

FACTSHEET

FACTSHEET ON THE QUARANTINE ACT CAP Q2, LFN 2004

AIMS AND OBJECTIVES OF THE ACT

- The Act seeks to prevent the spread and the transmission of dangerous infectious diseases in Nigeria.

SCOPE OF THE ACT AND POWERS

- The Act describes a “**dangerous infectious disease**” as including cholera, plague, yellow fever, smallpox, sleeping sickness and typhus. **A “dangerous infectious disease” under the Act may also be designated so by notice** by the President for a disease of an infectious or contagious nature. - *section 2*
- The Act gives the President power to declare any place, by notice as an infected local area- *section 3*. This area may be within **Nigeria or outside Nigeria**. However, the place must be a **specific area** such as a local government area, an island, a commune, a town, a quarter of a town, a village, a port etc.- *section 2*.
- The Act gives the President power to make **Regulations** in various circumstances such as in preventing the introduction of a dangerous infectious disease into Nigeria or any part thereof from any place outside Nigeria whether such place is an infected local area or not. In addition, the President has powers to make Regulations preventing the transmission of any dangerous infectious disease from Nigeria or from any place within Nigeria whether from an infected local area or its spread to any other place within Nigeria- *section 4*
- Other areas within the ambit of the President in making Regulations under this Act, include the powers to prescribe the powers and duties of Officers that may be charged with carrying out the regulations, fixing the fees and charges to be paid for any matter or thing to be done under the Regulations, prescribing the persons by whom such fees and charges shall be paid, prescribing the persons whom the expenses of carrying out any such Regulations shall be borne, and the persons from whom any such expenses incurred by the Government may be recovered among others. The President also has **general powers** to make Regulations that are intended at carrying out the objectives and provisions of this Act- *section 4*

- The Act also empowers the President and Governor of a State to provide such sanitary stations, buildings, equipment as he deems fit- *section 6*
- **The Act also gives the Governor in respect of a State**, the same powers that may be exercised by the President subject to the same conditions and limitations- However, this is **subject to the extent** that the declaration has not been made under section 2 or 3 of the Act or to the extent that the Regulations under section 4 of this Act have not been made by the President- *section 8*

PENALTIES UNDER THE ACT

- Persons who breach the Regulations made under this Act are liable to a fine of N200, an imprisonment term of six months or both -*section 5*

JURISDICTION

- Proceedings for imposing the penalties conferred under the Act or charged by the Government for carrying out the provisions of this Act may be commenced and determined in a Magistrate court - *section 7*

RELATIONSHIP BETWEEN THE QUARANTINE ACT AND THE COVID-19 REGULATIONS, 2020

- The COVID-19 Regulations came into force on the 30th of March 2020 after being signed by President Buhari. Under the Regulations, the President declared COVID-19, a “dangerous infectious disease”
- The Regulations are based on sections 2, 3 and 4 of the Quarantine Act.
- Using the said Regulations, the President has directed the cessation of movement in Lagos, the Federal Capital Territory (FCT) and Ogun State for an initial period of 14 days commencing from 11pm on Monday, 30th March 2020 - clause 1(1)
- The restriction on Ogun State applies due to its close proximity with Lagos State and the high traffic between the two States - clause 1(1)
- The restriction is applicable to citizens who have been asked to stay in their homes and businesses and offices within these locations which are expected to stay closed within this initial period of 14 days. The restrictions also prevent interstate travel, provide restrictions on all passenger aircraft (commercial and private jets). It however allows special permits to be issued on a needs basis - clause 1(2) and clause 3
- The containment period is expected to identify, trace and locate all individuals that have come into contact with confirmed cases of COVID-19 - clause 1(4)
- The Regulations empower the Minister of Health to redeploy all Port Health Authority

employees previously stationed in the Lagos and Abuja airports to key roads that serve as entry and exit points to the restricted zones - clause 2(3)

EXEMPTIONS FROM THE COVID-19 REGULATIONS 2020

The following are exempted from the COVID-19 Regulations, 2020

- Hospitals, related medical establishments and organisations in health care related manufacturing and distribution centres - clause 1(5)
- Commercial establishments such as food processing, distribution companies, retail companies, petroleum distribution, retail entities, power generation, transmission and distribution companies and private security companies - clause 1(6)
- Urgent court matters that are essential or time bound - clause 1(7)
- Financial systems and money markets - clause 1(8)
- Workers in telecommunication companies, broadcasters, print and electronic media staff who can prove that they are unable to work from home - clause 1(10)
- All seaports in Lagos and by implication, vehicles and drivers conveying essential cargoes from these Ports to other parts of the country - clause 2(1)
- Vehicles conveying food and other essential humanitarian items into the Lagos seaports from other parts of the country - clause 2(2)

It is noteworthy that despite falling within the exemption list, the Regulations emphasise that access to the establishments listed will be restricted and monitored.

OTHER MEASURES UNDERTAKEN BY THE COVID-19 REGULATIONS, 2020

- **Health Measures** mandating vehicles and drivers conveying cargoes from seaports in Lagos to other parts of the country to be screened thoroughly before their departure by the Ports Health Authority. Also contains a corresponding measure requiring for vehicles carrying food and essential humanitarian items to the Lagos seaports from other parts of the country to be screened before entry - clause 2(1) and 2(2)
- **Provision of Palliatives** such as in the deployment of relief materials to satellite, commuter towns and communities around Lagos and Abuja as their livelihoods will be affected by some of the restrictive measures. The President has also directed the payment of conditional cash transfers from the next two months to be paid immediately for the most vulnerable in society. Internally displaced persons are also to receive two months of food rations in the following months - clause 5(6)

- **Directs for the development of a strategy on how to sustain the school feeding** program despite schools being closed. The Ministry of Humanitarian affairs, Disaster Management and Social Development is to work with State governments with this regard in fashioning a strategy - clause 5(2)
- **Directs a 3-months repayment moratorium (or a debt repayment-suspension)** for all TraderMoni, MarketMoni and FarmerMoni loans with immediate effect. Also directs similar moratoriums on all Federal Government loans issued by the Bank of Industry, Bank of Agriculture and the Nigeria Export-Import Bank - clause 5(3) and 5(4)
- **Directs development financial institutions to engage development partners and negotiate concessions** to ease the pains of borrowers - clause 5(5)
- **Directs all** Federal Government stadiums, pilgrim camps and other facilities to be converted as isolation centers and makeshift hospitals - clause 5(9)
- Reinstates the responsibility of the coordination of the contributions and donations on the Presidential Task Force on COVID-19 - clause 6(2)

SALIENT ISSUES RAISED BY THE ACT AND THE COVID-19 REGULATION, 2020

- **Apart from the specific “dangerous infectious diseases” listed under the Act, the Quarantine Act allows the President to prescribe a** disease of an infectious or contagious nature as a **“dangerous infectious disease”, by notice**. However, what constitutes notice is undefined under the Act.
- There is need to review the Quarantine Act enacted in 1926 in line with modern realities. The penalty of N200 for persons who breach the Regulations for instance should be upwardly reviewed. An 8th House of Representatives Quarantine Act (Amendment) Bill, 2015 (HB. 289) for instance, proposed a N100,000 penalty for persons in breach of the Regulations in a bid to encourage compliance. However, as the Bill was not passed, the 9th Assembly is expected to seize the opportunity to exhaustively review the Act at its convening and return of its plenary sessions.
- **The COVID-19 Regulations, 2020 provide for various palliatives such as** conditional cash transfers for two months, a 3-months repayment moratorium (debt repayment-suspension) for all TraderMoni, MarketMoni and FarmerMoni loans and Federal Government loans issued by the Bank of Industry, Bank of Agriculture and the Nigeria Export-Import Bank. While these may be laudable in themselves; it is unclear which provision in the Act enables the President to carry out such actions. It is also necessary to reinstate that the President’s **general powers** to make regulations must be within the objectives and provisions of the Quarantine Act as espoused under section 4.
- The COVID-19 Regulations, 2020 would have been enhanced by National Assembly’s passage of the Emergency Economic Stimulus Bill, 2020 which was passed by the House of Representatives on Tuesday, 24th March 2020 but is yet to be considered by the Senate.

The Bill contained provisions such as the deferral of payment of mortgages under the National Housing Fund for 180 days, tax rebate for employers of registered entities under Part A of the Companies and Allied Matters Act, Cap C20, LFN, 2004 (Companies) and Part B (Business Names) who maintain their employees status without retrenching their staff (as of 1st March, 2020 till December 31st 2020) and seeks to eliminate fiscal bottlenecks for the importation of medical equipment, personal protection equipment and other such medical necessities that may be required for the treatment and management of COVID-19 disease in Nigeria.

- The Regulations allow for the **provision of palliatives** such as the deployment of relief materials to satellite, commuter towns and communities **around** Lagos and Abuja since livelihoods in the said places will be affected by some of the restrictive measures. However, it is hoped that the language of the Regulation (“around Lagos”) will be wide enough to **extend the provision of palliatives to Ogun State** whose restrictions in the regulations are merely accidental due to its close proximity with Lagos State.
- The huge economic implications for the payment of palliatives such as conditional cash transfers for the most vulnerable in society, two months food rations for Internally displaced persons and the continuation of the school feeding programme despite the closure of schools demand the highest form of transparency and accountability to citizens. This is more so in the light of the competing needs of society, anticipated low revenues for the 2020 fiscal year in the light of reduced oil prices.
- It is unclear which methodology the Federal Government seeks to utilize in determining the “most vulnerable in society” in the absence of a social welfare system in Nigeria and a comprehensive database.
- The Regulations contain exemptions of establishments not falling within the ambit of its Regulations on the one hand while providing for their restricted access at the same time on the other hand. Clause 1(9) provides that access to the establishments falling within the exemption of the Regulations will be restricted and monitored. This is confusing.
- Some observers/analysts have argued that the President should have issued a state of emergency instead in line with section 305 of the Constitution. This is however debatable as sections 2, 3 and 4 of the Quarantine Act appear to address the issue squarely.

Section 305 strictly outlines specific cases where a state of emergency can be declared. Public Health is not expressly mentioned as one of the cases although section 305 (2) (e) appears to hint at it when it mentions as one of the grounds for declaring a state of emergency, “an occurrence or imminent danger, or the occurrence of any disaster or natural calamity, affecting the community or a section of the community in the Federation”

Furthermore, a State of Emergency under Section 305(1) of the Constitution, which would have required the concurrence of both Houses of the National Assembly would have been difficult to obtain in the circumstance.

Nevertheless, the Attorney General of the Federation has argued that the President’s Orders are covered by Sections 5, 14, 20, and 45 of the Constitution.

Section 5 vests executive Powers in the President, including the execution and maintenance of the Constitution and all laws made by the National Assembly

Section 14 (2) (b) emphasises that the security and welfare of the people shall be the primary purpose of government.

Section 20 says that the State shall protect and improve the environment and safeguard the water, air and land, forest and wild life of Nigeria.

Section 45 (1) (a) allows for laws that restrict freedom of movement and other rights which are reasonably justifiable in a democratic society and made in the interest of defence, public safety, public order, public morality or public health.



**Plot 451 Gambo Jimeta Crescent, off Nasir El-Rufai Crescent, Guzape District,
Abuja**

Website: www.placng.org *Email: info@placng.org *Phone: 08091899999

About PLAC

Policy and Legal Advocacy Centre (PLAC) is a non-governmental organization committed to strengthening democratic governance and citizens' participation in Nigeria. PLAC works to enhance citizens' engagement with state institutions, and to promote transparency and accountability in policy and decision-making processes.

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