

# AS AMENDED IN THE H.O.R.

## THE PUBLIC HEALTH (AMENDMENT) BILL, 2020

### EXPLANATORY NOTES

*(These notes form no part of the Bill but are intended only to indicate its general purport)*

The Bill seeks to amend the Public Health Ordinance, Ch. 12 No. 4 to introduce a fixed penalty system for offences committed under Regulations made under section 105 of the Public Health Ordinance.

Clause 1 of the Bill would provide the short title of the Act for which this is the Bill.

Clause 2 of the Bill would provide for the interpretation of the word “Act”.

Clause 3 of the Bill would amend section 105 of the Public Health Ordinance to increase the maximum penalty for breaches of regulations made under this section from \$50,000.00 to \$250,000.00. This clause would also provide for Regulations to be made for the form of the fixed penalty notice and the duties of Clerks and the information to be supplied to them.

Clause 4 of the Bill would introduce sections 105A to 105H after section 105. Proposed section 105A would empower a police officer, where he reasonably believes that a person has breached regulations made under section 105, to issue a fixed penalty notice to the person. The fixed penalty notice would charge the person with the commission of the offence and require him to pay the fixed penalty within the time specified in the fixed penalty notice. The clause would require the police officer to send a duplicate of the fixed penalty notice to the clerk in the district in which the offence is alleged to have occurred. The clause also provides that the fixed penalty notice when issued is deemed to be a complaint within the meaning of the Summary Courts Act, Chap. 4:20. The fixed penalty notice, from the time of its expiration, is deemed to be a summons issued and served under the Summary Courts Act, Chap. 4:20.

Under this proposed section if a person who has been issued with a fixed penalty notice, pays the fixed penalty before the expiration of the time specified in the fixed penalty notice he is entitled to appeal to the Magistrate in the district in which he paid the fixed penalty in respect of the offence and if the Court finds in his favour, the fixed penalty which was paid, is to be refunded to him.

Proposed section 105B would prescribe the particulars which are to be contained in the fixed penalty notice.

Proposed section 105C would provide for the payment of the fixed penalty. The proposed section would require a person who receives a fixed penalty notice to pay the fixed penalty given. The payment is to be made to the Clerk of the district in which the offence is alleged to have been committed or in accordance with the Electronic Payments into and out of Court Act, 2018. Once

a person pays the fixed penalty under the fixed penalty notice, he is not liable to any sanction for the offence. The person paying the penalty must also provide the completed notice. The fixed penalty is to be paid within fourteen days and the Clerk cannot accept the payment after that time.

The Bill would provide in proposed section 105D that the amount for the fixed penalty for the offences in the Regulations will be specified in the Regulations.

Proposed section 105E would provide that proceedings in respect of an offence instituted by a fixed penalty notice would not be listed for hearing by the Court until a period of 2 months or any other period prescribed by Rules of Court has elapsed from the last day on which the penalty is payable and the Clerk has no record that the penalty has been paid. It also would not be listed for hearing unless the Clerk has been furnished with such information on the person to whom the fixed penalty notice has been issued by the police officer.

Proposed section 105F would provide that a certificate signed by a Clerk that payment of a fixed penalty was or was not made to the Clerk is sufficient evidence of the facts stated unless the contrary is proved.

Proposed section 105G provides that if the fixed penalty is not paid within the time specified in the notice proceedings in respect of the offence would proceed in the manner prescribed under the Summary Courts Act, Chap. 4:20.

Proposed section 105H would empower the Minister to amend the Schedule to the Regulation by Order, to add or remove offences and to alter the fixed penalties but in no case can the fixed penalty be more than \$20,000.00.

## A BILL

An Act to amend the Public Health Ordinance, Ch. 12 No. 4, to make provision for fixed penalties and fixed penalty notices for offences under the Public Health Ordinance, Ch. 12 No. 4

Enactment	ENACTED by the Parliament of Trinidad and Tobago as follows:
Short title	<b>1.</b> This Act may be cited as the Public Health (Amendment) Act, 2020.
Interpretation Ch. 12 No. 4 Section 105 amended	<b>2.</b> In this Act, “the Act” means the Public Health Ordinance. <b>3.</b> The Act is amended in section 105- (a) in subsection <b>(3)</b> by inserting after the words “not exceeding”, the words “two hundred and”; and (b) by inserting after subsection <b>(3)</b> , the following new subsection: “ <b>(4)</b> Regulations made under this section may prescribe- (a) the form of the fixed penalty notice under section 105A; and (b) the duties of Clerks and the information to be supplied to them.”
Sections 105A to 105I inserted	<b>4.</b> The Act is amended by inserting after section 105 the following new sections: “Police officer may give fixed penalty notice Chap. 4:20 <b>105A.</b> (1) In this section— “Clerk” has the meaning assigned to it by section 2 of the Summary Courts Act; “Court” has the meaning assigned to it by section 2 of the Summary Courts Act; “fixed penalty” means the penalty prescribed under subsection (2); “fixed penalty notice” means a notice issued under subsection (3) and includes a duplicate of such notice. “proceedings” means proceedings by complaint before a Magistrate;

“Rules of Court” means rules by the Rules Committee under section 23 of the Summary Courts Act”.

(2) Where a police officer has reason to believe that a person is committing or has committed an offence under section 105, he shall issue to the person a fixed penalty notice charging him with the commission of such offence, and requiring him to pay the fixed penalty within the time specified in the fixed penalty notice.

(3) The police officer under subsection (2) shall send to the Clerk, in the district in which the offence is alleged to have been committed, a duplicate of the fixed penalty notice.

(4) The fixed penalty notice issued under this section shall be deemed to be a complaint within the meaning of section 33 of the Summary Courts Act.

(5) Notwithstanding any written law to the contrary, the fixed penalty notice referred to in subsection (4) is, from the expiration of the time thereon specified for the payment of the fixed penalty, deemed to be a summons issued in accordance with section 42 and served in accordance with section 43, respectively, of the Summary Courts Act.

(6) Notwithstanding any provisions of this Act or any written law to the contrary, a person who pays a fixed penalty before the expiration of the time specified for the payment thereof may, in the prescribed form, appeal to the Magistrate in the district in which he paid the fixed penalty in respect of the offence for which he was charged.

(7) Where, in an action referred to in subsection (6), the Court decides in favour of the appellant, the amount representing the fixed penalty paid by the appellant shall be refunded to him.

(8) A fixed penalty paid under this Act shall be dealt with in the same manner as payment of

a fine imposed for an offence under the Summary Courts Act.

Particulars to be specified in fixed penalty notice

**105B.** A fixed penalty notice issued under section 105A shall bear the signature of the police officer and shall specify—

- (a) the date, time and place that the fixed penalty notice was issued;
- (b) the section of the written law creating the offence alleged and such particulars of the offence as are required for proceedings under the Summary Courts Act;
- (c) the time within which the fixed penalty may be paid in accordance with section 105A (2);
- (d) the amount of the fixed penalty;
- (e) the Clerk to whom, and the address at or to which the fixed penalty may be paid or remitted; and
- (f) the address of the Court at which the person is required to appear in the event of his failure to pay the fixed penalty within the specified time, and the date and time of such appearance.

Payment of fixed penalties

**105C.**(1) Where a fixed penalty notice has been given under section 105A, the person to whom the fixed penalty notice applies may, subject to subsection (2), pay the fixed penalty in accordance with the fixed penalty notice.

(2) Payment of the fixed penalty shall be made—

- (a) to the Clerk, having jurisdiction in the district in which the offence is alleged to have been committed; or
- (b) in accordance with the Electronic Payments into and out of Court Act, 2018.

Act No 14 of 2020

(3) Where a fixed penalty is paid in accordance with a fixed penalty notice, a person shall not be liable to any sanction for the offence in respect of which the fixed penalty notice was issued.

(4) Payment of the fixed penalty shall be accompanied by the fixed penalty notice completed by the person to whom the fixed penalty notice applies, in the manner prescribed.

(5) A fixed penalty paid under this Act shall be dealt with in the same manner as payment of a fine imposed for an offence under the Summary Courts Act.

(6) The time within which the fixed penalty is payable shall be fourteen days, or such other period as may be prescribed by Rules of Court, from the date of the fixed penalty notice, and where payment reaches the Clerk after that time, it shall not be receivable and shall be returned to the payer.

Amount of fixed penalty payable

**105D.** The fixed penalty for an offence under Regulations made under section 105 shall be the amount specified in the Regulations.

Non-listing for proceedings

**105E.** Proceedings in respect of an offence deemed to be instituted by a fixed penalty notice under this Act shall not be listed for hearing in Court unless—

- (a) a period of two months, or such other period as may be prescribed by Rules of Court, has elapsed from the last day on which the penalty is payable and the Clerk has no record that the fixed penalty was paid in accordance with section 105C; and
- (b) the Clerk has been furnished by the police officer with such information on the person to whom the fixed penalty notice has been issued under section 105A.

Certificate of payment or non-payment of fixed penalty.

**105F.** In any proceedings, a certificate that payment of a fixed penalty was or was not made to the Clerk by a date specified in the certificate shall, if the certificate purports to be signed by the Clerk,

be sufficient evidence of the facts stated, unless the contrary is proved.

Consequence  
of failure to  
pay or to  
appear.

**105G.** Where the fixed penalty is not paid within the time specified in the fixed penalty notice, proceedings in respect of the offence specified in the fixed penalty notice shall proceed in the manner prescribed by the Summary Courts Act.

Amendments  
to the  
Schedule

**105H.** The Minister may from time to time by Order amend the regulations made under section 105 to-

- (a) add any offence to the Schedule to the Regulations and prescribe in respect of that offence a fixed penalty not exceeding twenty thousand dollars;
- (b) remove any offence from the Schedule; or
- (c) alter the fixed penalty for any offence so however that the penalty as altered does not exceed twenty thousand dollars.

Passed in the House of Representatives this 28<sup>th</sup> day of, August 2020.

Clerk of the House

I confirm the above.

Speaker

Passed in the Senate this \_\_\_\_\_ day of \_\_\_\_\_, 2020

Clerk of the Senate

I confirm the above.

President.