

**EXTRAORDINARY
GOVERNMENT OF FIJI GAZETTE SUPPLEMENT**

No. 32

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2021

[LEGAL NOTICE NO. 52]

PUBLIC HEALTH ACT 1935

**Public Health (Infectious Diseases) (Infringement
Notices) Regulations 2021**

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SCHEDULE 1—FIXED PENALTY OFFENCES AND FIXED PENALTIES

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IN exercise of the powers conferred on me by sections 82C and 83 of the Public Health Act 1935, I hereby make these Regulations—

PART 1—PRELIMINARY

Short title and commencement

1.—(1) These Regulations may be cited as the Public Health (Infectious Diseases) (Infringement Notices) Regulations 2021.

(2) These Regulations come into force on the date the Public Health (Amendment) Act 2021 comes into force.

Interpretation

2. In these Regulations, unless the context otherwise requires—

“Act” means the Public Health Act 1935;

“court” means a court of competent jurisdiction;

“fixed penalty” means a penalty specified in columns 4 and 5 of Schedule 1;

“fixed penalty offence” means an offence specified in column 2 of Schedule 1;

“infringement notice” means the notice issued under regulation 24;

“late payment fee” means 50% of the fixed penalty;

“Ministry” means the Ministry responsible for health and medical services; and

“order” means an order made by the Minister or the Permanent Secretary in accordance with section 69(1)(c) or 69(3) of the Act.

Application

3. These Regulations apply throughout Fiji irrespective of a person’s citizenship or place of registration or incorporation.

PART 2—FIXED PENALTY OFFENCES

Curfew

4. Any person who fails to comply with an order in relation to any curfew commits a fixed penalty offence.

Containment and lockdown zone

5. Any person who fails to comply with an order in relation to entering or leaving a containment zone or lockdown zone commits a fixed penalty offence.

Travel within containment zone

6. Any person who fails to comply with an order in relation to travel within a containment zone commits a fixed penalty offence.

Face covering

7. Any person who fails to comply with an order in relation to the wearing of a face covering in—

(a) a public place; or

(b) a public service vehicle,

commits a fixed penalty offence.

Face covering in business premises

8. Any person who fails to comply with an order in relation to the requirement that their employees and customers wear face coverings in order to enter the person's premises, commits a fixed penalty offence.

Contact tracing

9. Any person who fails to comply with an order in relation to the requirement that their employees and customers display the careFIJI mobile application or register their details for contact tracing, commits a fixed penalty offence.

Gathering

10. Any person who fails to comply with an order in relation to any gathering commits a fixed penalty offence.

Contact sports engagement

11. Any person who fails to comply with an order in relation to contact sports engagement commits a fixed penalty offence.

Physical distancing in queue

12. Any person who fails to comply with an order in relation to being 2 metres away from any other person in a queue commits a fixed penalty offence.

Inter-island passenger shipping travel and flights

13. Any person who fails to comply with an order in relation to inter-island passenger shipping travel and flights commits a fixed penalty offence.

Closure of businesses

14. Any person who operates a business and fails to comply with an order in relation to the closure of the business commits a fixed penalty offence.

Closure of high-risk businesses

15. Any person who operates a high-risk business and fails to comply with an order in relation to the closure of high-risk businesses commits a fixed penalty offence.

Nightclubs

16. Any person who fails to comply with an order in relation to the closure of nightclubs commits a fixed penalty offence.

Customer capacity

17. Any person providing a customer-facing service who fails to comply with an order to limit its customer capacity to 50% commits a fixed penalty offence.

Passenger capacity

18. Any driver of a public service vehicle who fails to comply with an order to limit the passenger capacity of the public service vehicle to 50% commits a fixed penalty offence.

Operation of public service vehicles

19. Any owner of a public service vehicle which is in a containment zone who fails to comply with an order in relation to the operation of the public service vehicle within the containment zone, commits a fixed penalty offence.

In-person dining

20. Any person who fails to comply with an order in relation to in-person dining commits a fixed penalty offence.

Consumption of kava and liquor

21. Any person in a containment zone or lockdown zone who consumes kava or liquor in a workplace, municipal market or in public commits a fixed penalty offence.

Isolation and quarantine

22. Any person who fails to comply with an order in relation to isolation or quarantine commits a fixed penalty offence.

Treatment of persons subject to isolation and quarantine

23. Any person who fails to comply with an order in relation to the treatment of persons subject to isolation or quarantine commits a fixed penalty offence.

PART 3—PROCEEDINGS FOR INFRINGEMENT NOTICES

Issuance of infringement notice

24.—(1) Subject to subregulation (2), an authorised officer may issue an infringement notice to a person who commits a fixed penalty offence by serving the infringement notice—

- (a) personally upon the person;
- (b) through registered mail sent to the person's postal address last recorded by the Ministry;
- (c) at the registered office of the person; or
- (d) upon another person who resides at the person's physical address provided that the first-mentioned person is of or over the age of 18 years.

(2) Where an infringement notice is issued to an individual who commits a fixed penalty offence, the authorised officer must serve the infringement notice personally upon the individual.

(3) An authorised officer may issue a new infringement notice to the person if the person commits another fixed penalty offence.

(4) In these Regulations, service of the infringement notice is deemed to have been effected if the infringement notice is—

- (a) in the form set out in Schedule 2; and
- (b) served in accordance with this regulation.

(5) The Ministry may notify a person to whom an infringement notice is issued of the person's alleged commission of a fixed penalty offence and such notification may be made by—

- (a) Short Message Service (SMS) messaging to a registered mobile phone contact; or
- (b) electronic mail to a valid electronic mailing address,

submitted by the person to the Ministry and verified by the Ministry.

Fixed penalty

25. A person to whom an infringement notice is issued is liable to a fixed penalty and must, within 90 days from the date the infringement notice is issued, undertake one of the following actions—

- (a) pay the fixed penalty in a single payment or by instalments; or
- (b) elect to dispute the infringement notice in court.

Failure to pay fixed penalty

26.—(1) If a person to whom an infringement notice is issued does not undertake any of the actions in regulation 25 within the specified period, the person is liable to pay the late payment fee in addition to the fixed penalty and where the person is—

- (a) an individual, the individual is prohibited from leaving Fiji; or
- (b) a company, all the directors of the company in Fiji are prohibited from leaving Fiji,

unless the person undertakes one of the following actions—

- (i) pays the fixed penalty and late payment fee in a single payment or by instalments; or
- (ii) elects to dispute the infringement notice in court.

(2) If a person to whom an infringement notice is issued pays the fixed penalty and late payment fee, if applicable, and also elects to dispute the infringement notice in court, the person must notify the Ministry, on or before the payment of the fixed penalty and late payment fee, if applicable, of the person's intention to dispute the infringement notice.

(3) If a person to whom an infringement notice is issued pays the fixed penalty and late payment fee, if applicable, and also elects to dispute the infringement notice and the court subsequently makes a final determination in the person's favour, including the determination of any appeal in any appellate court, the Ministry must refund the fixed penalty and late payment fee, if applicable, to that person.

(4) If a person to whom an infringement notice is issued does not undertake any of the actions in regulation 25 within the specified period, the Ministry must notify the Director of Immigration immediately after the expiration of the specified period.

(5) Upon receipt of the notification from the Ministry under subregulation (4), the Director of Immigration must issue to—

- (a) where the person is an individual, the individual; or
- (b) where the person is a company, all the directors of the company in Fiji,

a departure prohibition order stating—

- (i) the reasons for the issue of the departure prohibition order;
- (ii) the fixed penalty and late payment fee that the person is required to pay; and
- (iii) that the departure prohibition order may be revoked if the person undertakes any of the actions listed in subregulation (1)(i) and (ii).

(6) If a departure prohibition order is issued to a person under this regulation, the person to whom the departure prohibition order is issued may pay in full the fixed penalty and late payment fee that the person is liable to, to the Ministry or, if the person intends to leave Fiji, to the Department of Immigration at an international airport in Fiji.

(7) Pursuant to subregulation (6), if a person pays in full the fixed penalty and late payment fee that the person is liable to, the departure prohibition order is deemed to have been revoked and the person must not be prevented from leaving Fiji on the basis of the departure prohibition order issued under this regulation.

Onus of proof

27. If a person elects to dispute an infringement notice in court under regulation 25(b) or 26(1)(ii), the onus of proof of the matters referred to in Part 2 lies on the prosecution and the legal burden of proof of the prosecution must be discharged beyond reasonable doubt.

Failure to take action within 12 months

28.—(1) If a person to whom an infringement notice is issued does not undertake any of the actions provided in regulation 26 within 12 months from the date the infringement notice is issued, the infringement notice takes effect as a conviction and the court may impose penalties as it deems appropriate.

(2) If an infringement notice takes effect as a conviction, the court may make any sentencing orders it deems fit under section 15 of the Sentencing and Penalties Act 2009.

PART 4—MISCELLANEOUS

Closure of business after third infringement

29.—(1) If a person commits 3 fixed penalty offences under regulation 8, 9, 13, 14, 15, 16, 17, 19 or 20, the authorised officer issuing the third infringement notice to the person must order that the person's business be closed for a period as determined by the Minister subject to any condition that the Minister thinks necessary.

(2) If the person commits a fixed penalty offence under regulation 8, 9, 13, 14, 15, 16, 17, 19 or 20 after the third fixed penalty offence under subregulation (1) is committed, the authorised officer issuing the subsequent infringement notice to the person must order that the person's business be closed for a period as determined by the Minister subject to any condition that the Minister thinks necessary.

Individual refuses to comply

30.—(1) If an individual to whom an infringement notice has been issued refuses to immediately comply with the order for which the infringement notice was issued, he or she commits an offence and is liable on conviction to a fine not exceeding \$10,000 or imprisonment for a term not exceeding 5 years, or both.

(2) If the Ministry initiates proceedings under this regulation, the proceedings for the infringement notice are deemed to have been abandoned and payment of the fixed penalty ceases to be due.

Requirement to submit correct identification details

31.—(1) An authorised officer may direct a person who has committed a fixed penalty offence under these Regulations to provide valid photo identification to verify his or her identity, and where a person does not have valid photo identification, the authorised officer may direct the person to provide such other form of identification as necessary to identify the person including requiring the person to provide his or her full name and permanent place of residence.

(2) A person must comply with the direction made by an authorised officer pursuant to subregulation (1).

(3) Any person who contravenes subregulation (2) commits an offence and is liable on conviction to a fine not exceeding \$500 or imprisonment for a term not exceeding 12 months or both.

Evidence of matters in certificate

32. A certificate signed by an authorised officer stating that the fixed penalty was or was not paid is, unless the contrary is proved, conclusive evidence of the matters stated in the certificate.

Made this 8th of July 2021.

I. WAQAINABETE
Minister for Health and Medical Services

SCHEDULE 1
(Regulation 2)

FIXED PENALTY OFFENCES AND FIXED PENALTIES

Regulation	Fixed Penalty Offence	Maximum Penalty: Fine Imprisonment	Fixed penalty for natural persons	Fixed penalty for persons other than natural persons
4	Failure to comply with an order in relation to curfew.	\$10,000 5 years	\$30	Not applicable
5	Failure to comply with an order in relation to entering or leaving a containment zone or lockdown zone.	\$10,000 5 years	\$75	Not applicable
6	Failure to comply with an order in relation to travel within a containment zone.	\$10,000 5 years	\$75	Not applicable
7(a)	Failure to comply with an order in relation to the wearing of a face covering in a public place.	\$10,000 5 years	\$20	Not applicable
7(b)	Failure to comply with an order in relation to the wearing of a face covering in a public service vehicle.	\$10,000 5 years	\$40	Not applicable
8	Failure to comply with an order to require employees and customers to wear face coverings in order to enter premises.	\$10,000 5 years	\$250	\$1,000
9	Failure to comply with an order to require employees and customers to display the careFIJI mobile application or register details for contact tracing.	\$10,000 5 years	\$250	\$1,000
10	Failure to comply with an order in relation to any gathering.	\$10,000 5 years	\$100	\$2,000
11	Failure to comply with an order in relation to contact sports engagement.	\$10,000 5 years	\$100	\$2,000

Regulation	Fixed Penalty Offence	Maximum Penalty: Fine Imprisonment	Fixed penalty for natural persons	Fixed penalty for persons other than natural persons
12	Failure to comply with an order in relation to being 2 metres away from any other person in queue.	\$10,000 5 years	\$20	Not applicable
13	Failure to comply with an order in relation to inter-island passenger shipping travel and flights.	\$10,000 5 years	\$100	\$4,000
14	Failure to comply with an order in relation to the closure of businesses.	\$10,000 5 years	\$250	\$1,000
15	Failure to comply with an order in relation to the closure of high-risk businesses.	\$10,000 5 years	\$500	\$2,000
16	Failure to comply with an order in relation to the closure of nightclubs.	\$10,000 5 years	\$500	\$2,000
17	Failure to comply with an order to limit customer capacity of customer-facing services to 50 %.	\$10,000 5 years	\$200	\$1,000
18	Failure to comply with an order to limit passenger capacity in public service vehicles to 50%.	\$10,000 5 years	\$200	Not applicable
19	Failure to comply with an order in relation to the operation of a public service vehicle within a containment zone.	\$10,000 5 years	\$200	\$1,000
20	Failure to comply with an order in relation to in-person dining.	\$10,000 5 years	\$250	\$1,000
21	Failure to comply with an order in relation to consumption of kava and liquor.	\$10,000 5 years	\$50	Not applicable
22	Failure to comply with an order in relation to isolation or quarantine.	\$10,000 5 years	\$200	Not applicable
23	Failure to comply with an order in relation to the treatment of persons subject to isolation or quarantine.	\$10,000 5 years	\$200	Not applicable

SCHEDULE 2
(Regulation 24(4)(a))

PUBLIC HEALTH INFRINGEMENT NOTICE

Infringement Notice Number:

1. Details of Offender
Name:
Address:
2. Details of Offence
Statement of Offence:
Particulars of Offence:
Contrary to:
<p>This offence carries a maximum penalty of [\$]. If you do not wish to contest this Infringement Notice, you are required to pay the fixed penalty of [\$] to any court registry, or to any office or through any online payment platform as may be designated.</p> <p>The payment of the fixed penalty is due within 90 days from the date of issue of this Infringement Notice and is payable at any court registry nearest to you, or at any office or through any online payment platform as may be designated. All liability in respect of the offence will be discharged and no further action will be taken against you with respect to this particular offence.</p> <p>If you wish to contest this Infringement Notice, you may elect to dispute this Infringement Notice in court within 90 days from the date of issue of this Infringement Notice.</p> <p>If you fail to pay the fixed penalty or dispute this Infringement Notice in court within 90 days from the date of issue of this Infringement Notice, you will be—</p> <ul style="list-style-type: none"> (i) liable to a late payment fee equivalent to 50% of the fixed penalty, in addition to the Fixed Penalty; and (ii) issued a departure prohibition order preventing you from leaving Fiji. <p>You may pay your fixed penalty and late payment fee in a single payment or in instalments.</p> <p>The departure prohibition order will continue until you pay your fixed penalty and late payment fee in full or elect to dispute this Infringement Notice in court.</p> <p>If you do not pay your fixed penalty and late payment fee in full or elect to dispute this Infringement Notice in court within 12 months from the date this Infringement Notice is issued to you, this Infringement Notice will take effect as a conviction and the Ministry may initiate sentencing proceedings in court.</p>

3. Details of Authorised Officer	
Name:	Date: [day/month/year]
Signature:	
4. Affidavit of Service	
<p>I, [name of Authorised Officer whose signature appears in item 3], make oath and say that, on the [specify day] day of [specify month], 20 [specify year] at [specify address] I did serve upon the accused person specified therein.</p> <p style="text-align: center;">[signature of Authorised Officer]</p> <p>Sworn by the above named Authorised Officer this [specify day] day of [specify month] 20 [specify year].</p> <p>Before:</p> <p style="text-align: center;">[name and signature of witness]</p> <p>Commissioner for Oaths/Justice of the Peace/District Officer</p>	