and examine the inmates; and every such asylum shall be inspected and a report thereon sent to the Cabinet Secretary by a medical practitioner appointed by the Director-General for health in that behalf, at least once in every six months.

[Act No. 28 of 1961, Sch., Act No. 21 of 2017, s. 70.]

Part VIII – PREVENTION OF THE SPREAD OF SMALLPOX

103. Interpretation of Part

For the purposes of this Part-

"child" means a person who is under, or who appears to be under, fifteen years of age;

"public vaccinator" includes a public vaccinator appointed by the Director-General for health and any person appointed by the Director-General for health to assist or act for a public vaccinator, and includes any Government medical officer, medical officer of health or district surgeon;

"unprotected person" means a person, including a child, who has not been protected from smallpox by having had the disease, either naturally or by inoculation or by having been successfully vaccinated, and who has not been certified under this Act to be insusceptible to vaccination.

[Act No. 21 of 2017, s. 70.]

104. Vaccination of children

The parent or guardian of every child in Kenya shall, unless such child is insusceptible or unfit or has suffered from smallpox, cause such child to be successfully vaccinated by a public vaccinator, or other medical practitioner, and the parent or guardian of every such child shall procure one of the following certificates on the form prescribed, signed by the public vaccinator or other medical practitioner—

(a) a certificate of successful vaccination;

(b) a certificate of insusceptibility to vaccination;

(c) a certificate of unfitness for vaccination;

(d) a certificate that the child has suffered from smallpox.

105. Vaccination of persons entering Kenya

(1) Every unvaccinated adult person, or the parent or guardian of every unvaccinated child, in or entering Kenya shall cause himself or such child to be successfully vaccinated within twelve months after entering Kenya.

(2) The conditions and exceptions mentioned in section 104 shall *mutatis mutandis* apply to any adult person or child described in this section.

(3) A person shall be deemed to be unvaccinated if he has not been or fails to prove that he has been successfully vaccinated:

Provided that the provisions of this section shall not apply to any person who can prove that reasonable facilities for vaccination were not obtainable.

106. Emergency vaccination of population in area threatened with smallpox

In the event of the occurrence or threatened outbreak of smallpox in any area—

(a) the medical officer of health or the district surgeon or other Government medical officer may require are person to be forthwith vaccinated or revaccinated who has or is suspected to have been in any way recently exposed to smallpox infection, or may require the parent or guardian of any child who has or is suspected to have been so exposed to have such child vaccinated or revaccinated forthwith; and any person failing to comply with such requirement shall be guilty of an offence;

(b) the municipal council may, or when instructed by the Cabinet Secretary on the advice of the Board so to do shall require all persons within an area defined to attend at centres according to instructions issued and to undergo inspection, vaccination or revaccination as circumstances may require; such instructions may be issued by notice in the press, or by notices posted in public places, or otherwise as may be deemed sufficient by the municipal council; and non-attendance shall be an offence;

(c) any district surgeon, public vaccinator or medical practitioner duly authorized by the Director-General for health may require any person in such area to furnish satisfactory proof (including the exhibition of vaccination scars) that he has been successfully vaccinated within five years immediately preceding the date of such requirement; and any person who fails to furnish such proof as regards himself or as regards any child of which he is the parent or guardian, and refuses to allow himself or such child to be vaccinated, shall be guilty of an offence.

[L.N. 187/1956, Sch., L.N. 172/1960, Sch., L.N. 256/1963, 4th Sch., L.N. 41/1970, Sch., Act No. 21 of 2017, s. 70.]

107. Person unfit for vaccination

(1) If any public vaccinator or medical practitioner is of opinion that any adult or child is not in a fit state to be vaccinated, he shall give to the adult or to the parent or guardian of the child a certificate under his hand according to Form No. 1 in the Schedule, or to the like effect, that the adult or child is then in a state unfit for vaccination.

(2) The said certificate shall remain in force for six months only, but shall be renewable for successive periods of six months until the public vaccinator or medical practitioner deems the adult or child to be fit for vaccination, when the adult or child shall with all reasonable dispatch be vaccinated.

108. Person insusceptible of successful vaccination

(1) If any public vaccinator or medical practitioner finds that any adult or child whom he has three times unsuccessfully vaccinated is insusceptible of successful vaccination, or that the adult or child coming or brought to him for vaccination has already been successfully inoculated or had the smallpox, he shall deliver to the adult or to the parent or guardian of the child a certificate under his hand in Form No. 2 in the Schedule.

(2) A certificate of insusceptibility to vaccination shall only be given by a public vaccinator or other medical practitioner after three unsuccessful attempts at vaccination at intervals of not less than one month have been made by him with calf vaccine lymph of known efficiency.

109. Certificate to be given for successful vaccination

Every public vaccinator or medical practitioner who has performed the operation of vaccination upon any adult or child, and has ascertained that the same has been successful, shall deliver to such adult or to the parent or guardian of such child a certificate in Form No. 3 in the Schedule, or to the like effect, certifying that the said adult or child has been successfully vaccinated.

110. No fee to be charged by public vaccinator, and certificate to contain description of person vaccinated

(1) No fee or remuneration shall be charged to the person vaccinated by any public vaccinator for any certificate granted under this Act, nor for any vaccination done by him in pursuance of this Act.

(2) A public vaccinator or medical practitioner giving any certificate under this Act shall enter therein a description of the person in respect of whom the certificate is given sufficient for the purpose of identification.

111. Vaccination of inmates of institutions

Every superintendent or person in charge of a leper asylum or mental hospital or chronic sick hospital, jail, prison, reformatory, penitentiary or other similar institution shall cause to be vaccinated within fourteen days following his admission to such institution every inmate thereof who, being in a fit state of health to undergo vaccination, has not been successfully vaccinated within the five years immediately preceding; and if such person is at the time unfit to undergo vaccination he shall be vaccinated as soon as he is so fit.

112. School children to be vaccinated

(1) No child shall be admitted to or attend any school until there has been produced to the person in charge thereof a certificate or other satisfactory evidence that the provisions of this Part in respect of such child have been complied with.

(2) For the purpose of ascertaining whether the provisions of subsection (1) of this section are being observed, every public vaccinator is hereby authorized and required whenever instructed by the Director-General for health to visit any school, and make therein such inspection of the children attending thereat as will enable him to furnish prescribed particulars to the Director-General for health as to the children who are unvaccinated.

[Act No. 21 of 2017, s. 70.]

113. Prohibited methods of inoculation

Any person who inoculates himself or any other person with material taken from a person suffering from smallpox or from a vaccine vesicle on another person or by any method not prescribed in the rules shall be guilty of an offence.

114. Rules

The Cabinet Secretary, on the advice of the board, may make rules—

(a) prescribing the form of certificates, notices, returns and books of record to be used in connexion with public vaccination, and defining the information to be furnished therein, and requiring the furnishing and prescribing the manner of use thereof by registrars of births, public vaccinators,

local authorities, medical practitioners, parents or guardians of children, persons in charge of schools, employers of labour and others;

(b) conferring powers and imposing duties, in connexion with the carrying out or enforcement of vaccination, on magistrates, justices of the peace, members of the police force or other Government officers, local authorities, persons in charge of schools, employers of labour, chiefs, headmen of locations and others;

(c) prescribing the conditions under which vaccine lymph may be supplied free of charge to medical practitioners, municipal councils and others;

(d) providing for the vaccination or revaccination of persons and assigning where deemed desirable the responsibility for the carrying out of such vaccination or revaccination to municipal councils or employers of labour;

(e) as to the application and enforcement of the provisions of this Part to persons entering Kenya, whether by land or sea, and for requiring, where deemed necessary, the vaccination or revaccination of any person before so entering.

[L.N. 188/1956, Sch., L.N. 173/1960, Sch., L.N. 41/1970, Sch.]

Part IX – SANITATION AND HOUSING

115. Nuisances prohibited

No person shall cause a nuisance or shall suffer to exist on any land or premises owned or occupied by him or of which he is in charge any nuisance or other condition liable to be injurious or dangerous to health.

116. Local authorities to maintain cleanliness and prevent nuisances

It shall be the duty of every local authority to take all lawful, necessary and reasonably practicable measures for maintaining its district at all times in clean and sanitary condition, and for preventing the occurrence therein of, or for remedying or causing to be remedied, any nuisance or condition liable to be injurious or dangerous to health, and to take proceedings at law against any person causing or responsible for the continuance of any such nuisance or condition.

117. Health authorities to prevent or remedy danger to health from unsuitable dwellings

It shall be the duty of every health authority to take all lawful, necessary and reasonably practicable measures for preventing or causing to be prevented or remedied all conditions liable to be injurious or dangerous to health arising from the erection or occupation of unhealthy dwellings or premises, or the erection of dwellings or premises on unhealthy sites or on sites of insufficient extent, or from overcrowding, or from the construction, condition or manner of use of any factory or trade premises, and to take proceedings against any person causing or responsible for the continuance of any such condition.

[L.N. 256/1963, 4th Sch., L.N. 41/1970, Sch.]

118. What constitutes nuisance

(1) The following shall be deemed to be nuisances liable to be dealt with in the manner provided in this Part—

(a) any vessel, and any railway carriage or other conveyance, in such a state or condition as to be injurious or dangerous to health;

(b) any dwelling or premises or part thereof which is or are of such construction or in such a state or so situated or so dirty or so verminous as to be, in the opinion of the medical officer of health, injurious or dangerous to health, or which is or are liable to favour the spread of any infectious disease;

(c) any street, road or any part thereof, any stream, pool, ditch, gutter, watercourse, sink, water-tank, cistern, water-closet, earth-closet, privy, urinal, cesspool, soak-away pit, septic tank, cesspit, soil-pipe, waste-pipe, drain, sewer, garbage receptacle, dust-bin, dung-pit, refuse-pit, slop-tank, ash-pit or manure heap so foul or in such a state or so situated or constructed as in the opinion of the medical officer of health to be offensive or to be injurious or dangerous to health;

(d) any well or other source of water supply or any cistern or other receptacle for water, whether public or private, the water from which is used or is likely to be used by man for drinking or domestic purposes or in connexion with any dairy or milkshop, or in connexion with the manufacture or preparation of any article of food intended for human consumption, which is in the opinion of the medical officer of health polluted or otherwise liable to render any such water injurious or dangerous to health;

(e) any noxious matter, or waste water, flowing or discharged from any premises, wherever situated, into any public street, or into the gutter or side channel of any street, or into any nullah or watercourse, irrigation channel or bed thereof not approved for the reception of such discharge;

(f) any stable, cow-shed or other building or premises used for keeping of animals or birds which is so constructed, situated, used or kept as to be offensive or which is injurious or dangerous to health;

(g) any animal so kept as to be a nuisance or injurious to health;

(h) any accumulation or deposit of refuse, offal, manure or other matter whatsoever which is offensive or which is injurious or dangerous to health;

(i) any accumulation of stones, timber or other material if such in the opinion of the medical officer of health is likely to harbour rats or other vermin;

(j) any premises in such a state or condition and any building so constructed as to be likely to harbour rats;

(k) any dwelling or premises which is so overcrowded as to be injurious or dangerous to the health of the inmates, or is dilapidated or defective in lighting or ventilation, or is not provided with or is so situated that it cannot be provided with sanitary accommodation to the satisfaction of the medical officer of health;

(l) any public or other building which is so situated, constructed, used or kept as to be unsafe, or injurious or dangerous to health;

(m) any occupied dwelling for which such a proper, sufficient and wholesome water supply is not available within a reasonable distance as under the circumstances it is possible to obtain;

(n) any factory or trade premises not kept in a clean state and free from offensive smells arising from any drain, privy, water-closet, earth- closet or urinal, or not ventilated so as to destroy or render harmless and inoffensive as far as practicable any 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 those employed therein;

(o) any factory or trade premises causing or giving rise to smells or effluvia which are offensive or which are injurious or dangerous to health;

(p) any area of land kept or permitted to remain in such a state as to be offensive, or liable to cause any infectious communicable or preventable disease or injury or danger to health;

(q) any chimney sending forth smoke in such quantity or in such manner as to be offensive or injurious or dangerous to health;

(r) any cemetery, burial-place or place of sepulture so situated or so crowded or otherwise so conducted as to be offensive or injurious or dangerous to health;

(s) any act, omission or thing which is, or may be, dangerous to life, or injurious to health.

(2) The author of a nuisance means the person by whose act, default or sufferance nuisance is caused, exists or is continued, whether he is the owner or occupier or both owner and occupier or any other person.

119. Notice to remove nuisance

The medical officer of health, if satisfied of the existence of a nuisance, shall serve a notice on the author of the nuisance or, if he cannot be found, on the occupier or owner of the dwelling or premises on which the nuisance arises or continues, requiring him to remove it within the time specified in the notice, and to execute such work and do such things as may be necessary for that purpose, and, if the medical officer of health think it desirable (but not otherwise), specifying any work to be executed to prevent a recurrence of the said nuisance:

Provided that—

(i) where the nuisance arises from any want or defect of a structural character, or where the dwelling or premises are unoccupied, the notice shall be served on the owner;

(ii) where the author of the nuisance cannot be found and it is clear that the nuisance does not arise or continue by the act or default or sufferance of the occupier or owner of the dwelling or premises, the medical officer of health shall remove the same and may do what is necessary to prevent the recurrence thereof.

[L.N. 142/1963, Sch., L.N. 256/1963, 4th Sch., L.N. 41/1970, Sch.]

120. Procedure if owner fails to comply with notice

(1) If the person on whom a notice to remove a nuisance has been served as aforesaid fails to comply with any of the requirements thereof within the time specified, the medical officer of health shall cause a complaint relating to such nuisance to be made before a magistrate, and such magistrate shall thereupon issue a summons requiring the person on whom the notice was served to appear before his court.

(2) If the court is satisfied that the alleged nuisance exists, the court shall make an order on the author thereof, or the occupier or owner of the dwelling or premises, as the case may be, requiring him to comply with all or any of the requirements of the notice or otherwise to remove the nuisance within a time specified in the order and to do any works necessary for that purpose.

(3) The court may by such order impose a fine not exceeding two hundred shillings 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 of the nuisance.

(4) If the court is satisfied that the nuisance, although removed since the service of the notice, was not removed within the time specified in such notice, the court may impose a fine not exceeding two hundred shillings on the person on whom such notice was served, and may, in addition to or in substitution for such fine, order such person to pay all costs incurred up to the time of the hearing of the case.

(5) If the nuisance, although removed since the service of the notice, in the opinion of the medical officer of health is likely to recur on the same premises, the medical officer of health shall cause a complaint relating to such nuisance to be made before a magistrate, and the magistrate shall thereupon issue a summons requiring the person on whom the notice was served to appear before him.

(6) If the court is satisfied that the alleged nuisance, although removed, is likely to recur on the same premises, the court shall make an order on the author thereof or the occupier or owner of the dwelling or premises, as the case may be, requiring him to do any specified work necessary to prevent the recurrence of the nuisance and prohibiting its recurrence.

(7) In the event of the person on whom such order as is specified in subsections (5) and (6) not complying with the order within a reasonable time, the medical officer of health shall again cause a complaint to be made to a magistrate, who shall thereupon issue a summons requiring such person to appear before him, and on proof that the order has not been complied with may impose a fine not exceeding two hundred shillings, and may also give directions as to the payment of all costs up to the time of the hearing.

(8) Before making any order, the court may, if it thinks fit, adjourn the hearing or further hearing of the summons until an inspection, investigation or analysis in respect of the nuisance alleged has been made by some competent person.

(9) Where the nuisance proved to exist is such as to render a dwelling unfit, in the judgment of the court, for human habitation, the court may issue a closing order prohibiting the use thereof as a dwelling until in its judgment the dwelling is fit for that purpose; and may further order that no rent shall be due or payable by or on behalf of the occupier of that dwelling in respect of the period in which the closing order exists; and on the court being satisfied that it has been rendered fit for use as a dwelling the court may terminate the closing order and by a further order declare the dwelling habitable, and from the date thereof such dwelling may be let or inhabited.

(10) Notwithstanding a closing order, further proceedings may be taken in accordance with this section in respect of the same dwelling in the event of any nuisance occurring or of the dwelling being again found to be unfit for human habitation.

[L.N. 256/1963, 4th Sch., L.N. 41/1970, Sch.]

121. Penalty respecting nuisances

(1) Any person who fails to obey an order to comply with the requirements of the medical officer of health or otherwise to remove the nuisance shall, unless he satisfies the court that he has used all diligence to carry out such order, be guilty of an offence and liable to a fine not exceeding one thousand five hundred shillings for every day during which the default continues; and any person wilfully acting in contravention of a closing order issued under section 120 shall be guilty of an offence and liable to a fine not exceeding one thousand five hundred shillings for every day during which the contravention continues.

(2) The medical officer of health may in such case enter the premises to which any such order relates, and remove the nuisance and do whatever may be necessary in the execution of such order, and recover in any competent court the expenses incurred from the person on whom the order is made.

[L.N. 256/1963, 4th Sch., L.N. 41/1970, Sch., Act No. 2 of 2002, Sch.]

122. Court may order health authority to execute works in certain cases

Whenever it appears to the satisfaction of the court that the person by whose act or default the nuisance arises, or that the owner or occupier of the premises, is not known or cannot be found, the court may at once order the health authority to execute the works thereby directed, and the cost of executing the same shall be a charge on the property on which the said nuisance exists.

[L.N. 256/1963, 4th Sch., L.N. 41/1970.]

123. Examination of premises

The health authority or any of its officers, or the medical officer of health, or any sanitary inspector, or, on the order of a magistrate, any police officer of or above the rank of Inspector, may enter any building or premises for the purpose of examining as to the existence of any nuisance therein at all reasonable times; and the health authority or any of its officers may if necessary open up the ground of such premises and cause the drains to be tested, or such other work to be done as may be necessary for the effectual examination of the said premises:

Provided that if no nuisance is found to exist the authority shall restore the premises at its own expense.

[L.N. 256/1963, 4th Sch., L.N. 41/1970, Sch.]

124. Demolition of unfit dwellings

(1) Where any such nuisance as is mentioned in section 118 is proved to exist with respect to a dwelling, and the court is satisfied that such dwelling is so dilapidated or so defectively constructed or so situated that repairs to or alterations of the same are not likely to remove the nuisance and make such dwelling fit for human habitation, the court may order the owner thereof to commence to demolish the dwelling and any other structures on the premises on or before a specified day, being at least one month from the date of issuing the order, and to complete the demolition and to remove the materials which comprised the same from the site before another specified day.

(2) The court shall give notice to the occupier of a dwelling in respect of which such an order has been issued requiring him to move therefrom within a time to be specified in such notice, and if any person fails to comply with such notice or enter the dwelling or premises after the date fixed except for the purpose of demolition he shall be guilty of an offence.

(3) If any person fails to comply with such an order for demolition, he shall be guilty of an offence and liable to pay the daily fine provided in section 121, and the health authority may cause the dwelling and any other structures on the premises to be demolished, and may recover from the owner the expense incurred in doing so after deducting the net proceeds of the sale of the materials, which the health authority may sell by auction.

(4) No compensation shall be paid by the health authority to the owner or occupier of any dwelling or other structure in respect of the demolition thereof as aforesaid, and from the date of the demolition order no rent shall be due or payable by or on behalf of the occupier in respect of such dwelling or structure.

(5) In this section, "the court" means a subordinate court of the first class.

[Act No. 36 of 1962, Sch., L.N. 256/1963, 4th Sch., L.N. 41/1970, Sch.]

125. Duty of department as to overcrowding, etc.

It shall be the duty of the Medical Department—

(a) to collect, investigate and consider and publish the facts as to any overcrowding or bad or insufficient housing in the various districts of Kenya;

(b) to inquire into the best methods of dealing with any overcrowding or bad housing so ascertained to exist;

(c) to make or publish such recommendations as may seem necessary in respect of the result of any such investigation or inquiry.

126. Rules under Part

The Cabinet Secretary, on the advice of the board, may make rules and may confer powers and impose duties in connexion with the carrying out and enforcement thereof on local authorities, magistrates, owners and others as to—

(a) the inspection of land, dwellings, buildings, factories and trade premises, and for securing the keeping of the same clean and free from nuisance and so as not to endanger the health of the inmates or the public health;

(b) the construction of buildings, the provision of proper lighting and ventilation and the prevention of over-crowding;

(c) the periodical cleansing and whitewashing or other treatment of dwellings, and the cleansing of land attached thereto, and the removal of rubbish or refuse therefrom;

(d) the drainage of land, streets or premises, the disposal of offensive liquids and the removal and disposal of rubbish, refuse, manure and waste matters;

(e) the standard or standards or purity of any liquid which, after treatment in any purification works, may be discharged therefrom as effluent;

(f) the keeping of animals or birds and the construction, cleanliness and drainage of places where animals or birds are kept;

(g) the establishment and carrying on of factories or trade premises which are liable to cause offensive smells or effluvia, or to discharge liquid or other material liable to cause such smells or effluvia, or to pollute streams, or are otherwise liable to be a nuisance or injurious or dangerous to health, and for prohibiting the establishment or carrying on of such factories or trade premises in unsuitable localities or so as to be a nuisance or injurious or dangerous to health;

(h) the subdivision and general lay-out of land intended to be used as building sites, the level construction, number, direction and the width of streets and thoroughfares, the limitation of the number of dwellings or other buildings to be erected on such land, the proportion of any building site which may be built upon and the establishment of zones within which different limitations shall apply and of zones within which may be prohibited the establishment or conduct of occupations or trades likely to cause nuisance or annoyance to persons residing in the neighbourhood;

(i) the inspection of the district of any local authority by that local authority with a view to ascertain whether the lands and buildings thereon are in a state to be injurious or dangerous to health, and the preparation, keeping and publication of such records as may be required.

[L.N. 188/1956, Sch., L.N. 173/1960, Sch.]

126A. By-laws as to buildings and sanitation

(1) Every municipal council and every urban and area council may, and shall if so required by the Cabinet Secretary for the time being responsible for local government with the agreement of the Cabinet Secretary, make by-laws for all or any of the following matters—

(a) as regards buildings—

(i) for controlling the construction of buildings, and the materials to be used in the construction of buildings;

(ii) for controlling the space about buildings, the lighting and ventilation of buildings and the dimensions of rooms intended for human habitation;

(iii) for controlling the height of buildings, and the height of chimneys (not being separate buildings) above the roof of the buildings of which they form part;

(iv) for prohibiting the erection or use of temporary or movable buildings, whether standing on wheels or otherwise, and for prohibiting or restricting the use of tents or similar buildings for business or dwelling purposes;

(v) for requiring and regulating adequate provision for the escape of the occupants of any building in the event of an outbreak of fire;

(vi) for preventing the occupation of a new or altered building until a certificate of the fitness thereof for occupation or habitation has been issued by such local authority;

(vii) to compel employers to provide housing for their employees;

(viii) to compel owners to repair or demolish unsafe dangerous or dilapidated buildings;

(b) as regards works and fittings—

(i) for regulating sanitary conveniences in connexion with buildings, the drainage of buildings (including the means for conveying refuse water and water from roofs and from yards appurtenant to buildings), the cleansing, drainage and paving of courts, yards and open spaces used in connexion with buildings and cesspools, and other means for the reception or disposal of foul matter in connexion with buildings;

(ii) for regulating excavations of any kind in connexion with buildings;

(iii) for regulating wells, tanks and cisterns for the supply of water for human consumption in connexion with buildings;

(iv) for regulating stoves and other fittings in buildings (not being electric stoves or fittings), in so far as by-laws with respect to such matters are required for the purposes of health and the prevention of fire;

(v) for regulating private sewers and communications between drains and sewers and between sewers;

(vi) for regulating the erection and use of scaffolding and hoarding during the construction, demolition, repair, alteration or extension of any building;

(vii) for prohibiting, securing the removal of and regulating projections and obstructions in front of buildings, and projections over streets, but no such by-law shall be inconsistent with or repugnant to any written law in force in the same area made under any other provision of this Act.

(2) By-laws made under this section may include provisions—

(a) as to the giving of notices and the deposit of plans, sections, specifications and written particulars; and

(b) as to the inspection of work the testing of drains and sewers, and the taking by such local authority as aforesaid of samples of materials to be used in the construction of buildings, or in the execution of other works, and for the payment of such reasonable charges and fees as the local authority may determine, for the doing of any of the things aforesaid.

(3) By-laws under subparagraphs (i), (ii) and (iii) of subsection (1)(a) may be made with respect to—

(a) structural alterations or extensions of buildings, and buildings so far as affected by alterations or extensions;

(b) buildings or parts of buildings in cases where any material change, within the meaning of subsection (4), takes place in the purposes for which a building or, as the case may be, a part of a building is used, and, so far as they relate to the matters mentioned in this subsection, may be made to apply to buildings erected before the date on which the by-laws came into force, but, save as aforesaid, shall not apply to buildings erected before that date.

(4) For the purposes of subsection (3), there shall be deemed to be a material change in the purposes for which a building, or a part of a building, is used if—

(a) a building, or a part of a building, being a building or part which was not originally constructed for occupation as a dwelling, or which though so constructed has been appropriated to other purposes, becomes used as a dwelling; or

(b) a building, or a part of a building, being a building or part which was originally constructed for occupation as a dwelling by one family only, becomes occupied by two or more families; or

(c) where by-laws contain special provisions with respect to buildings used for any particular purpose, a building or a part of a building, being a building or part not previously used for that purpose, becomes so used.

(5) The procedure for the making, approval and publication of by-laws made under this section shall be that prescribed in the Local Government Act (Cap. 265), and for the purposes of the enforcement thereof and the disposal of fines imposed for contravention thereof such by-laws shall be deemed to be by-laws made by the same local authority under that Act.

(6) Rules may be made under any other provision of this Act notwithstanding that they may be inconsistent with or repugnant to any by-law made under this section and in force in the area to which such rules apply, and to the extent, if any, of such inconsistency or repugnancy as aforesaid, the rules shall prevail.

[L.N. 256/1963, 4th Sch.]

126B. Power to relax requirements of building by-laws

Where a local authority considers that the operation of any building by-law made by it under section 126A would be unreasonable in relation to any particular case, it may, with the consent of the Cabinet Secretary for the time being responsible for local government given with the agreement of the Cabinet Secretary, relax the requirements of the by-law or dispense with compliance therewith:

Provided that the local authority shall give notice of any such proposed relaxation of dispensation in such manner and to such persons, if any, as the Cabinet Secretary for the time being responsible for local government may direct, and that the Cabinet Secretary shall not give his consent before the expiration of one month from the giving of the notice and, before giving his consent, shall take into consideration any objection which may have been received by him.

[L.N. 256/1963, 4th Sch.]

126C. Passing or rejection of plans and retention of plans, etc.

(1) Where plans of any proposed work are, in accordance with any building by- laws made under section 126A, deposited with a local authority, the local authority shall, subject to any other provisions of this Act, or any rule or By-law made thereunder which expressly requires or authorizes it in certain cases to reject plans, pass the plans unless they either are defective, or show that the proposed work would contravene any of those rules or by-laws, and, if the plans are defective or would contravene any of those rules or by-laws, such local authority shall reject the plans.

(2) The local authority shall within the prescribed period from the deposit of the plans give notice to the person by whom or on whose behalf they were deposited whether or not they are passed, and—

(a) a notice of rejection shall specify the defects on account of which, or the by-law or the provision of this Act or the rule (if any) made thereunder for non-conformity with which, or under the authority of which, the plans have been rejected; and

(b) a notice that plans have been passed shall state that the passing of the plans operates as an approval thereof only for the purposes of the requirements of the said building by-laws and of any such provision of this Act or any rule made thereunder as is referred to in subsection (1).

(3) Any question arising under this section between a local authority and the person by whom or on whose behalf plans are deposited as to whether the plans are defective, or whether the proposed work would contravene any of the said building by-laws may, on the application of that person, be determined by a subordinate court of the first class:

Provided that no such application shall be entertained unless it is made before the proposed work has been substantially commenced.

(4) For the purposes of this section, the prescribed period in relation to the passing or rejection of plans is one month, but building by-laws made under section 126A by a local authority whose meetings are normally held not more frequently than once a month, may provide that in the case

of plans deposited less than three clear days before a meeting of the local authority the prescribed period shall be five weeks:

Provided that the local authority may, within the said period of one month or five weeks, as the case may be, by notice in writing extend such period in the case of any particular application for a further period of one month.

(5) Building by-laws made under section 126A may—

(a) require that plans and other documents to be deposited in pursuance of the by-laws shall be deposited in such number of copies as the local authority may stipulate and, if the by-laws contain such a requirement the local authority may retain one or more copy of any plans or other documents so deposited, whether or not the plans are passed; and

(b) require the payment of such reasonable fee as the local authority may determine for the examination by it of any plans or other documents deposited with it pursuant to such by-laws; and

(c) stipulate the period within which a building shall be commenced and completed.

[L.N. 256/1963, 4th Sch.]

126D. Power to require removal or alteration of work in certain cases

(1) If any work, to which building by-laws made under section 126A are applicable, contravenes any of those by-laws, the local authority which made them, without prejudice to its right to take proceedings in respect of the contravention, may by notice require the owner either to pull down or remove the work or, if he so elects, to effect such alterations therein as may be necessary to make it comply with the by-laws.

(2) In a case where the local authority is, by any provision in this Act other than section 126C or by any rules made thereunder other than building by-laws made under section 126A, expressly required or authorized to reject plans, then, if any work to which such building by-laws are applicable is executed either without plans having been deposited, or notwithstanding the rejection of the plans, or otherwise than in accordance with any requirements subject to which the local authority passed the plans, the local authority may by notice to the owner either require him to pull down or remove the work, or if he so elects, to comply with any other requirements specified in the notice, being requirements which the local authority might have made under the provision or rule in question as a condition of passing plans.

(3) A notice under subsection (1) or subsection (2) may be served either personally or by registered post or by attaching the same to such work or by advertisement in not less than two consecutive issues of a newspaper circulating in the area in which such work is situate.

(4) Where such local authority is unable to ascertain the name and address of the owner of the work, the owner of the land upon which the work stands shall, upon being required in writing so to do by the local authority within twenty-eight days of the date of the service of such requirement, furnish the local authority with full particulars of the name and address of the owner of such work, and if the owner of the land without reasonable excuse fails to furnish the said particulars within the time prescribed and if he in furnishing the particulars makes any statement which proves to be false he shall be guilty of an offence and shall be liable to a fine not exceeding one thousand shillings, and if he shall thereafter continue to withhold the said particulars he shall be liable to a further fine not exceeding thirty shillings for every day during which such offence shall continue.

(5) If a person to whom notice has been given under subsection (1) or subsection (2) fails to comply with the notice before the expiration of twenty-eight days, or such longer period as may be specified in the notice or as a subordinate court of the first class may on his application allow, the local authority which gave the notice may pull down or remove the work in question, and may if it thinks fit sell the materials thereof or effect such alterations therein as it deems necessary.

(6) The amount of any expenses incurred by a local authority under subsection (5), after giving credit for any amount realized by the sale of materials if sold, shall be a civil debt recoverable summarily by the local authority from the owner of the work and the owner of the land upon which the work is situate jointly and severally and the right of a local authority to recover any such amount, or any part thereof, from any person under this subsection shall not be barred by reason only of the local authority having obtained judgment for the same, or any part thereof, against any other person, and where any person liable therefor pays to such local authority the full amount of any such expenses, he may recover from any other person liable jointly therefor such contribution, if any, as a subordinate court of the first class may determine to be just and equitable.

(7) Any surplus in the hands of the local authority shall be paid by it to the owners of the work and the land on which the same is situate as those owners agree; and if the owners do not agree as to the division of such surplus the local authority shall be deemed by virtue of this subsection to be a trustee of the surplus for such owners, and section 63 of the Trustee Act (Cap. 167) (which relates to payment into court by trustees) shall have effect accordingly.

(8) The court, in determining for the purposes of this section the shares in which any expenses shall be contributed by, or any surplus shall be divided between, two or more persons, shall have regard to their respective interests in the work and the land on which the same is situate, the right (if any) of the owner of the work to remove the same, the respective obligations and liabilities of the parties in respect of the maintenance and repair of the work, and all the other circumstances of the case.

(9) By-laws made under section 126A may provide for compensation to be payable by the local authority to the owner or occupier of any work pulled down or removed, for such reasons or in such circumstances as may be specified in the by-laws by such local authority under section 126A(3) but, save as aforesaid, no compensation shall be payable for any work so removed or pulled down.

(10) No such notice as is mentioned in subsection (1) or subsection (2) shall be given after the expiration of twelve months from the date of the completion of the work in question, and, in any case where plans were deposited, it shall not be open to the local authority to give such a notice on the ground that the work contravenes any building by-laws made under section 126A, or, as the case may be, does not comply with its requirements under any other provision of this Act or rules made thereunder as aforesaid, if either the plans were passed by the local authority, or notice of their rejection was not given within the prescribed period from the deposit thereof, and if the work has been executed in accordance with the plans and of any requirement made by the local authority as a condition of passing the plans.

(11) Nothing in this section shall affect the right of a local authority, or of the Attorney-General, or of any other person, to apply for an injunction for the removal or alteration of any work on the grounds that it contravenes any by-law or any provision in this Act, but if the work is one in respect of which plans were deposited and the plans were passed by the local authority or notice of their rejection was not given within the prescribed period after the deposit thereof, and if the work has been executed in accordance with the plans, the court on granting the injunction shall have power to order the local authority to pay to the owner of the work such compensation as the court thinks just, but before making any such order the court shall cause the local authority, if not a party to the proceedings, to be joined as a party thereto.

[L.N. 256/1963, 4th Sch.]

Part X – PROTECTION OF FOODSTUFFS

127. Construction and regulation of buildings used for storage of foodstuffs

(1) All warehouses, godowns or buildings of whatever nature used for the storage of foodstuffs shall be constructed of such materials and in such manner as shall in the opinion of the medical officer of health render such warehouse, godown or building rat-proof.

(2) Where any warehouse, godown or building intended for the storage of foodstuffs aforesaid has fallen into a state of disrepair, or does not in the opinion of the medical officer of health afford sufficient protection against rat invasion by reason of the materials used in the construction of the same being defective, the medical officer of health may by written notice require the owner to effect such repairs and alterations as the notice shall prescribe within a time to be specified in the said notice, and if such requirement is not complied with the health authority may enter upon the premises and effect such repairs and alterations, and may recover all costs and expenses incurred from the owner.

(3) Where in the opinion of the medical officer of health and foodstuffs within a warehouse, godown or building are insufficiently protected, the owner thereof shall observe all written instructions and directions of the medical officer of health within a time to be specified in the said notice for the better protection of the same:

Provided that in the case of any prosecution under this section the court may in its discretion acquit the accused if it is satisfied that all reasonable steps have been taken to exclude rats having regard to all the circumstances of the case.

[L.N. 41/1970, Sch.]

128. Prohibition of residing or sleeping in kitchens or food stores

(1) No person shall reside or sleep in any kitchen or room in which foodstuffs are prepared or stored for sale.

(2) If it appears to the medical officer of health that any such kitchen or room is being so used contrary to the provisions of this section, or that any part of the premises adjoining the room in which foodstuffs are stored or exposed for sale is being used as a sleeping apartment under such circumstances that the foodstuffs are likely to be contaminated or made unwholesome, he may serve upon the offender or upon the owner of the house, or upon both, a notice calling for such measures to be taken as will prevent the improper use of such kitchen and premises within a time to be specified in the notice, and if such notice is not complied with the party upon whom it was served shall be guilty of an offence.

Part XI – PUBLIC WATER SUPPLIES, MEAT, MILK AND OTHER ARTICLES OF FOOD

129. Duty of local authority as to protection of water supplies

It shall be the duty of every local authority to take all lawful, necessary and reasonably practicable measures—

(a) for preventing any pollution dangerous to health of any supply of water which the public within its district has a right to use and does use for drinking or domestic purposes (whether such supply is derived from sources within or beyond its district); and

(b) for purifying any such supply which has become so polluted,

and to take measures (including, if necessary, proceedings at law) against any person so polluting any such supply or polluting any stream so as to be a nuisance or danger to health.

130. Rules for protection of water supplies

(1) The Cabinet Secretary, on the advice of the board, may make, and impose on local authorities and others the duty of enforcing, rules in respect of defined areas—

(a) prohibiting bathing in, and prohibiting or regulating the washing of clothes or other articles or of animals in, or in any place draining into, any such water supply as is mentioned in section 129;

(b) prohibiting or regulating the erection of dwellings, sanitary conveniences, stables, cattle-kraals, pig-styes, ostrich-pens, dipping tanks, factories or other works likely to entail risk of harmful pollution of any such water supply, or prohibiting or regulating the deposit in the vicinity of, or in any place draining into, any such supply of any manure, filth or noxious or offensive matter or thing,

and generally, for preventing the pollution dangerous to health of any supply of water which the public within its district has a right to use and does use for drinking or domestic purposes and for purifying any such supply which has become so polluted, and for preventing the pollution of streams so as to be a nuisance or a danger to health.

(2) Rules under this section shall be made with due regard to the interests of agricultural or any other industries.

[L.N. 188/1956, Sch., L.N. 173/1960, Sch.]

131. Sale of unwholesome food prohibited

(1) No person shall sell or expose for sale or import or bring into any market or have in his possession without reasonable excuse any food for man in a tainted, adulterated, diseased or unwholesome state, or which is unfit for use, or any food for any animal which is in an unwholesome state or unfit for their use, and any medical officer of health, veterinary officer, sanitary inspector, meat inspector or police officer of or above the rank of Inspector may seize any such food, and any magistrate on the recommendation of the medical officer of health, a sanitary inspector or a veterinary officer may order it to be destroyed, or to be so disposed of as to prevent it from being used as food for man or animal as the case may be.

(2) No person shall collect, prepare, manufacture, keep, transmit or expose for sale any foodstuffs without taking adequate measures to guard against or prevent any infection or contamination thereof.

132. Seizure of unwholesome foods

Any medical officer of health, or other person duly authorized by the health authority in writing, may, at any time between the hours of 6 a.m. and 6 p.m., enter any shop or premises used for the sale or preparation for sale or storage of food to inspect and examine any food found therein which he has reason to believe is intended to be used as human food, and should such food appear to such officer to be unfit for such use he may seize the same, and any magistrate may order it to be disposed of as in section 131; the proof that such food was not exposed or deposited for any such purpose shall rest with the person charged.

[L.N. 256/1963, 4th Sch., L.N. 41/1970, Sch.]

133. Penalty respecting unwholesome food

Any person in whose possession there is found any food liable to seizure under section 131 or section 132 shall further be guilty of an offence and liable to a fine not exceeding two hundred thousand shillings or to imprisonment for a term not exceeding three years or to both.

[Act No. 2 of 2002, Sch.]

134. Rules for protection of food

The Cabinet Secretary, on the advice of the board, may make rules regarding all or any of the following matters—

(a) the inspection of dairy stock and of animals intended for human consumption, and of dairies, stock-sheds or yards, milk-shops, milk- vessels and slaughterhouses, and of factories, stores, shops and other places where any article of food is manufactured or prepared or kept;

(b) the taking and examination of samples of milk, dairy produce, meat or other articles of food and the removal or detention, pending examination or inquiry, of animals or articles which are suspected of being diseased or unsound or unwholesome or unfit for human consumption, and the seizure and destruction or treatment, or disposal so as not to endanger health, of any such article which is found to be unwholesome or unsound or diseased or infected or contaminated, and of diseased animals sold or intended or offered or exposed for sale for human consumption; and such rules may empower a medical officer of health, or in the case of meat a veterinary officer, to detain, seize or destroy any diseased, unsound or unwholesome article of food, but shall not confer on any other person any power beyond that of detention of such article for the purpose of examination by a medical officer of health, or in the case of meat a veterinary officer;

(c) fixing standards of cleanliness of milk, and prescribing the warning to be given to any cow-keeper, dairyman or purveyor of milk that any milk sold or kept or transmitted or exposed for sale by him has been found to be below any such standard, and the issue of orders prohibiting the sale or the keeping or exposure for sale of milk from any particular animal or animals, or requiring the closing of any dairy stock-shed or yard or milk-shop the milk from which is found, after analysis and official warning, to be below any such standard;

(d) the conveyance and distribution of milk and the labelling or marking of receptacles used for the conveyance of milk;

(e) the veterinary inspection of dairy stock, the sampling and bacteriological examination of milk and dairy produce and the prevention of the sale, or the keeping, transmission or exposure for sale, of milk from a diseased or infected animal;

(f) the duties of cow-keepers, dairymen and purveyors of milk in connexion with the occurrence of infectious disease amongst person residing or employed in or about their premises and the furnishing by them of the names and addresses of their customers, and of cow- keepers in connexion with reporting the occurrence, in animals on the premises or any dairy cattle of diseases which are communicable to man and of any disease of the udder;

(g) the inspection and examination of, and the regulation, inspection and supervision of the manufacture, preparation, storage, keeping and transmission of, any article of food intended for sale or for export, and the prohibition of the manufacture, preparation storage, keeping transmission, sale or export of any such article which is, or contains an ingredient which is, diseased or unsound or unfit for human consumption, or which has been exposed to any infection or contamination;

(h) the establishment, locality, supervision, equipment, maintenance and management of slaughterhouses and the disposal of the waste products of slaughtering and the inspection of slaughterhouses and the animals therein, and prohibiting, restricting or regulating the slaughtering or animals;

(i) prohibiting the importation of any article of food which is not clean, wholesome, sound and free from any disease or infection or contamination, and the seizure and disposal by destruction or otherwise of any such article so imported;

(j) the preparation, manufacture or importation and the storage and sale of or trade in articles of food which are packed in air-tight receptacles or are otherwise preserved, and the marking of any such article or receptacle with the date of manufacture or preparation;

(k) prohibiting the importation, sale, possession or use of vessels which are intended to contain milk or any liquid or semi-solid article of food and which are rusty or defectively soldered or are made of material containing in any part likely to come in contact with the contents, lead or other poisonous or injurious substance in such proportion as to be likely to cause injury or danger to health, and fixing the maximum proportions of such substances which may be used in such vessels;

(l) in relation to food intended for sale or export, prescribing standards of composition, strength and quality, for the prevention of adulteration, misbranding, misdescription or reduction below a

prescribed standard and for securing the sale in a pure state and in a condition which conforms with such standards.

[L.N. 188/1956, Sch., L.N. 173/1960, Sch.]

135. Orders for protection of food

The Cabinet Secretary, on the advice of the Board, may make orders—

(a) requiring the medical examination of any person in any premises in which any milk or dairy produce or other article of food intended for sale is collected, kept, sold or exposed for sale, or of any person who has been engaged in the collection, preparation, keeping, conveyance or distribution of any such milk or produce or article;

(b) prohibiting the registration as cow-keeper, dairyman or purveyor of milk, or the employment in connexion with the collection, preparation, storage, distribution or sale of milk, or dairy produce or any article of food, of any person who has been proved to be a carrier of the infection of typhoid or enteric fever or other infectious disease;

(c) requiring the closing of any stock-shed or yard, dairy or milk-shop, or the exclusion from any stock-shed or dairy premises of any animal the milk from which is believed to have conveyed or to be liable to convey any infectious disease;

(d) prohibiting the sale or exposure for sale of milk by any cow-keeper, dairyman or purveyor of milk who has been three times convicted of offences under any laws or rules regarding the milk trade.

[L.N. 187/1956, Sch., L.N. 172/1960, Sch.]

135A. Powers of certain municipal councils respecting milk, etc.

(1) Every municipal council may with the approval of the Cabinet Secretary make by-laws applicable to its area for all or any of the following purposes—

(a) for regulating, supervising and licensing purveyors of milk and ice- cream makers and vendors;

(b) for regulating, inspecting, supervising and licensing dairies and milk- shops;

(c) for regulating the conveyance and distribution and securing the identification of the source of milk or milk products distributed, offered for sale or sold within its area of jurisdiction;

(d) for prescribing the conditions subject to which any milk or milk products, wherever produced or prepared, may be introduced, distributed, stored, sold or used within its area of jurisdiction;

(e) for enabling such municipal council to certify the quality of any milk and prohibiting the unauthorized use of any terms employed by the municipal council in denoting such quality; and

(f) for prohibiting the introduction, distribution, storage, sale or use within its area of jurisdiction of any milk or milk products from any source within or without such area where it appears to such municipal council or a committee thereof, on the certificate of its medical officer of health or such other person as the municipal council may authorize in that behalf, that the consumption of such milk or milk products is likely to cause the outbreak or spread of any infectious or contagious diseases;

but no such by-law or rule shall be inconsistent with or repugnant to any rule or order under section 134 or section 135 in force in the area of jurisdiction of such municipal council.

(2) The procedure for the making, approval and publication of by-laws or rules made under this section shall be that prescribed in the Local Government Act (Cap. 265) and for the purpose of the enforcement thereof, and the disposal of fines imposed for contravention thereof, such by-laws

or rules, as the case may be, shall be deemed to be by-laws or rules made by the same municipal council under this Act.

(3) Rules may be made under section 134 and orders may be made under section 135 notwithstanding that they may be inconsistent with or repugnant to any by-law or rule of a municipal council and in force in the area to which such rules or orders shall prevail over such By-law or rules of the municipal council.

[L.N. 256/1963, 4th Sch., L.N. 41/1970, Sch., Act No. 17 of 2006, s. 16.]

Part XII – PREVENTION AND DESTRUCTION OF MOSQUITOES

136. Breeding places of mosquitoes to be nuisances

For the purposes of this Act—

(a) all collections of water, sewage, rubbish, refuse, ordure or other fluid or solid substances which permit or facilitate the breeding or multiplication of animal or vegetable parasites of men or domestic animals, or of insects or of other agents, which are known to carry such parasites or which may otherwise cause or facilitate the infection of men or domestic animals by such parasites;

(b) any collection of water in any well, pool, gutter, channel, depression, excavation, barrel, tub, bucket or any other article, and found to contain any of the immature stages of the mosquito;

(c) any cesspit, latrine, urinal, dung-pit or ash-pit found to contain any of the immature stages of the mosquito, shall be nuisances liable to be dealt with in the manner hereinbefore provided for the treatment of nuisances.

137. Yards to be kept free from bottles, whole or broken, etc.

(1) The occupier or owner of any premises shall keep such premises free from all bottles, whole or broken, whether fixed on walls or not, tins, boxes, calabashes, earthenware vessels, shells or any other articles which are kept so that they are likely to retain water.

(2) Any occupier or owner of any premises who fails to comply with the provisions of subsection (1) shall be guilty of an offence and liable to a fine not exceeding one hundred shillings.

138. Premises not to be overgrown

No person shall within a township permit any premises or lands owned or occupied by him or over which he has control to become overgrown with bush or long grass of such a nature as, in the opinion of the medical officer of health, to be likely to harbour mosquitoes.

139. Wells, etc., to be covered

(1) It shall not be lawful for any person to keep, or for the occupier or owner of any premises to allow to be kept thereon, any collection of water in any well, barrel, tub, bucket, tank or other vessel intended for the storage of water, unless such well, barrel, tub, bucket, tank or other vessel is fitted with a sufficient cover and is properly protected or screened to the satisfaction of the medical officer of health so as to prevent the ingress of mosquitoes into the same.

(2) Any person offending against the provisions of subsection (1) shall be guilty of an offence and liable to a fine not exceeding one hundred shillings, and after notice received from the medical officer of health to a further fine not exceeding twenty shillings for each day during which he makes default.

140. Cesspits to be screened

The occupier or owner of any premises upon or attached to which is any cesspit shall cause such cesspit to be properly protected or screened to the satisfaction of the medical officer of health so as to prevent the

ingress of mosquitoes into the same, and in default he shall be guilty of an offence and liable to a fine not exceeding one hundred shillings, and to a further fine not exceeding twenty shillings for each day during which he continues to make such default after notice received from the health authority to comply with the provisions of this section.

[L.N. 256/1963, 4th Sch., L.N. 41/1970, Sch.]

141. Gutters may be required to be perforated

It shall be lawful for the medical officer of health by written notice to require the occupier or owner of any premises upon or attached to which is any gutter, pipe, groove or waterway used or intended for carrying off water from any roof or other place to cause the same to be perforated by holes at least every two feet in such a manner as to prevent the collection or accumulation of water therein, and if any person duly served with such notice fails to comply with the provisions thereof within such times as may be specified therein he shall be guilty of an offence and liable to a fine not exceeding one hundred shillings, and to a further fine not exceeding twenty shillings for each day during which he continues to make such default.

142. Larvae, etc., may be destroyed

Where any of the immature stages of the mosquito are found on any premises in any collection of water in any cesspit, well, pool, channel, barrel, tub, bucket, tank or any other vessel, or in any bottle, whole or broken, whether fixed on a wall or not, tin, box, calabash, shell or any other article, it shall be lawful for the medical officer of health, health inspector or any person specially authorized in writing in that behalf by the Director-General for health or the medical officer of health to take immediate steps to destroy any such immature stages of the mosquito by the application of oil or larvicide or otherwise, and to take such action as is necessary to prevent the recurrence of the nuisance and to render any pools or collections of water unfit to become breeding places for mosquitoes.

[Act No. 21 of 2017, s. 70.]

143. Mere presence of mosquito larvae an offence

Notwithstanding any provision of this Act, the occupier or owner of any house or premises, or the owner or person having the charge of any vessel, timber, cask or other article, in or about which there is any collection of water found by the medical officer of health, health inspector or any other person appointed in writing by the Director-General for health or the medical officer of health as an inspector for the purpose to contain any of the immature stages of the mosquito shall be guilty of an offence and liable in respect of each and every such collection of water to a fine not exceeding one hundred shillings, or in default to be imprisoned for seven days.

[Act No. 21 of 2017, s. 70.]

Part XIII – CEMETERIES

144. Dead to be buried in appointed cemeteries

(1) It shall be lawful for the Cabinet Secretary to select and appoint and to notify in the *Gazette* sufficient and proper places to be the sites of and to be used as cemeteries; and it shall be obligatory where such cemeteries exist to bury the dead in such cemeteries in conformity with the provisions of rules made by any local authority.

(2) Any person who is guilty of a breach of any such rule shall be guilty of an offence and liable to a fine not exceeding one thousand five hundred shillings.

[L.N. 187/1956, Sch., L.N. 172/1960, Sch.]

145. Authorized cemeteries

All cemeteries now being used as such, and such other cemeteries as may be authorized by the Cabinet Secretary, notice whereof shall be published in the *Gazette*, shall be deemed authorized cemeteries.

[L.N. 187/1956, Sch., L.N. 172/1960, Sch.]

146. Permit to exhume

(1) Subject to the provisions of section 147, it shall not be lawful to exhume any body or the remains of any body which may have been interred in any authorized cemetery or in any other cemetery, burial ground or other place without a permit granted in manner hereinafter provided.

(2) Such permit shall be granted only to the legal personal representative or next of kin of the person buried, or to his or their duly authorized agent.

(3) Such permit may be granted by the Cabinet Secretary in respect of any body or the remains of any body interred in any cemetery or burial ground or any other place.

(4) The permitting authority may prescribe such precautions as he may deem fit as the condition of the grant of such permit, and any person who exhumes any body or the remains of any body contrary to this Act, or who neglects to observe the precautions prescribed as the condition of the permit, shall be guilty of an offence and liable to a fine not exceeding one thousand five hundred shillings:

Provided that nothing herein contained shall be deemed to affect the right of a magistrate to order the exhumation of a body or the remains of any body for the purpose of holding an inquiry into the cause of death of any person.

[Act No. 28 of 1961, Sch.]

147. Exhumation needed for execution of public works may be ordered

(1) It shall be lawful for the Cabinet Secretary, whenever he deems it expedient for the execution of any public work or any public purpose, to remove any body or the remains of any body from any grave whether in an authorized cemetery or elsewhere, and by order under his hand to direct such removal to be made in such manner as he thinks fit.

(2) No such order shall be made in respect of any grave situated in an authorized cemetery until six months' notice of the intention to make it has been given by notification in the *Gazette*; copies of such notice shall be posted at or near the grave, and copies shall be sent by post in a registered letter to the legal personal representative or next of kin of the person buried, if his or their address can be ascertained; and such copies shall be accompanied by a translation in the language of the race to which the deceased person belonged.

(3) When an order is made directing a removal from any grave aforesaid elsewhere than in an authorized cemetery, due notice of such order shall, so far as it is possible to do so, be given to the legal representative or next of kin of the person buried before the work of removal is undertaken.

(4) The Government shall make proper and fitting arrangements for the re- interment in an authorized cemetery of any body or remains of any body removed under this section, and for the removal and re-erection of any monument, all charges in connexion therewith being defrayed out of the public funds.

[L.N. 187/1956, Sch., L.N. 172/1960, Sch.]

148. Record of permits and orders for exhumation

(1) There shall be kept a record of every permit granted and of every order made under section 146 or section 147.

(2) Such record shall contain particulars, so far as the same can be ascertained, of the race, nationality, name, sex and age of the persons buried, the date of burial and the place of original burial and of reburial or removal.

(3) Such record shall be open during office hours to inspection by any person.

149. Closing of cemeteries

It shall be lawful for the Cabinet Secretary to notify in the *Gazette* that any cemetery or burial ground shall, from a time in such notification to be specified, be closed, and the same shall be closed accordingly, and whosoever, after the said specified time, buries any body or the remains of any body in the said cemetery or burial ground shall be guilty of an offence and liable to a fine not exceeding one thousand five hundred shillings.

[L.N. 188/1956, Sch., L.N. 173/1960, Sch.]

150. Reimbursement of expenses to the board

(1) All reasonable expenses incurred by the board in consequence of any default in complying with any order or notice issued under this Act shall be deemed to be money paid for the use and at the request of the person on whom the said order or notice was made, and shall be recoverable from him at the suit of the board as a civil debt recoverable summarily.

(2) The provisions of this section shall apply to any orders or notices issued under any rules by the local authority.

Part XIV – GENERAL

151. Basements not to be occupied without permission

It shall not be lawful to live in, occupy or use, or to let or sublet, or to suffer or permit to be used, any basement for habitation, nor shall it be lawful, without the written permission of the medical officer of health, to use such basement as a shop, workshop or factory, or for the preparation or storage of food, and no basement shall be used unless it is well lit and ventilated and is free from damp and is rendered rat-proof to the satisfaction of the medical officer of health.

[L.N. 41/1970, Sch.]

152. Regulation of lodging-houses

The Cabinet Secretary, on the advice of the board, may make rules for the conduct and inspection of lodging-houses, and no person shall open, or keep open, a lodging- house unless the house is registered and the keeper thereof is licensed by the local authority.

[L.N. 188/1956, Sch., L.N. 173/1960, Sch.]

153. Regulation of nursing homes, etc.

(1) The Cabinet Secretary, on the advice of the board, may make rules for the conduct and inspection of nursing homes convalescent homes, private hospitals, private mental hospitals, maternity homes, infirmaries or any institutions where invalids, convalescents or children are treated or received upon payment of fees or charges, and no person shall open, or keep open, any such premises unless the premises and the keeper thereof are licensed by the board.

(2) The Director-General for health, on the advice of the board, may authorize a medical practitioner to visit and inspect any such premises, as are mentioned in subsection (1) and to report to the board upon any matter or thing connected with such premises or the use thereof.

(3) Any person who knowingly obstructs an authorized medical practitioner in any inspection authorized by the Director-General for health, under subsection (2), shall be guilty of an offence.

(4) The board may refuse to grant a licence and may cancel any licence which has been granted under this section on any of the following grounds—

(a) that the premises in respect of which a licence is sought or has been granted are unsuitable or otherwise do not conform with the requirements of any rules made under this section;

(b) that the granting or continuance of a licence would be contrary to the public interest;

(c) that the person in respect of whom a keeper's licence is sought or has been granted has failed to satisfy the board that he or she is a fit and proper person to be trusted to conduct or to continue to conduct the premises for which the keeper's licence is sought or has been granted.

[L.N. 188/1956, Sch., L.N. 173/1960, Sch., Act No. 21 of 2017, s. 70.]

154. Markets

For the purposes of this Act, the Cabinet Secretary may make rules for the establishment, control and closing of all markets and market buildings.

[L.N. 187/1956, Sch., L.N. 172/1960, Sch.]

155. Board may apply for additional public latrines on unleased public land

When in the opinion of the local authority additional public latrine accommodation is required in any locality upon unleased public land, the local authority shall apply in writing to the Cabinet Secretary, specifying the site upon which it desires the erection of a public latrine, and the accommodation to be provided by such latrine, and the Cabinet Secretary shall, after due inquiry, give his decision on the matter.

[Act No. 28 of 1961, Sch., L.N. 365/1964, Sch.]

156. Regulation of public washermen

Every local authority may by public notice prohibit the washing of clothes by washermen in the exercise of their calling except at public wash-houses or at such other places as it may appoint for the purpose.

157. Control of irrigated land, and rules for the regulation of standing or running water

(1) Where it is shown to the satisfaction of the Cabinet Secretary, upon the advice of the board, that the growing of any crop or the irrigation of any land being within the boundaries of a township or within three miles of such boundaries is unhealthful or insanitary, the Cabinet Secretary may, after consultation with the Cabinet Secretary for the time being responsible for Agriculture, by order, prohibit the growing of any crop or the irrigation of any land within any area, within the boundaries of a township or within three miles of such boundaries, and may cause any permit or authorization issued for the diversion, abstraction or use of water for such purpose to be cancelled upon such terms as may appear to him equitable.

(2) The Cabinet Secretary may make rules for ensuring that the health of the inhabitants of a district may be safeguarded in respect of—

(a) the prevention of pools of standing water;

(b) the drainage and control of such pools when they exist;

(c) the inspection, repair and cleansing of open channels, canals and drains.

[L.N. 188/1956, Sch., L.N. 173/1960, Sch., Act No. 28 of 1961, Sch.]

158. Supervision of importation or manufacture of vaccines, *etc.*

(1) The Cabinet Secretary may provide for the inspection, sampling and examination, by officers of the Medical Department, of vaccines, vaccine lymphs, sera and similar substances imported or manufactured in Kenya and intended or used for the prevention or treatment of human diseases, and may prohibit the importation, manufacture or use of any such substance which is considered to be unsafe or to be liable to be harmful or deleterious.

(2) The Cabinet Secretary may make such rules as he may consider necessary for properly carrying out the provisions of this section.

[L.N. 188/1956, Sch., L.N. 173/1960, Sch.]

Part XV – MISCELLANEOUS PROVISIONS

159. Notices, etc., may be printed or written

Notices, orders and other documents under this Act may be in writing or print, or partly in writing and partly in print, and if the same require authentication by the board, or a local authority, the signature thereof respectively by the secretary, town clerk, medical officer of health, sanitary inspector or District Commissioner, as the case may be, shall be sufficient authentication.

160. Service of notices, *etc.*

Notices, orders and other documents required or authorized to be served under this Act may be served by delivering the same to or at the residence of the person to whom they are respectively addressed, or where addressed to the owner or occupier of premises by delivering the same, or a true copy thereof, to some person on the premises, or if there is no person on the premises who can be served by fixing the same on some conspicuous part of the premises; they may also be served by post by a prepaid letter, and if served by post shall *prima facie* be deemed to have been served at the time when the letter containing the same would be delivered in the ordinary course of post, and in proving such service it shall be sufficient to prove that the notice, order or other document was properly addressed and put in the post.

161. Power and duties of officers of department

The Director-General for health, or any assistant director of medical services, medical officer of health, port health officer or medical officer of the department, may with the authority and on behalf of the Director-General for health discharge any of the duties or functions of the Director-General for health, and any duties imposed or powers conferred by this Act on medical officers of health, port health officers, district surgeons or medical officers may be carried out or exercised by the Director-General for health, the Deputy Director-General for heath or any assistant director of medical services or medical officer designated by the Director-General for health for that purpose.

[Act No. 21 of 2017, s. 70.]

162. Defect in form not to invalidate notices, *etc.*

No defect in the form of any notice or order made under this Act shall invalidate or render unlawful the administrative action, or be a ground for exception to any legal proceedings, which may be taken in the matter to which such notice or order relates, provided the requirements thereof are substantially and intelligibly set forth.

163. Powers of entry and inspection of premises and penalties for obstruction

(1) Any medical officer of health or health inspector, district surgeon or port health officer, or any police officer of or above the rank of Inspector, or any other person generally or specially authorized

in writing by the Director-General for health, medical officer of health or municipal council, may, at any hour reasonable for the proper performance of the duty, enter any land or premises to make any inspection or to perform any work or to do anything which is required or authorized by this Act or any other law to do, if such inspection, work or thing is necessary for or incidental to the performance of his duties or the exercise of his powers.

(2) Any person who fails to give or refuses access to any officer, inspector or person mentioned in or authorized under subsection (1) if he requests entrance on any land or premises, or obstructs or hinders him in the execution of his duties under this Act, or who fails or refuses to give information that he may lawfully be required to give to such officer, inspector or person, or who gives to such officer, inspector or person false or misleading information knowing it to be false or misleading, or who prevents the owner or any of his servants or workmen from entering any land or dwelling or premises for the purpose of complying with any requirement under this Act, shall be guilty of an offence.

[L.N. 41/1970, Sch., Act No. 21 of 2017, s. 70.]

164. Penalty where not expressly provided

Any person who is guilty of an offence under or of any contravention of or default in complying with any provision of, this Act shall, if no penalty is expressly provided for such offence, contravention or default, be liable on conviction to a fine not exceeding fifty thousand shillings, or to imprisonment for a term not exceeding six months, or to both and, if the offence, contravention or default is of a continuing nature, to a further fine not exceeding one thousand shillings for each day it continues.

[Act No. 16 of 1977, Sch., Act No. 2 of 2002, Sch.]

165. Liability of secretary or manager of company

Where a contravention of any of the provisions of this Act is committed by any company or corporation, the secretary or manager thereof may be summoned and shall be held liable for such contravention and the consequences thereof.

166. Proceedings against several persons

Where proceedings under this Act are competent against several persons in respect of the joint act or default of such persons, it shall be sufficient to proceed against one or more of them without proceeding against the others.

167. Prosecutions

(1) A health authority may, by any of its officers or by any person generally or specially authorized in writing by the authority, prosecute for any contravention of, offence against, or default in complying with, any provision of this Act or any rule made or deemed to be made thereunder, if the contravention, offence or default is to have been committed within or to affect his area.

(2) Where any officer or person has, under subsection (1), prosecuted any person for any contravention of, offence against or default in complying with any provision of this Act, or any rule made or deemed to be made thereunder, and the accused has been convicted of that contravention, offence or default, all fines and penalties imposed may be recovered by such officer or person as a civil debt recoverable summarily.

[L.N. 41/1970, Sch.]

168. Power of municipal council outside its area

Nothing in any law specially governing any municipal council shall be construed as preventing such municipal council from exercising any power or performing any duty under this Act by reason only that in

exercising such power or performing such duty it must do some act or thing or incur expenditure outside its area.

[L.N. 41/1970, Sch.]

168A. Power of municipal councils respecting mosquitoes, flies, etc.

(1) Every municipal council may, with the approval of the Cabinet Secretary, make by- laws for preventing and abating conditions permitting or favouring the breeding of mosquitoes and flies and, generally, for the prevention of malaria and other insect- borne diseases.

(2) Section 135A(2) shall apply in respect of any by-laws made under this section as it applies to by-laws may under that section.

[L.N. 256/1963, 4th Sch., L.N. 41/1970, Sch.]

169. General power to make rules

The Cabinet Secretary shall have power to make rules generally for the carrying out of the purposes of this Act.

[Act No. 39 of 1956, Sch., L.N. 188/1956, Sch., L.N. 173/1960, Sch.]

SCHEDULE

FORMS

FORM NO. 1 (s. 107)

I, the undersigned, certify that in my opinion ..... is not now in a fit and proper state to be vaccinated and I do recommend that the vaccination be postponed for the period of six months from this date.

Dated the ....., 20 .....

.....

Medical Practitioner or

Public Vaccinator

FORM NO. 2 (s. 108)

I, the undersigned, certify that I have three times unsuccessfully vaccinated..... [*or* that ..... has already had smallpox] and I am of the opinion that the said ..... is insusceptible of successful vaccination.

Dated the ....., 20 .....

FORM NO. 3 (s. 109)

I, the undersigned, certify that ..... has been successfully vaccinated by me.

Dated the ....., 20 .....

.....

Medical Practitioner or

Public Vaccinator