



FEBRUARY 2021

# BILL ANALYSIS

## PUBLIC HEALTH EMERGENCY BILL, 2020

### LONG TITLE

**A BILL FOR AN ACT TO PROVIDE FOR AN EFFECTIVE NATIONAL FRAMEWORK FOR THE CONTROL OF OUTBREAKS OF INFECTIOUS DISEASES ENDANGERING PUBLIC HEALTH DURING PERIODS OF PUBLIC HEALTH EMERGENCIES AND FOR OTHER RELATED MATTERS (SB 413)**

### SPONSORS

Senator Chukwuka Utazi (Enugu:PDP), Senator Oloriegbe Ibrahim Yahaya (Kwara:APC) and 102 Other Co-Sponsors

**Bill Status:** *Second Reading. Referred to Senate Committee on Primary Health and Communicable Diseases for further legislative scrutiny.*

### OBJECTIVES

- To provide for an effective and efficient legal and administrative machinery to address challenges from a sudden outbreak of infectious diseases;
- To ensure timely response to the treatment and prevention of the spread of infectious diseases during periods of public health emergencies.
- To channel available national human and other resources during periods of public health emergencies towards mitigation or eradication of the infectious diseases;
- To streamline existing rules and regulations for the control of public health during public emergencies;
- To maintain appropriate balance between emergency measures required to be taken by appropriate authorities under any declaration of public health emergency and the constitutionally guaranteed rights of citizens and the general public in the overriding national public health interest;
- To ensure proper coordination in the administration and management of public health during periods of public health emergencies with necessary checks and balances, accountability and control;
- To provide an appropriate legal platform for a concerted and effective inter-action among Federal and State Governments during periods of public health emergencies;
- To ensure coordination and organised national responses during periods of public health emergencies with relevant international bodies on disease control to enable Nigeria meet international obligations in the management of public health emergencies.

## HIGHLIGHTS

1. Emphasis on coordination and organised national response during periods of public health emergencies; promotion of multi-agency action; enforcement powers are shared among relevant agencies not domiciled with the Nigeria Centre for Disease Control.
2. Recognition of State Governments' power to make declarations and regulations during periods of public health emergencies;
3. Avoidance of the use of mandatory or coercive language in the bill. There is a significant use of the word "may" for implementing agencies in the exercise of their powers. Such provisions imply that the relevant authorities are to use their discretion in ensuring compliance.
4. Exercise of certain powers e.g. entry, search and seizures, require court orders.
5. Recognition of the rights of persons in the bill. It outlines and reinforces the right of citizens to be treated with dignity, to receive explanations about public health orders in a language they understand, to have their medical information protected, to adequate food, shelter, medical care etc. It further reinforces the rights of persons over their own bodies by providing that persons can refuse treatment, vaccination, or specimen collection. This is however subjected to isolation and quarantine measures, which must be by the least restrictive means necessary.
6. Confinement to one's private home or premises is recognised as an option for isolation and quarantine.
7. Respect for patient confidentiality. Rules on disclosure are outlined and healthcare professionals may only make disclosures of patient information where there is overriding public interest. As a general rule, the consent of the patient is required.
8. Compensation for destruction or disposal of animals, food or water provided that the infection is not from the willful conduct or negligence of the owner.
9. Government to bear certain costs e.g. orders for disinfecting premises or vessels
10. Order for dissemination of health advisories addressed to government operators not private operators.
11. Mandatory training of security officers responsible for implementation of the law, if passed.
12. Certain problematic provisions seen in a previous control of infectious disease bill such as, mandatory disclosure of health information, compulsory medical treatment, forceful entries without warrant, lack of privacy and use of force, are expunged.
13. A schedule of infectious and dangerous infectious diseases is attached.
14. Attempt to reduce criminal penalties for offences with introduction of fines and community service as an alternative to prison terms.
15. Recognition of the rights and welfare of healthcare providers and support services by mandating adequate personal protective equipment (PPE) for them, full-life and medical liability insurance and special allowance.

## RECOMMENDATIONS

1. It should be clearly stated and understood that emergency measures shall only take effect upon the declaration of a public health emergency and is not operative for all times and purposes. For this purpose, it should be explicitly stated that emergency powers and measures in the bill shall cease to be of effect once such declaration is annulled or expires.
2. The right of the State to enforce isolation and quarantine should give rise to a corresponding right to relief from isolation and quarantine. While the bill requires health officials to monitor patients to determine if they need to be released or to discharge them if they are medically certified to pose no risk of transmission, part of the procedure should include a written directive and/or court authorisation for continued isolation and quarantine beyond a specified time.
3. While the use of the word "may" in the bill on the exercise of powers by public health agencies allows for discretion; to promote citizens' cooperation and community participation, the law should state that when agencies are to exercise coercive powers, the enforcing officer(s) should first request that the individual(s) participate or consent voluntarily.
4. There should be a review on how the bill can better protect the welfare and rights of the most disadvantaged population i.e. children, women, and especially persons with disabilities (PWDs). For example, there could be provision for specialised care for infected pregnant women, nursing mothers and children during an infectious disease outbreak. There could also be provisions ensuring accessibility for PWDs in government owned isolation or quarantine locations.
5. The bill mentions that medical examination for persons entering Nigeria shall not extend to invasive sample collection. The phrase "**invasive sample collection**" should be defined for clarity.
6. The bill provides for Governors to issue public health emergency orders and make regulations, but only where the President has not done the same. It is unclear if this sufficiently captures the concerns of State Governors who have expressed the need to exercise greater power on issues of public health occurring within their jurisdiction.
7. The requirement for NCDC to train security officers responsible for implementation of the law is imperative and commendable. However empowering **any** law enforcement agency, which is defined to include the Armed Forces, to effect arrests for offences in the bill and without a warrant of arrest in some cases, is subject to abuse. The Armed Forces should have no business with enforcing arrests or provisions of this law except to implement humanitarian assistance. In addition, the law enforcement agencies should be better defined and if possible, an exhaustive list of the arresting agencies should be included to avoid arbitrariness and conflict.
8. A definite time should be specified for the transmittal of the president's emergency order to the National Assembly for approval instead of using the words "as soon as possible."
9. There should be further consultations with stakeholders to finalise the bill before it is passed.

## RELEVANT OR APPROPRIATE AUTHORITIES IN THE BILL

A number of persons are referred to as “appropriate authority” in the bill. They are given varying degrees of power and responsibilities during public health emergencies. They include: the President of the Federal Republic of Nigeria; the Minister in charge of health; the Minister in charge of agriculture; the Minister in charge of aviation; the Minister in charge of transportation; any committee or body charged with any responsibility under the bill or under any existing legislation to carry out any specific duty under the bill; the Director General, Nigeria Centre for Disease Control Prevention; the Director of Port Health Services; a Health Officer or a Port Health Officer authorised to carry out responsibilities under the bill; and, other persons or authorities as may be prescribed in Regulations made under the bill.

## SCOPE OF THE BILL

### 1. Responsibility for Administration – Clause 4(2) and 6:

- The duty to administer and drive the proposed actions in the bill, if passed, is given to a **Task Force** made up of:
  - The Federal Minister of Health;
  - The Federal Minister of Environment;
  - The Director General of the Nigerian Centre for Disease Control and Prevention (NCDC);
  - The Federal Minister of Agriculture;
  - Any other member(s) determined by the President

The President shall appoint the Chairman of the Task Force while the NCDC shall act as secretariat<sup>1</sup>

- **Duties of the Task Force are to:**
  - coordinate and oversee multi-sectoral intergovernmental efforts to contain the spread of infectious disease during a public health emergency;
  - ensure that appropriate regulations, orders and notices relating to the protection of public health, are made by the relevant government agencies;
  - monitor the implementation of all administrative decisions on public health emergency, including the implementation of regulations, orders and notices;
  - ensure that the relevant agencies perform their statutory functions in accordance with their enabling laws. **Clause 6**
  - prescribe measures for contact tracing, which is to be implemented by relevant agencies/authorised officers. **Clause 21**

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<sup>1</sup> In the House of Representatives’ Control of Infectious Disease Bill presented in 2020, the Director-General of the Nigeria Centre for Disease Control was given wide discretionary powers and placed solely in charge of administering the Bill only subject to general or special directions by the Minister of Health.

- o formulate and implement **emergency measures** for the control of an infectious disease in any area and such measures shall be published in the Gazette – **Clause 8(1)**

Failure or willful neglect of any person to carry out such emergency measure is an offence attracting a N100,000 fine

## 2. Funding

The President is authorised to set up a public health emergency fund made up of the following :

- NASS Appropriation;
- Monies from the Federal and State governments;
- Monies and grants from the organised private sector, international or donor organisations and non-governmental organisations;
- Gifts, grants-in-aid, testamentary dispositions (gifts must be consistent with the objectives of the law.) **Clause 5**
- All fees, charges and monies collected by the NCDC in connection with the administration of the law shall be paid into the Consolidated Revenue Fund. **Clause 65**

## 3. Powers of the President

Under **clause 2** of the bill dealing with declaration of public health emergency, the President has powers to:

- **Declare a Public Health Emergency** by publishing an order to that effect in the Gazette. However, to do this the President must be **satisfied** that there is an outbreak or imminent outbreak of an infectious disease that poses a substantial risk of a significant number of human fatalities or incidents of serious disability in Nigeria.
- **Designate by order**, the whole of or such area in Nigeria to be a restricted area and may in such order, place a prohibition or restriction subject to such conditions as he may think fit. This includes restricting or prohibiting:
  - o the entry, stay and movement of persons in any place, building or other premises (whether public or private) within the restricted area;
  - o the holding of, or the attendance of persons at any meeting, reception, procession or other gathering within the restricted area.
- The order shall remain in place until revoked by the President.
- The President can extend the order for a Public Health Emergency from time to time, but not exceeding 14 days at a time.

- Copies of the order must be presented to the National Assembly as soon as possible who shall have power to annul the order **through a resolution** and it shall cease to have effect.
- Failure to obey the order without reasonable excuse may result in the person being arrested without warrant and removed by an authorised officer from the place in respect of which the order or direction applies. The person is also liable to criminal penalties.

#### 4. Powers of Governors - Declaration of public health emergency in a State

Power to make declaration of a public health emergency or to make regulations can be exercised by Governors in their States to the extent that such declaration has not been made by the President. They may also make regulations to the extent that such has not been made by the Minister for Health. **Clause 3**

#### 5. Control of Public Health Emergencies Within Nigeria

Different persons and agencies have responsibilities for the control of infectious diseases occurring within Nigeria.

##### ***Notification of Infectious Diseases by healthcare professionals***

- Medical practitioners who believe or suspect that a person(s) being treated by them has an infectious disease are required to make a notification of declared infectious diseases to the NCDC (or Centre) using the "***Integrated Diseases Surveillance and Response System***" or in a manner prescribed by the Centre. The "*Integrated Diseases Surveillance and Response System*" refers to the existing framework for surveillance and laboratory data collection and usage. **(see definition in clause 71)**
- Persons in charge of laboratories used for diagnosis of diseases (and other persons prescribed by regulations or order) who become aware of infectious diseases also have the same responsibility to notify the Centre. **Clause 9 (2) (3) (4)(6)**
- Failure to comply with this requirement is an offence attracting a fine of not less than 50,000 naira. **Clause 9(5)**

##### ***General Powers of the NCDC***

To prevent or control infectious diseases outbreak, the NCDC **may** do any of the following:

- Order public health surveillance programmes, epidemiological investigations or surveys of people, animals or vectors, to be carried in order to determine the existence, prevalence, incidence, or the likelihood of a possible outbreak, of any infectious disease. **Clause 10**
- Require a person suspected of having an infectious disease i.e. a carrier or a contact to undergo medical examination **(not mandatory)**. If it is a child, the Centre may require the parent or guardian of the child to have the child medically examined or treated at such times and at such hospital or other place as the Centre may determine at the expense of the Centre. Failure of a person to comply can attract a fine of not less than 50,000 naira. **Clause 11**
- Request the Coroner to issue an order for a post-mortem examination of the body of a person who has died and is suspected to have been a case or carrier or contact of an infectious

disease for the purpose of determining the cause of the death and investigating into any outbreak or suspected outbreak of an infectious disease. **Clause 12**

- Require healthcare professionals to obtain relevant information from patients suspected to be a case or carrier or contact of an infectious disease. **Clause 13**

***Note** that health care professionals shall comply with this requirement only to the extent provided under any existing law, rule or regulation on the disclosure by a healthcare professional of a patient's confidential information and where the transmission of such information to the Centre is required in the overriding public interest.<sup>2</sup>*

### **Actions that can be taken on Premises or Vessels**

- The relevant agency, where it examines and finds that a premises or conveyance (vessel i.e. ship, boat, aircraft) may lead to an infectious disease outbreak, may require the owner or occupier to cleanse or disinfect it in the manner and within the time specified in a written notice - **Clause 15**. Failure to do so is an offence. In addition, the agency may obtain a court order to enter the premises to do the cleaning and disinfecting, at the expense of the government, where there is non-compliance.

***Note:** "Relevant agency" refers to the National Agency for Food and Drug Administration and Control (NAFDAC), animal quarantine and veterinary services and such other agencies charged with matters relevant to public and environmental health (see definition in clause 71).*

- Where any animal, food or water is established to be a source of the transmission of an infectious disease, the bill mandates the NCDC to first obtain a court order if there is to be a destruction and disposal of such. The Task Force is also required to take steps, based on the value of the animals, food or water to pay reasonable compensation to the owner provided that the infection is not from the willful conduct or negligence of the owner. **Clause 16**

### **Isolation and Quarantine of Persons and Animals**

Isolation is differentiated from Quarantine – **Isolation applies to a person who is a case or a carrier of a declared infectious disease while quarantine applies to contacts of declared infectious diseases who have not shown symptoms of the disease. Clause 18 (4)**

- The bill relies on **section 35 (1) (e) of the Constitution** to authorise the NCDC to isolate or quarantine a person who is or is suspected to be a case or carrier or contact of a declared infectious disease, in a hospital or other place for such period of time and subject to such conditions as the Centre may determine. **Clause 18**
- The Centre may order a person who is/suspected/continues to be suspected to be a case, carrier of contact of an infectious disease or who has recently recovered or was treated for an infectious disease, to remain under isolation and quarantine and, if considered necessary, to be treated, in his home. Where it is a child, the Centre may order the parent or guardian to take the child to a place for isolation or to ensure that the child remains in isolation at home.

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<sup>2</sup> This is unlike the House of Reps Bill that demanded compliance notwithstanding restrictions imposed by any written law, rule of law, rule of professional conduct or contract and imposes a penalty for medical professionals who fail to disclose.

## ***Animals and Zoonotic Infectious Diseases***

In cases of zoonotic infectious diseases ( e.g. Ebola virus disease), animals shall be subject to isolation and quarantine and the owner or custodian of the animal shall be under obligation to carry out the relevant orders issued by authorised officers. **Clause 18 (5)**. Failure to comply is an offence.

### ***Overcrowded buildings***

The NCDC may by written notice require the owner or occupier of the building to reduce overcrowding or to close or evacuate a building or any part of it within the time specified in the notice where there is a risk of infectious disease to its occupants. Failure to comply is an offence. **Clause 20**

**Note:** The government is required to provide alternative accommodation for the duration of the closure or evacuation of a building **[clause 20(2)]**. If this alternative is provided, it is an offence for persons to still enter the building. Where the evacuation order is not complied with and alternative accommodation is provided, the NCDC is required to obtain a court order if they are to enter the building with a police officer to take necessary action. **Clause 20 (5)**.

### ***Meetings, Gathering and Public Entertainment***

The NCDC may by order, prohibit or restrict the holding of a meeting, gathering or public entertainment, subject to such conditions as it may think fit and for a period of time (for not more than 14 days at a time) where the Task Force finds that it can increase spread of an infectious disease. Failure to comply is an offence. **Clause 22**

### ***Occupation, Trade or Business***

- The Task Force is authorised to issue Regulations on control of occupation/trade/business during an infectious disease outbreak. **Clause 23 (1)**
- The NCDC may give directions on "preventative action" to a case or carrier of an infectious disease who is carrying on an occupation, trade or business to prevent disease outbreak or reduce the spread. This includes temporary closure or stopping of same. **Clause 23.**
- Failure to comply is an offence and the Centre may obtain a court order to take remedial action or control of vehicle, machinery etc. in the business premises

### ***Individual Responsibilities***

- A person who knows that he is a case or carrier or contact of an infectious disease is prohibited from acting in a manner likely to spread the disease e.g. by exposure to others or conduct in a public place. The same responsibility is placed on their care givers. Similarly, lending, selling, and transmission of items exposed to infectious disease, without disinfection is prohibited and an offence. **Clause 24**
- The Task Force may make Regulations for evacuation of persons suffering from declared infectious diseases, from public places (such as streets, shops, public transportation, market, parks etc.) into hospitals, or isolation and quarantine centres. **Clause 25**



## ***Dissemination of health advisories***

The Task Force may by order, direct operators (government bodies) to issue or disseminate health advisories and notification of infectious diseases to the public – **Clause 26**. Failure to comply is an offence. This provision limits this order to government operators not private operators.<sup>3</sup>

## **6. Prevention and Control of Spread of Infectious Diseases From an Infected Area Outside of Nigeria**

The President has powers to curb the international spread of infectious disease. His powers and duties here intersect with that of Port Health authorities.

**The President** has the power to declare a place an infected area, on the Minister's advice, where there is reason to believe that a dangerous infectious disease may be introduced into Nigeria or any place in Nigeria from within or outside Nigeria. He may also prescribe an order prohibiting entry from such places into Nigeria. However, this prohibition is qualified for Nigerian citizens who may enter into Nigeria from an infected country provided that they are subjected to isolation, quarantine or treatment, as the case may be, upon entry. **Clause 27**

## ***Powers of Port Health Officers***

Port Health Officers are authorised to take certain measures when a vessel or vehicle arrives Nigeria (**clause 30**). They include the following:

- o inspect the conveyance or any person or goods on board;
- o subject persons on board the vessel or vehicle to medical examination in accordance with domestic and international rules and regulations where there are reasonable grounds for suspecting that the persons to be examined are suffering from or exposed to a declared infectious disease;
- o direct health and sanitary measures to be taken;
- o obtain necessary information required to ascertain the health of persons on board, among others;
- o inspect the journal or log-book of the conveyance; and
- o direct the vessel master, owner or agent to share a copy of the passenger and crew list and cargo manifest immediately on arrival.
- o Failure to comply is an offence, which will attract a fine not exceeding 1,000,000 naira or imprisonment for a term of not more than 2 years or both. **Clause 30 (2)**

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<sup>3</sup> The House bill empowered authorities to order relevant operators such as telecoms companies to disseminate health advisories and to also provide customer information to the NCDC so as to facilitate dissemination of health advisories notwithstanding the application of disclosure or privacy laws. This provision is expunged in this bill.

## ***The role of NCDC and Minister of Health in Controlling Infectious Disease from Outside Nigeria***

- The NCDC may issue a **written order for the medical examination of persons arriving in Nigeria** for the purpose of preventing the spread or possible outbreak of any infectious disease in Nigeria. This examination shall not extend to invasive collection of samples. Failure of a person to comply with the order is an offence attracting a fine of 500,000 naira or 6 months imprisonment or both. **Clause 44**
- In addition, **Clause 45** authorises the Minister of Health, by written order, to order the **medical examination of persons leaving Nigeria during a public health emergency** relating to an outbreak of an infectious disease for the purpose of preventing the spread of that infectious disease outside of Nigeria. Similar to clause 44, failure to comply with the order is an offence attracting a fine of 500,000 naira or 6 months imprisonment or both.

### ***Duties of Vessel Owners/Supervisors***

- The owner, master, pilot, captain, surgeon or agent of a conveyance ( i.e. vessels such as ships, vehicles or air crafts), entering Nigeria is required to:
  - provide necessary information when coming from foreign areas or countries declared by the President to be an infected area. Failure to comply is an offence, which attracts a fine not less than 1,000,000 naira or imprisonment for a term not exceeding 2 years or both. **Clause 29**
  - prevent unauthorised boarding or disembarking of persons from an infected conveyance/vessel. Failure to comply is an offence, which attracts a fine of not less than 1,000,000 naira or to imprisonment for a term not exceeding 12 months or to both. **Clause 33**
  - ensure that food and water supply on their conveyance is fit for human consumption. Failure to comply is an offence, which attracts a fine of not more than 500,000 naira. **Clause 37**

## **7. Enforcement**

**Clause 46** deals with enforcement and outlines powers of the NCDC or any other authorised officer to deal with outbreaks or suspected outbreaks of infectious diseases. For this purpose, the Centre may do any of the following:

- stop, board, inspect and search any conveyance;
- at any time with a warrant and notice, enter, inspect and search any premises;
- collect, test or analyse samples;
- via a court order, seize any substance or matter that is contributory to or connected to a suspected outbreak. A written notice is to be given to the owner after the seizure **[46 (2) (a)]** and he/she may apply to the court for redress if they are aggrieved **[46 (2) (b)]**;
- request relevant information, books, documents, records etc.;
- via a court order, order the closing of a public space;
- prohibit or restrict the movement of persons, animals, or conveyance in a public space.

Failure to comply with any order in respect of the actions listed above is an offence.

## 8. Investigation

- **Clause 47** dealing with investigation also empowers any authorised officer to exercise powers similar to that granted to the Centre such as requesting information, books or records, collecting samples, court ordered seizures, etc. for investigating offences under the bill.
- An authorised officer may also record statements as part of their investigation. While a person has a right not to answer incriminating questions, failure or refusal of a person to answer questions or provide information as part of investigations authorised in the bill and concerning an infectious disease outbreak is an offence punishable with a fine not exceeding 200,000 naira or imprisonment for a term not exceeding 6 months or both the fine and imprisonment.

## 9. Powers of Arrest

- Powers of arrest under the bill are granted to **law enforcement officers** in **clause 49**. This includes the Nigerian Police, Armed Forces, Civil Defence Corps or other relevant agencies. They are empowered to arrest a person committing an offence under this law.
- This power includes a power to arrest without warrant, persons who fail to go into isolation when ordered to do so, or fail to submit to surveillance, quarantine or medical examination as ordered and then attempt to leave Nigeria instead without the NCDC's approval. The punishment for this is a fine not exceeding 200,000 naira or 6 months imprisonment or both the fine and imprisonment.
- Where there is an arrest, the arrested person is to be brought to court within 24 hours.
- The Inspector-General of Police (IGP) is mandated to collaborate with other security agencies to provide necessary security assistance in the implementation of the law. In addition, the Centre is **mandated to train security officers** responsible for implementation of this law, if passed. **Clause 51**

## 10. Rights of Persons

### *Rights of persons generally*

**Clause 54** in part VII of the Bill makes extensive provisions on the rights of persons subject to a public health measure: They are as follows:

- Right to receive explanation on the necessity of a public health order made in a language they understand;
- Right to be treated with dignity in the execution of such an order;
- Right to confidentiality of health information except in circumstances where the publication of such information is required to be provided to public health authorities or is otherwise essential for the protection of public safety or health;
- Right to refuse treatment, vaccination, specimen collections and preventive treatment programs. This is however subject to compliance with isolation or quarantine orders and public health measures;
- Right to adequate food, shelter, clothing, washing facilities, medical care, and communication with others.

### ***Rights of persons under a quarantine or isolation order***

This is applicable to health facilities and public health authorities **(clause 55)**.

- Health officials shall closely monitor people in quarantine to determine as quickly as possible if they are having symptoms, require treatment, or require transfer to isolation, or release;
- Quarantine must be by the least restrictive means necessary to prevent the spread of a declared infectious disease and may include confinement to private homes or other private and public premises;
- Isolated individuals must be confined separately from quarantined individuals;
- A quarantined individual who subsequently becomes infected or is reasonably believed to have become infected with a declared infectious disease must be isolated;
- Isolated and quarantined individuals must be immediately discharged when they have been medically certified to pose no substantial risk of infecting other people;
- Isolation and quarantine premises shall be built, equipped and maintained in a safe and hygienic manner to minimise the likelihood of further transmission of infection;
- Cultural and religious beliefs should be considered in addressing the needs of individuals and establishing and maintaining isolation and quarantine premises;

### ***Privacy and Confidentiality (clause 56)***

Patient's health record shall be confidential. Sharing of patient information must be done with the consent of the user/owner or in accordance with the provisions of the bill **(see clauses 51 and 52 on disclosures)**, the National Health Act, 2014 or other relevant law.

### ***Rights of providers and support services (clause 57)***

Every health care and support services provider shall be entitled to adequate personal protective equipment and other safety measures and facilities, full-life and medical liability insurance and special allowance.

#### **11. Designation of Special Sittings of Appropriate Courts for Trial of Offences under the Bill**

- The Chief Judge of a State or of the Federal Capital Territory, Abuja, as the case may be, is required to set up appropriate courts at such locations affected by a public health emergency declaration as he/she thinks fit to enable issuance of appropriate court orders and warrants and for speedy trial of offences.
- **Clauses 59 and 60** make extensive provision on legal process i.e. service of notices and other documents required under the bill.

#### **12. General Penalties**

Many of the offences in the bill have their penalties indicated in the same section where the offence is created. However, for provisions where a penalty is not specifically indicated or where reference is made to the general penalty section, offenders would be liable to the penalties indicated therein.

### General Penalties (Clause 61)

- For a first offence – a fine not exceeding 200,000 naira or imprisonment for a term not exceeding 6 months or both the fine and imprisonment.
- For a second or subsequent offence – a fine not exceeding 500,000 naira or imprisonment for a term not exceeding 2 years or both the fine and imprisonment.
- For a body corporate – a fine of not less than 1 million naira (for a first offence) and a fine of not less than 2 million naira (for a second or subsequent offence).

#### Note:

- The court may order an offender to perform community service in lieu of payment of a fine or imprisonment. **Clause 61 (2)**
- Where the offender is a body corporate, firm, association or registered trustees (e.g. NGOs, charities, churches etc.), every director, manager, secretary, partner, or trustee acting in a management capacity will be held personally liable unless he/she can prove it happened without their knowledge, consent or connivance. **Clause 64**

### 13. Power of the Minister to Make Regulations

The Minister of Health may make regulations for carrying out the provisions of the bill – **clause 69**. Some of the matters on which the Minister can make regulations include:

- the establishment, maintenance and management of quarantine and isolation stations;
- the decontamination and treatment of conveyances and premises;
- the prescribing of measures to be taken for the prevention of the spread or transmission of infection by means of any conveyance departing from any infected area of Nigeria;
- the prescribing of notification and supply of information by medical practitioners of cases of declared infectious diseases treated by them;
- the prohibition or regulation of vaccinations and other prophylaxis and the issuance of certificates relating to vaccinations and other prophylaxis.

The bill makes effort to decentralise decision making and promote synergy among other relevant ministries on making and enforcement of certain regulations. For instance, when making regulations on preventing the spread of infection by means of conveyance (such as ship, aircraft, vehicle) in compliance with Nigeria's treaty obligations or arrangement with any other country, the Minister is required to consult the Minister of Transportation, Aviation or Interior as the case may be. If such regulations require enforcement or supervision by specific officers from other agencies e.g. customs, marine guards, etc., then the consent of the relevant Minister shall be sought (**clause 70**).

## 14. List of Infectious Diseases and Dangerous Infectious Diseases

### INFECTIOUS DISEASES ( 1st Schedule)

1. Diseases with high global or regional prevalence
2. Diseases that are severe and life threatening even though risk of exposure may be low.
3. Diseases involving public health risk due to the transmission of infection to others:
  - a. Amoebiasis;
  - b. Angiostrongyliasis;
  - c. Brucellosis;
  - d. Chikunguya;
  - e. Coccidioidomycosis;
  - f. Dengue;
  - g. Dracunculiasis;
  - h. Echinococcosis;
  - i. Giardiasis;
  - j. Haemorrhagic fever;
  - k. Hantavirus diseases;
  - l. Hepatitis C;
  - m. Hepatitis E;
  - n. HIV/AIDS;
  - o. Histoplasmosis;
  - p. Legionellosis;
  - q. Leishmaniasis (cutaneous, mucosal and visceral forms);
  - r. Leprosy;
  - s. Leptospirosis (including Weil diseases);
  - t. Listeriosis;
  - u. Lyme Borreliosis (Lyme disease);
  - v. Lymphatic filariasis;
  - w. Monkey pox;
  - x. Onchocerciasis;
  - y. Plague;
  - z. Rubella;
  - aa. SARS (Severe Acute Respiratory Syndrome);
  - bb. Schistosomiasis (Alharziasis);
  - cc. Tuberculosis;
  - dd. Trypanomiasis;
  - ee. Typhus fever (Epidemic louse-borne typhus);
  - ff. Yaws;
  - gg. Zoonotic influenza.

### DANGEROUS INFECTIOUS DISEASES (2nd Schedule)

Dangerous (Vaccine Preventable diseases)

- 1) Cholera
- 2) Hepatitis A
- 3) Hepatitis E
- 4) Japanese Encephalitis
- 5) Meningococcal disease
- 6) Rabies
- 7) Tick-borne encephalitis
- 8) Typhoid fever
- 9) Yellow fever

## CONCLUDING COMMENTS

This bill is a significant improvement from the controversial Control of Infectious Disease Bill that was presented before the House of Representatives in 2020. The co-sponsorship of the bill by 102 Senators means that there is consensus on the bill among Senators and the chances of it being passed is very high. It addresses key guiding principles expected of a public health emergency legislation such as:

- Recognition of individual rights i.e. respect for human dignity, privacy, and liberty in line with the provisions of the Constitution;
- Regard to the principle of proportionality, use of least restrictive means and clear procedure on use of mandatory or compulsory powers. E.g. use of confinement to a private home or other private premises for quarantine and isolation;
- Respect for citizens' right to redress;
- Respect for patients' confidentiality and procedure for accessing and dealing with health records or information;
- Consideration of cultural and religious beliefs in addressing the needs of individuals in establishing and maintaining isolation and quarantine premises;
- Relief and compensation for persons affected by a public health order on evacuation or closure of buildings;
- Expunging of provisions on compulsory medical treatment and vaccination, as well as the criminalisation of refusal to accept vaccination;
- Coordination among public health agencies and outlined roles in curbing health emergencies, including recognition of the role of animal and veterinary services in curbing infections and contaminations emanating from animals;
- Clarity on funding for public health emergency measures. The 2020 Infectious Disease Bill did not indicate whether the NCDC or implementing agency was meant to utilise its usual annual appropriations to implement the bill or if the Federal Government will provide special funds during the emergency period for the bill's purpose.

The right of persons in Part VII of the bill is perhaps the most progressive and innovative part of the bill. It outlines and reinforces the rights of citizens to be treated with dignity, to receive explanations about public health orders in a language they understand, to have their medical information protected, to adequate food, shelter, medical care etc. It further reinforces the rights of persons over their own bodies by recognising the right to refuse treatment, vaccination, or specimen collection. This is however subjected to isolation and quarantine measures, which must be by the least restrictive means necessary. The option for patients to isolate or quarantine at home and receive treatment is not only commendable, but practical. With the creation of a task force, in line with existing practice, and recognition of the role of other agencies apart from the NCDC in curbing infectious disease outbreak, the concern about domiciling enforcement power solely with the Director General of the Centre has been addressed. Finally, the bill will repeal and replace the Quarantine Act, which was enacted in 1926 and is severely outdated and limited in scope.



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## 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.

The main focus of PLAC's intervention in the democratic governance process is on building the capacity of the legislature and reforming the electoral process. Since its establishment, PLAC has grown into a leading institution with capacity to deliver cutting-edge research, policy analysis and advocacy. PLAC receives funding support from donors and other philanthropic sources.