

M.A.Sumanthiran
B Sc (physics) ; LLM (Internet & Electronic Law)
President's Counsel
Member of Parliament

19th October 2020

The Secretary General
Parliament of Sri Lanka
Jayawardenapura - Kotte.

Dear Sir,

Private Member's Bill

I would like to present a Private Member's Bill for the enactment of "Public Health Emergency Act", a draft of which I annex hereto.

Please take steps to have the same published in the Gazette in all three languages.

Thanking you

	<p>AN ACT TO PROVIDE FOR THE DECLARATION OF A STATE OF PUBLIC HEALTH EMERGENCY; TO PROVIDE FOR THE ADOPTION OF SPECIAL MEASURES IN THE INTERESTS OF PUBLIC HEALTH; AND TO PROVIDE FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO</p>
	<p>WHEREAS : COVID 19 pandemic has continued to spread throughout the world;</p> <p>AND WHEREAS : it is expedient to lawfully provide for measures to combat it and any other pandemics in the future</p> <p>NOW THEREFORE be it enacted by the Parliament of the Democratic Socialist Republic of Sri Lanka as follows -</p>
Short title	<p>1. This Act may be cited as the Public Health Emergency Act, No. ... of 2020, and shall come into force on the date of Certification in terms of Article 79 of the Constitution.</p>
	<p style="text-align: center;">Part I: General</p>
Declaration of a public health emergency	<p>2. Where, in view of the existence or imminence of a state of public health emergency, Parliament is of the opinion that it is expedient so to do in the interests of public health, and upon the written advice of the Director General of Health Services, it may by Resolution by not less than two-thirds of the whole number of Members (including those not present) voting in its favour, declare that a state of public health emergency has arisen, and the provisions of Part II of this Act shall, forthwith or on such date as may be specified in the Resolution, come into operation throughout Sri Lanka or in such part or parts of Sri Lanka as may be so specified.</p>
Remote convening	<p>3. (1) Notwithstanding anything to the contrary in any other law, Parliament, the Cabinet of Ministers, courts, the Public Health Emergency Council as hereinafter provided for, and any other such bodies and institutions, may sit, convene, and hold sessions through the use of contemporaneous or near contemporaneous audio-visual linkage during the period of a public health emergency.</p>

	<p>(2) All necessary technical, infrastructural and monetary resources required for the purpose of such contemporaneous or near contemporaneous audio-visual linkage shall be made available to the relevant bodies and institutions.</p> <p>(3) All minutes of such meetings held in terms of subsection (1) shall be recorded and stored in electronic form and transcribed thereafter in accordance with the ordinary rules applicable to such meetings.</p>
Remote services	<p>4. Notwithstanding anything to the contrary in any other law, during the period of a public health emergency, and to the extent that is reasonable, any person may access any public service, including the issuance or renewal of identity documentation, the issuance of birth, death or marriage certificates, the issuance of certificates of absence, and the issuance or renewal of licenses, through remote electronic means, whereby the person is not required to be physically present for the purpose of receiving such service.</p> <p>(2) All necessary technical, infrastructural and monetary resources required for the purpose of such remote electronic access shall be made available to the relevant bodies and institutions providing a public service specified in subsection (1).</p>
	Part II: State of Public Health Emergency
Specifying contagious disease	<p>5. Any Resolution adopted under section 2 of this Act shall specify the contagious disease that is the primary cause for a state of public health emergency:</p> <p>Provided that where a contagious disease is incorrectly identified in the Resolution adopted under section 2, Parliament may amend the Resolution without prejudice to the measures taken under Part II of this Act in pursuance of such Resolution.</p>
Public Health Emergency Council	<p>6. (1) Where a public health emergency has been declared under section 2 of this Act, there shall be constituted a body called the Public Health Emergency Council (hereinafter in this Act referred to as the "Council").</p>

(2) The Council shall consist of —

(a) the President, who shall be the Chairman of the Council;

(b) the Prime Minister, who shall be the Vice-Chairman of the Council;

(c) the Leader of the Opposition;

(d) the Ministers in charge of the following subjects :—

(i) Health;

(ii) Social Welfare;

(iii) Environment;

(iv) Home Affairs;

(v) Science and Technology;

(vi) Defence;

(vii) Police;

(viii) Finance;

(ix) Foreign Affairs;

(x) Education; and

(xi) Any other such Ministers in charge of subjects deemed relevant by Parliament to the public health emergency declared under section 2 of this Act.

(e) The Director General of Health Services;

(f) the persons referred to in subsection (3).

(3) The Speaker shall in consultation with the Leader of the Opposition, nominate five persons from amongst the opposition Members of Parliament to be members of the Council.

(4) The functions of the Council shall be to formulate and implement a national plan and program for—

(i) the effective use of resources for the detection and containment of the contagious disease specified under section 5 of this Act;

(ii) the enhancement of public awareness and training to help members of the public protect themselves from the said contagious disease specified under section 5 of this Act;

(iii) the uninterrupted supply of goods and services specified in section 10 of this Act;

(iv) the provision of the goods and services specified in

	<p>section 10 of this Act to persons unable to access such goods and services owing to destitution;</p> <p>(v) the adoption of all other measures necessary to counter the contagious disease specified under section 5 of this Act as may be decided by the Council for such purposes.</p> <p>(5) The Council shall recommend to Parliament the allocation of all technical, infrastructural and monetary resources as may be required to implement the national plan formulated under subsection (4).</p> <p>(6) The Council may make rules to regulate the procedure in regard to the conduct of its meetings, and the transaction of business at such meetings.</p> <p>(7) The quorum for any meeting of the Council shall be one-third of its total membership.</p>
<p>Period of public health emergency</p>	<p>7. Where the provisions of Part II of this Act have come into operation on any date by virtue of a Resolution under section 2, those provisions shall be in operation for a period of sixty days from that date, but without prejudice to the earlier revocation of the Resolution or the adoption of a further Resolution at or before the end of that period.</p>
<p>End of public health emergency</p>	<p>8. When the period of a public health emergency comes to an end, any order, direction or decision under this Part of the Act issued during and in pursuance to a state of public health emergency shall cease to have effect with respect to any time following the end of such period.</p>
<p>Temporary restriction of fundamental rights</p>	<p>9. (1) The Minister may, on the written advice of the Director General of Health Services, by Order published in the Gazette, and for a period not exceeding fourteen days, prohibit or restrict in a manner specified in such Order:</p> <p>(a) public assemblies;</p> <p>(b) religious worship, observance, practice, and teaching in public;</p> <p>(c) engagement in an occupation not specified in section 10 of this</p>

	<p>Act;</p> <p>(d) travel to and from places of dwelling,</p> <p>(e) being on any public road, railway, public park, public recreation ground, the seashore, or in a public restaurant, hotel, place of public entertainment, or any other such public place,</p> <p>except under the authority of a written permit granted by such designated person or authority as may be specified in such Order.</p> <p>(2) Any Order issued under subsection (1) shall forthwith be communicated to Parliament, which may by Resolution revoke such Order.</p> <p>(3) Parliament may, by Resolution, extend an Order issued under subsection (1) for a further period not exceeding fourteen days, and may by similar Resolutions thereafter extend such Order for further periods not exceeding fourteen days.</p> <p>(4) Any person who without reasonable cause fails to comply with an Order issued under subsection (1) shall be guilty of an offence, and shall be liable to be placed in quarantine in terms of section 13(1)(a) of this Act.</p> <p>(5) Every person who commits an offence under this section shall, on conviction after summary trial before a Magistrate, be liable to a fine not exceeding ... rupees.</p>
Essential services	<p>10. (1) Any person engaged in a lawful occupation relating to:</p> <p>(a) health care;</p> <p>(b) the provision of a public utility service, including water, electricity, or sanitation;</p> <p>(c) the production, transport, and delivery of medicines, healthcare technology and medical-surgical devices;</p> <p>(d) the production, transport and delivery of agricultural and food products;</p> <p>(e) Law enforcement and defence;</p> <p>(f) Any activity functional to the facing of the public health</p>

	<p>emergency,</p> <p>shall be permitted to engage in such lawful occupation notwithstanding the provisions of this Act.</p> <p>(2) The Council specified in section 6 of this Act may recommend to Parliament that monetary resources be made for the purpose of maintaining any institution or undertaking that is in the business of providing goods or services specified in subsection (1).</p>
<p>Health sector</p>	<p>11. (1) The Minister may, on the written advice of the Director General of Health Services, by Order published in the Gazette, and in the manner specified in such Order:</p> <ul style="list-style-type: none"> (a) require maintenance or construction of suitable establishments for the purposes of quarantining persons; (b) requisition any premises, other than premises used for the purposes of dwelling or for any lawful occupation specified in section 10 of this Act, for the purposes of providing health care to persons, or for use as a suitable establishment for quarantining persons or things; (c) requisition any privately-owned hospital or other premises used for the purposes of providing health care to persons; (d) temporarily recruit workers to be deployed in hospitals and other premises used for the purposes of providing health care to persons: <p>Provided that such requisition or temporary recruitment shall have effect only for the period specified in such Order, and where such period shall not extend beyond the period of a public health emergency.</p> <p>(2) Any person suffering loss as a direct result of a requisition under subsection (1)(c) shall be entitled to compensation of such sum as may be duly determined to be necessary to restore the premises to their condition or status prior to such requisition.</p> <p>(3) The Director General of Health Services or his authorised representative shall be permitted to enter any premises used for the</p>

	<p>purposes of providing health care to persons, or of any lawful occupation specified in section 10 of this Act, or of quarantining persons, in order to inspect the premises.</p> <p>(4) Pursuant to an inspection conducted in terms of subsection (3), any person may be required to submit himself for medical examination and for quarantining thereafter if a health inspector forms the reasonable opinion that such person may be infected by the contagious disease specified in terms of section 5 of this Act.</p>
Ports and transport	<p>12. (1) The Minister may, on the written advice of the Director General of Health Services, by Order published in the Gazette:</p> <ul style="list-style-type: none"> (a) prohibit or restrict movement or transport of persons through ports, airports and other points of entry for a period not exceeding fourteen days, provided that such prohibition or restriction shall not apply to the movement or transport of goods, or any persons engaged in the business or occupation of transporting goods; (b) impose duties on masters, pilots, train managers and other persons on board conveyances and on owners and managers of ports, airports and other points of entry; (c) require persons at ports, airports and other points of entry to provide information or answer questions, including information or questions relating to their health. <p>(2) Any Order issued under subsection (1) shall forthwith be communicated to Parliament, which may by Resolution revoke such Order.</p> <p>(3) Parliament may by Resolution extend an Order issued under subsection (1) for a further period not exceeding fourteen days, and may by similar Resolutions thereafter extend such Order for further periods not exceeding fourteen days.</p>
Quarantining etc.	<p>13. (1) Any designated person may, for the sole purpose of preventing the spread of a disease specified in a Resolution adopted under section 2 of this Act, reasonably require:</p>

	<p>(a) that a person or thing be kept in isolation or quarantine in a suitable establishment;</p> <p>(b) that a person submit to medical examination;</p> <p>(c) that a person be removed to a hospital or other suitable establishment;</p> <p>(d) that a person be detained in a hospital or other suitable establishment;</p> <p>(e) that a person, thing, or premises be disinfected or decontaminated;</p> <p>(f) that a person wear protective clothing;</p> <p>(g) that a person provide information or answer questions about the person's health or other circumstances;</p> <p>(h) that a person's health be monitored and the results reported;</p> <p>(i) that a person attend training or advice sessions on how to reduce the risk of infecting or contaminating others;</p> <p>(j) that a person be subject to restrictions on where the person goes or with whom the person has contact;</p> <p>(k) that a person abstain from working or trading;</p> <p>(l) that a thing be seized or retained;</p> <p>(m) in the case of a dead body, that the body be buried or cremated;</p> <p>(n) in any other case, that a thing be destroyed or disposed of;</p> <p>(o) that premises be closed;</p> <p>(p) that, in the case of a conveyance or movable structure, the conveyance or structure be detained;</p> <p>(q) that, in the case of a building, conveyance or structure, the premises be destroyed.</p> <p>(2) Any person who without reasonable cause fails to comply with a direction under subsection (1) shall be guilty of an offence, and shall, on conviction after summary trial before a Magistrate, be liable to a fine not exceeding ... rupees.</p> <p>(3) The Minister may by Order published in the Gazette specify the minimum standards that suitable establishments, used for the purpose of quarantining persons and things, must comply with.</p>
Special assistance	<p>14. (1) The Minister in charge of the subject of Social Welfare shall, on the advice of the Council established under section 6 of this</p>

	<p>Act, and by Order published in the Gazette, provide that all reasonable measures be taken to ensure the provision, free of charge or for a nominal cost, of such goods and services specified in section 10 of this Act to persons who are unable to access such services owing to destitution during the period of a public health emergency.</p> <p>(2) The Minister shall present to the Council a weekly report of all provisions made under subsection (1).</p>
Educational premises	<p>15. (1) The Minister may by Order published in the Gazette require the temporary closure of any educational premises, and such direction shall remain valid for a period specified in such Order, provided that such period shall not extend beyond the period of a public health emergency.</p> <p>(2) any person responsible for the management or administration of any educational premises shall comply with an Order issued under subsection (1) and shall take reasonable steps to ensure that persons do not attend such premises for the period specified in such Order.</p> <p>(3) The Minister may by Order published in the Gazette direct any school within the meaning of ... to provide lessons to students through contemporaneous or near contemporaneous audio-visual linkage during a period specified in such Order, and which period shall not extend beyond the period of a public health emergency:</p> <p>(4) Any school specified in such Order under subsection (3) shall be provided with necessary technical, infrastructural and monetary resources as may be required to comply with such Order.</p>
Labour	<p>16. Parliament may by Resolution declare certain industries and sectors that employ large numbers of workers to be ‘protected industries’ or ‘protected sectors’ for the purpose of receiving special monetary assistance solely to ensure that persons employed in such industries are retained in employment during the period of a public health emergency.</p>
Publishing orders	<p>17. Any Order issued under this Act shall be made available to the public on the official website of Parliament and the Department of</p>

	Government Printing.
Disclosing the identity of a patient	18. Any person who maliciously discloses the identity of a person who is infected, or had been infected, or is suspected of being infected with the contagious disease specified under section 5 of this Act shall be guilty of an offence, and shall, on conviction after summary trial before a Magistrate, be liable to a fine not exceeding ... rupees.
Provisions of this Act to prevail over other written law	19. The provisions of this Act shall have effect notwithstanding anything to the contrary in any other written law, and accordingly in the event of any inconsistency or conflict between the provisions of this Act and such other written law, the provisions of this Act shall prevail.
Sinhala text to prevail in case of inconsistency	20. In the event of any inconsistency between the Sinhala and Tamil texts of this Act, the Sinhala text shall prevail.
Interpretation	<p>21. In this Act, unless the context otherwise requires –</p> <p>“designated person” means any law enforcement official, or other person specified by any Order issued under this Act.</p> <p>“Educational premises” means:</p> <p>(a) a government school, assisted school, or unaided school within the meaning of the Education Ordinance, No. 31 of 1939;</p> <p>(b) an institution within the further education sector, within the meaning of the Higher Education Act, No. 20 of 1966;</p> <p>(c) a provider of education or training within the meaning of the Tertiary And Vocational Education Act, No. 20 of 1990.</p> <p>“suitable establishment” means any premises that may be reasonably repurposed for the provision of health services to persons, or for any other purpose directly relevant to the detection or containment of a contagious disease specified under section 5 of this Act.</p>