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عيسى السليطي للمحاماة
ESSA AL SULAITI LAW FIRM

MODERN LAW



**PENALTIES FOR VIOLATING
QUARANTINE INSTRUCTIONS
ISSUED BY THE STATE OF QATAR**



Penalties for Violating Quarantine Instructions Issued by The State of Qatar

Given the current circumstances across the globe due to the widening of the novel coronavirus (COVID-19) outbreak, proactive preventive measures have been taken by the State and its institutions in order to protect the citizens and residents, particularly with regard to canceling some flights from countries in which this pandemic is spreading, in addition to canceling entry visas to the State and closing the borders to prevent the spread of this pandemic.

In line with international standards and in support of the effort of the World Health Organization to halt the spread of the virus and eradicate it, all necessary health measures and actions have been taken in this regard. However, it was necessary to initiate several key pieces of legislation, erga omnes, in order to be able to control this pandemic and eradicate it, especially in view of the fact that the world is going through critical times given the spread of the novel coronavirus (COVID-19).



We also emphasize that whoever violates the home-quarantine requirements is a reckless person who put his life and the lives of others in danger and endangers the health and safety of society as a whole, especially since everyone living in this society has a great responsibility towards himself, the State in which he lives, and the lives of others. Everyone must abide by the directives issued by the competent authorities. It is critical to review the decision to undertake to abide by home-quarantine requirements, as we see the need to cancel it after it has proven ineffective due to the lack of seriousness of some of the undertakers to abide by these requirements. We also advise that the quarantine shall be put under the supervision and control of the relevant agencies of the State, as in case the undertakers fail to abide by these home-quarantine requirements, it will have irreparable consequences.

In implementation of the State's applicable preemptive measures, which have been endorsed by the health authorities represented in the Ministry of Public Health and its supporting agencies in order to ensure the achievement of public safety and prevent the spread of the novel coronavirus (COVID-19), the competent authorities have arrested several people who violated the home-quarantine requirements in accordance with the undertaking by which they committed themselves to abide by these requirements set by health authorities and which subject its violators to legal accountability according to the health authorities' procedures. In a statement in this regard, the Ministry of Public Health stated that the persons violating the home-quarantine requirements were being referred to the competent public prosecutor. The penalties for these violations are as follows.

Penalties

Penalties for violating quarantine directives issued by the State:

Although the legislator had previously issued Law No. (17) of 1990 regarding the prevention of infectious diseases, however, in view of the current circumstances, His Highness Sheikh Tamim bin Hamad Al Thani, the Emir of the State, issued Law No. (9) of 2020, amending certain provisions of Law No. (17) of 1990 regarding the prevention of infectious diseases.

Law No. (9) of 2020 amended the following provisions of Law No. (17) of 1990:

◆ Article No. (4)

Article No. (4) of the Law states; "The obligation of reporting stipulated in the previous article falls on every physician examining the person infected or suspected of being infected by a contagious disease; the infected person; the head of his household or whoever housing him; the president of the university, institute or school or whom he may delegate; the direct supervisor at work, if the injury occurred or is suspected to have occurred while working; and the employer of migrant workers, whether the person infected or suspected of being infected is inside the State or abroad; whenever any of them becomes aware of this infection."



◆ Article No. (21)

Article No. (21) of Law No. (9) of 2020 states;

"Without prejudice to any less lenient penalty stipulated in any other law:

1. Violation of the provisions of Articles No. (3), (4), (6 bis), (7 / 2nd and 3rd Paragraphs), (8), (11), and the procedures and measures taken by the Council of Ministers in accordance with the provisions of Article No. (10 / Last Paragraph), is punishable by a maximum of three years of imprisonment and a fine not exceeding (200,000) two hundred thousand Riyals, or by one of these two penalties.

2. Violation of the provisions of Articles No. (15 / Last Paragraph), (16), (17) is punishable by a maximum of one month of imprisonment and a fine not exceeding (10,000) ten thousand Riyals, or by one of these two penalties.

Violations of decisions issued in implementation of the provisions of the articles referred to in the previous two sections are punishable by the same penalties.

Thus, it is consistent with the provisions of Article No. (253) of the Qatari Penal Code No. 11 of 2004, which states: "Whosoever negligently causes the spread of an infectious disease or a pandemic shall be punished by a maximum of three years of imprisonment and a fine not exceeding (10,000) ten thousand Riyals, or by one of these two penalties. And if the act results in the death of a person, whoever commits the act shall be punished by a maximum of seven years of imprisonment and a fine not exceeding (20,000) twenty thousand Riyals.

Law No. (9) of 2020 amending Law No. (17) of 1990 also brought in the following new provisions:

◆ Article No. (6 bis) states the following;

"Any person quarantined or subjected to health control by the competent health authority must remain in the place of quarantine designated by that authority and abide by the set quarantine and control procedures."

◆ Article No. (10 / Last Paragraph) states the following;

"The Council of Ministers, upon the proposal of the Minister and for the purpose of limiting the spread of infectious disease, have the right to take appropriate public measures and actions to preserve public health, including imposing restrictions on the freedom of persons to gather, move, reside, and pass in certain places or times."



Establishment of Health Prosecution

Complementarily, His Excellency the Attorney General issued Resolution No. (46/2020), concerning the establishment of a specialized health prosecution named (Health Prosecution) as part of the precautionary and preventive measures taken by the State to preserve public health and public safety.

The resolution to establish the Health Prosecution comes within the context of the deterrent means for violators of public health laws, while the new Health Prosecution has jurisdiction to investigate and take action in all health-related crimes, especially those that occur in violation of the provisions of the following laws:

- ◆ Law No. (11) of 1982 regarding the regulation of medical institutions.
- ◆ Law No. (2) of 1983 regarding the practice of the professions related to human medicine and dentistry and dental surgery and its amendments.
- ◆ Law No. (3) of 1983 regarding the regulation of the professions of pharmacists, mediators and agents of pharmaceutical factories and companies and its amendments.
- ◆ Decree-Law No. (17) of 1990 regarding the prevention of infectious diseases.
- ◆ Law No. (3) of 2014 regarding the packaging and serving of human food.
- ◆ Law No. (15) of 2015 regarding the regulation of the transfer and transplantation of human organs.
- ◆ Law No. (16) of 2016 regarding mental health.

The resolution stated that all reports related to health crimes pending before all other prosecutions shall be referred to the Health Prosecution unless an action has been taken in them. The resolution indicated that the Health Prosecution is headed by a Prosecutor or a higher rank and assisted by a sufficient number of Prosecutors and Assistant Prosecutors. This is in line with the precautionary and preventive measures taken by the State to preserve public health and public safety and has jurisdiction to investigate and take action in crimes arising from the violation of the abovementioned health-related laws.



Spreading the pandemic among more than one person

This raises the question of whether a violation of Law No. (9) of 2020 amending Law No. (17) of 1990 results in several crimes that results in the spread of the disease among more than one person.

Penal Code No. (11) of 2004 regulated such cases in Articles No. (84) and (85) thereof.

◆ Article No. (84) states the following;

"If a single act constitutes multiple crimes, then the person shall be punished for the crime with the most severe penalty exclusively".

◆ Article No. (84) states the following;

"If several crimes occurred for the same purpose and were intricately linked to each other, then they shall be considered one crime and the person shall be punished by the penalty of the most severe crime."

Articles No. (86), (87) and (88) of the Penal Code can be applied with multiple penalties, with a maximum of twenty years of imprisonment. This is the closest to the current reality and circumstances that necessitate taking dissuasive measures that are not required in themselves but are necessary in such circumstances to restrain those who underestimate the reality of this pandemic and are unaware of its danger to citizens.

According to the Ministry of Health statements regarding the arrest of several people who violated the home-quarantine requirements, which subject the violators to legal accountability, and were referred to the competent prosecution. The Ministry of Health statement referred to Article No. (253) of the Penal Code and Law No. (17) of 1990 regarding the prevention of infectious diseases and Law No. (17) of 2002 regarding the protection of the society.



Deliberately spreading the disease or pandemic in the State

We should, in these current circumstances, ponder whether a person deliberately spread disease or pandemic in the State. The answer is found in the Penal Code, nearly twenty years before the outbreak of this pandemic. Article No. (252) of the Penal Code states the following:

"Any person who deliberately commits an act that spreads an infectious disease or a pandemic shall be punished by a maximum of fifteen years of imprisonment. And capital punishment shall be imposed if the act results in a death.

In view of the above; We see the importance of the imposition of stricter penalties by Law No. (9) of 2020 amending certain provisions of Decree-Law No. (17) of 1990 regarding the prevention of infectious diseases, and the application of Article No. (253) of the Penal Code and linking it to Article No. (88) of the Penal Code in ruling with more than one penalty in the case of having multiple victims and multiple crimes accordingly. In addition, Article No. (252) of the Penal Code can be applied, which carries a penalty of up to fifteen years or death in the event of deliberately commits an act that could harm citizens and spread a contagious disease or pandemic. By doing so, we will have dissuasive penalties and sentences for those who tamper with the health of society and that would enable the State to quickly besiege the pandemic and eradicate it, as naturally, everyone violating the home-quarantine instruction is fully aware of the possibility that he/she may infect those who have close contact with him/her, while he/she is still subject to quarantine, regardless of its type, and has previously undertook to adhere to the quarantine.

This may also amount to deliberate violation of the State's instructions to adhere to home-quarantine exposing the society to health risks. This confirms the availability of actus rea and mens rea (the criminal act and intent to harm) to infect more than one person if they violate the quarantine requirements of any kind. The most appropriate decision is to cancel the decision to undertake to abide by home-quarantine requirements to preserve the public safety after it has proven ineffective. The argument against this decision is that it does not have any means to guarantee that the virus will not be transmitted to close contacts and others in the event of non-compliance with home-quarantine requirements, as the quarantine must be implemented under the control and sight of the competent authorities in the State.

Therefore, we advise at the present time not to violate the current home-quarantine requirements sanitary isolation, subject its violators to legal accountability under the current circumstances. as public health is an uncompromisable and absolute imperative. We also advise citizens and residents under home-quarantine to fully comply with the requirements specified by the Ministry of Public Health for their own safety and the safety of others and to achieve public safety, as this is a patriotic duty, and in order to not jeopardize themselves to the most severe punishment.

With all our prayers to take this plague off us; free us from distress and pandemic; bring peace, tranquility and healing to our hearts; and protect Qatar and all countries around the world and bestow the blessing of security and safety upon us.



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