

## **Attorney General and Minister for Justice's Second Reading Speech to Parliament on the National Pandemic Bill 2020 and the Curfew (Amendment) Bill 2020**

Mr. Speaker and Members of this honourable House, I stood before you two months ago and presented the Emergency Laws for enactment by this Parliament to support the ongoing implementation of PNG's COVID-19 Response. We have, over the last two months, in addressing the COVID-19 pandemic, learnt and gained experience in coordinating our national response with respect to this global pandemic. With the experiences gained, we are hopeful in preparing ourselves to better manage and coordinate PNG's COVID-19 response beyond the National Emergency, and any future responses to similar public health emergencies, to mitigate the adverse effects borne by the people of Papua New Guinea.

Mr. Speaker, today I stand again before this House, to present to Parliament, the *National Pandemic Bill 2020* and the *Curfew (Amendment) Bill 2020*. The *National Pandemic Bill* and the *Curfew (Amendment) Bill* were promulgated in anticipation of a decision by Parliament on the extension of the State of Emergency (SOE). As you will appreciate, the COVID-19 pandemic still threatens public health and safety throughout the world. While PNG has been lucky enough to have only eight confirmed cases, this does not place us in the clear. Currently, our National Response during COVID-19 is based upon a legislative framework under the *Emergency (General Provisions) (COVID-19) Act 2020* (Emergency Act). However, should the Members of this House decide to terminate the SOE, we, as responsible leaders, need to put in place a legal framework to support the ongoing response to COVID-19, or a similar public health emergency, should one occur. Hence, the need for the appropriate framework to support the Government's efforts to respond to the threat of COVID-19.

Mr. Speaker, the *National Pandemic Bill* also takes into account future public health emergencies of a similar scale as COVID-19. Our existing laws such as the *Quarantine Act 1953* and the *Public Health Act 1973* provide some basis for imposing special measures to support our National Response. However, these laws are antiquated and provide no comprehensive legal framework to support the ongoing response by the National Government. Further, there is a lack of coordination in the administrative mechanism which has the potential to interrupt the ongoing National Response or any future national responses.

Mr. Speaker, the proposed legislation was created for the purpose of responding to a Public Health Emergency, such as the COVID-19 global pandemic and to enable the delivery of a national response to this health emergency. It is intended to replicate certain provisions of the present Emergency Laws such as a central command body having an operational structure and the imposition of measures during the national response under lawful directions.

**This Act will only be activated when a Declaration is made by the Head of State.** The Declaration is made by the Head of State, acting on the advice, where a public health emergency exists. The Public Health Emergency comes to an end when it is revoked by the Head of State, acting on the advice of the National Executive Council, indicating the end of the Public Health Emergency. The period from which the Declaration is made to when the Declaration is revoked is referred to as the Declared Period.

Mr. Speaker, it must be noted for avoidance of doubt, that this Act is not an Emergency Law for the purposes of Part X of the *Constitution*.

Mr. Speaker, the salient features of the proposed law which are articulated in the appended Explanatory Notes are as follows:

- The title accurately reflects the policy intention behind having a dedicated legislation. Tying the purpose of the Bill to public health emergencies (within the definition by the World Health Organization) draws an important nexus to the severity of the public health threat and its potential to do harm on an international scale, as well as the threat to public health domestically.
- The purposes of the proposed law are listed from the outset: that is, to provide for a framework for a National Response to a Public Health Emergency. The preliminary provisions set out its scope and key definitions, and provides for a trigger (a Declaration made by the Head of State) which will activate the provisions of the proposed law.
- A national response to a declared Public Health Emergency is administered through a structure which mirrors the National Operations Centre set up for COVID-19. It establishes the office of the Controller (who is supported by a Deputy Controller) that runs a National Control Centre, set up to coordinate the national response. The requirements for the Controller are set out in detail. Part II sets out the command, administrative, and reporting structures and enables expert engagement as and when needed. The establishment of a Technical Advisory Council provides a framework necessary to support the notion of a coordinated whole-of-government approach.
- The proposed legislation provides for stakeholder engagement, and vests the coordination of such engagement in the Controller. It sets out accountability provisions pertinent to the engagement of government, the PNG Defence Force, international partners, the private sector, and non-governmental organizations.
- Parts IV and V provide a basis for the measures and enforcement powers necessary for the COVID-19 response, which are inherent features of any public health emergency response. These measures relate to public health and quarantine, and expressly apply to the proposed legislation over the provisions of the *Quarantine Act* and the *Public Health Act* to allow the Controller to impose measures relevant to the specific public health emergency. The *Quarantine Act* and *Public Health Act* will only apply where the proposed law does not make express provisions on a subject matter and insofar as they are not inconsistent with the proposed legislation.
- Enforcement powers relating to search, seizure, imposition of spot fines, and the issuance of directions are expressly provided for.
- The exercise of enforcement powers and imposition of measures are made subject to the purposes of the Act, the principle of proportionality, and the recognition of human rights principles.
- The proposed law sets out the relevant offences and their corresponding penalties. The offences are created specifically for the implementation of the proposed law, and operate together with other relevant laws, including the *Criminal Code Act 1974*. The penalties are hefty to provide a deterrent effect, and are court-imposed through the litigation process.
- The proposed legislation provides the necessary framework to allow for a mechanism for finance and procurement, to the exclusion of the *National Procurement Act 2018* and the *Public Finances (Management) Act 1995* for the duration of a declared period. The proposed law seeks to achieve a balance between ensuring that the process remains efficient, while preserving the necessary checks and balances to uphold the integrity of this process.
- The final provisions of the Bill contain transitional provisions relating to the present COVID-19 framework. Amongst other things, they provide for overall accountability through final report requirements; it saves actions for the duration of the declared period of a Public Health Emergency; and provides a sunset clause.

Mr. Speaker, I have been alerted to some concerns raised by some of our leaders and the public about the proposed Bill. I would like to raise them here and provide answers to these concerns so we allay the fears of our people:

1. Is the proposed law in conflict with our *Constitution*?  
**NO. Because this law is subject to the Constitution as stipulated by Section 1 of the Bill**
2. Does the proposed law breach Constitutional Rights?  
**NO. Because Constitutional rights that are listed in this Bill, which are *QUALIFIED RIGHTS*, are permitted to be regulated by a law such as this Bill. Again Section 1 of the Bill is designed to comply with Section 38 of the Constitution.**
3. Does the proposed law target certain groups of the population such as Churches?  
**NO. The proposed law is targeted at people who are (a) infected; (2) at risk of being infected; and (3) travelling into our country at our borders.**
4. Does the proposed law impose mandatory conditions for vaccination?  
**NO. Only for those who are infected or quarantined and who require vaccination on the advice of doctors.**
5. Does the proposed law pave the way for the one world order?  
**NO. The Bill is uniquely Papua New Guinean and is not copied from other parts of the world.**
6. The proposed law has been crafted by foreigners to promote their interests?  
**NO. The Bill was developed by Papua New Guineans at the Office of the First Legislative Counsel (Department of Prime Minister & National Executive Council) and the Office of the State Solicitor (Department of Justice and Attorney General).**
7. The proposed law will apply throughout the country?  
**YES. But the proposed law empowers the Controller to also either reduce or remove restrictions in various parts of the country depending on the spread of the pandemic in the country.**

Mr. Speaker, I would like to assure the Members of this honorable House and the people of Papua New Guinea that we have not formulated this Bill casually or lightly. Our legal team and medical experts have worked tirelessly in the last two weeks to develop this Bill. I am confident that we have covered sufficient field in the Bill. I am aware that some members of the public are not happy that they were not consulted on the Bill. Public consultation, however, is not possible in the context of the SOE.

Mr. Speaker, let me reiterate that, the National Pandemic Bill 2020 will only be operational in a Declared Period of Public Health Emergency. It will cease to apply when the Head of State Declares an end to the Public Health Emergency. It will therefore operate only for a short period of time. Where the situation worsens in the country, and the need for another State of Emergency (SOE) arises, the Parliament can be recalled to approve the SOE.

Mr. Speaker, I also bring to your attention the *Curfew (Amendment) Bill*, a consequential amendment as a result of this Bill. The *Curfew Act* must be amended to exclude the application of its provisions to the *National Pandemic Bill*.

Mr. Speaker, I encourage our honorable leaders in this House to support our Government to enact these laws so that we can continue to protect our people from this global pandemic, and

also enable the application of these laws in the future, if and when another health pandemic confronts us, as a nation.

**Hon. Davis Steven, LLB, MP**

Deputy Prime Minister & Minister for Justice & Attorney General