

# EXPLANATORY MEMORANDUM TO THE PUBLIC HEALTH (DECLARATION OF FORMIDABLE EPIDEMIC DISEASE) ORDER, 2020

## A. The Purpose of the Rules

The general purpose of the *Public Health (Declaration of Formidable Epidemic Disease) Order, 2020* is to notify the country of COVID-19 as a formidable disease. The specific objectives of the Order is to declare COVID-19 as a formidable disease in order to alert the public of the eminent threat posed by COVID-19.

### 1. The Legislative Context

Section 35 of the of the Public Health Act, Chapter 242 of the Laws of Kenya gives the Minister (Cabinet Secretary) responsible for Health (hereinafter, the Cabinet Secretary) the power to declare, by order, a disease a formidable epidemic disease. By Legal Notice No. 37 dated 27<sup>th</sup> March 2020, the Cabinet Secretary declared COVID-19 a formidable epidemic disease. The present Order therefore has been made in this context.

### 2. Policy Background

The World Health Organization declared COVID-19 a public health emergency on 30<sup>th</sup> January 2020. Since then, the disease continues to spread rapidly, across boundaries. The disease spreads mainly through close contact with infected persons. On 13<sup>th</sup> March 2020, Kenya confirmed

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its first case of COVID-19. As at 15<sup>th</sup> April, 2020, there were a total of two hundred and twenty five (225) confirmed case of COVID-19 in Kenya, with ten (10) deaths and fifty three (53) recoveries.

The World Health Organization has provided guidelines on measures that need to be taken to prevent and control the spread of COVID-19. Some of these measures had been or are being implemented in several jurisdictions that have been afflicted by COVID-19. These measures include maintaining social distance; washing hands with soap and water and observing respiratory hygiene.

The provisions of the present Order is to notify the public of the emergence of COVID-19 and the eminent threat posed, in order to prevent and control the spread of COVID-19.

### **3. Public Consultations**

In view of the emergency circumstances occasioned by the rapid spread of COVID-19, and the need to prevent and control the spread of the same, public consultations were not feasible prior to the publication of the Order. It would be appreciated that the measures that the Order seeks to implement are reflective of the necessary executive action that, as a matter of necessity, has to be taken urgently, to prevent and contain the further spread of COVID-19.

It would also be appreciated that the objectives of the present Order would have been undermined if the Order were to be subjected to public participation prior to its publication.

#### 4. Guidance

The Ministry of Health, the Office of the Government Spokesman and the County Governments shall sensitize members of the public on the provisions and requirements of the present Order.

#### 5. The Contact Person in the Ministry of Health

The contact person at the Ministry of Health shall be the Cabinet Secretary, Hon. Mutahi Kagwe EGH or the Principal Secretary, Ms. Susan Mochache CBS.

Dated the.....16<sup>th</sup> April....., 2020



**Hon. Mutahi Kagwe, EGH**  
**CABINET SECRETARY.**



**SPECIAL ISSUE**

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*(Legislative Supplement No. 19)*

LEGAL NOTICE NO. 37

THE PUBLIC HEALTH ACT

*(Cap. 242)*

DECLARATION OF FORMIDABLE EPIDEMIC DISEASE

IN EXERCISE of the powers conferred by section 35 of the Public Health Act, the Cabinet Secretary for Health makes the following Order—

THE PUBLIC HEALTH (DECLARATION OF FORMIDABLE DISEASE) ORDER, 2020

1. This Order may be cited as the Public Health (Declaration of Formidable Epidemic Disease) Order, 2020. Citation.

2. The coronavirus disease 2019 is hereby declared to be a formidable epidemic disease. Declaration of formidable disease.

Dated the 2nd March, 2020.

MUTAHI KAGWE,  
*Cabinet Secretary for Health.*

