

# ANIMAL AND PLANT BIOSECURITY BILL, 2011

(Bill No. .... of 2011)

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# ANIMAL AND PLANT BIOSECURITY BILL, 2011

(Bill No. .... of 2011)



## A BILL OF

**AN ACT** to prevent the entry of animal and plant pests and diseases into, and their establishment and spread in, Seychelles, to regulate and control the movement of animal and plant pests and diseases and of animals and plants and their products within Seychelles, to facilitate international trade and cooperation in respect of animal and plant pests and diseases and for connected purposes.

**ENACTED** by the President and the National Assembly.

### PART I – PRELIMINARY

1. This Act may be cited as the Animal and Plant Biosecurity Act, 2011, and comes into operation on a date to be appointed by the Minister by notice published in the Gazette.

Short title and  
commencement

2. In this Act, unless the context otherwise requires -

Interpretation

“agency responsible for biosecurity” means the agency designated as such under section 10;

“aircraft” means any conveyance that may be used in navigation by air;

“animal” means any mammal (other than a human), bird, insect, amphibian, reptile, fish, mollusc, crustacean or other member of the animal kingdom, whether alive or dead, and includes –

- (a) the egg, embryo, ova or semen and any organic animal tissue from which another animal could be produced; and
- (b) the hide, skin, hair, feather, shell, horn, hoof, viscera or any other part or portion of the body of an animal;

“animal product” means any article or substance derived from an animal, whether or not in combination with any other article or substance, and includes -

- (a) meat, fat, milk, whey, cream, butter, cheese, eggs, honey and other foodstuffs derived from an animal;
- (b) the dung, urine, faeces, saliva, bone or blood of an animal, or any article or substance derived from the dung, urine, faeces, saliva, bone or blood of an animal;
- (c) the secretions of any animal;
- (d) any product or biological preparation derived from any animal tissue or animal secretion;

“article” means a single unit of any goods;

“baggage” means any goods which accompany a passenger or crew member on a conveyance, including clothing and any article attached or otherwise connected to the body or clothing of any passenger or crew member;

“ballast water” means water used as ballast in a vessel and includes sediment that is or has been contained in such water;

“biosecurity” means a strategic and integrated approach that encompasses the policy and regulatory framework for analysing and managing relevant risks to animal and plant life and the associated risks to the environment, economy and public health; “biosecurity approved premises” means premises approved for the inspection, testing and treatment of regulated articles under section 44;

“biosecurity clearance” –

- (a) in respect of a regulated article or consignment of regulated articles means biosecurity import clearance and biosecurity export clearance;
- (b) in respect of crew and passengers, means biosecurity entry clearance;

“biosecurity clearance agent” means a person in Seychelles appointed by an importer or exporter under section 74 as the agent of the importer or exporter for the purposes of this Act to supervise the biosecurity clearance of a conveyance, container, animal, animal product, plant, plant product or any other goods;

“biosecurity control” of a regulated article means submission of the article for inspection under this Act, and thereafter taking such biosecurity measures, or permitting such measures to be taken, as are directed pursuant to this Act, until biosecurity clearance is granted in respect of the article;

“biosecurity controlled area” means an infested biosecurity controlled area declared under section 107 or a pest-free biosecurity controlled area declared under section 111;

“biosecurity emergency” means the incursion or suspected incursion of a regulated pest or disease into any area of Seychelles, or the existence of some other biosecurity threat, which requires urgent action, whether by eradication, containment or other response;

“biosecurity emergency area” means an area declared as such in response to a biosecurity emergency under section 115;

“biosecurity entry clearance” in respect of a passenger or crew member and their baggage means permission under section 63 for the passenger or crew member and their baggage to leave a biosecurity point of entry;

“biosecurity entry inspection” of an incoming article or consignment of articles means inspection of it pursuant to section 82;

“biosecurity export clearance” of an article means permission under section 129 for the article or consignment to be exported;

“biosecurity export inspection” of an outgoing article means inspection of it pursuant to section 126;

“biosecurity export requirements” means requirements specified under section 128;

“biosecurity goods holding area” means an area of land at or adjacent to a seaport or airport, designated under section 70 for the biosecurity inspection of incoming or outgoing articles and containers;



“biosecurity holding area” means a temporary or permanent biosecurity port holding area, a biosecurity goods holding area or a biosecurity postal holding area;

“biosecurity import clearance” of an article or consignment of articles means permission under section 84 for the article or consignment to be removed from a biosecurity holding area;

“biosecurity import clearance inspection” of an incoming article means inspection of it pursuant to section 83;

“biosecurity import conditions” means conditions specified under section 77;

“biosecurity import permit” means a biosecurity import permit issued under section 76;

“biosecurity import requirements” in relation to an article or consignment means –

- (a) the conditions of a biosecurity import permit;
- (b) the requirements for the issue of any sanitary or phytosanitary certificate relating to the article or consignment;
- (c) any other biosecurity measures specified under section 77(1)(c);

“biosecurity inspection” of an incoming or outgoing conveyance, article or consignment means an inspection to ascertain whether the conveyance, article or consignment presents a biosecurity risk to Seychelles or an importing country and whether in other respects it conforms to the requirements of this Act;

“biosecurity landing clearance” means clearance for a vessel or aircraft to land or unload cargo, crew members or passengers under section 53;

“biosecurity measure” means the inspection, detention, quarantine, testing, treatment, re-consignment or destruction of a regulated article for import purposes and inspection, treatment, testing, certification of a regulated article in conformity with import requirements of an importing country for export purposes to eliminate or reduce the biosecurity threat presented by the article;

“biosecurity officer” means –

- (a) the Director;
- (b) the Deputy Director;

- (c) any person designated as a biosecurity officer under section 25;
- (d) in respect of any particular function, a biosecurity officer to whom the function has been assigned or delegated under section 46;

“biosecurity point of departure” means a seaport, airport or mail exchange designated under section 66(1)(b) for the export of regulated articles;

“biosecurity point of entry” means a seaport, airport or mail exchange designated under section 66(1)(a) for the import of regulated articles or a place deemed to be a biosecurity point of entry under section 67(4);

“biosecurity port holding area” means an area designated under section 69 for the biosecurity inspection of incoming vessels or aircraft;

“biosecurity port quarantine” means quarantine of a vessel or aircraft under section 54 in a biosecurity port quarantine area;

“biosecurity port quarantine area” means an area designated under section 49(1) for the quarantine of vessels and aircraft;

“biosecurity port quarantine clearance” means permission under section 58 for a vessel or aircraft to land or unload passengers and cargo after being in biosecurity port quarantine;

“biosecurity postal holding area” means an area or a mail exchange designated under section 71 for the biosecurity inspection of incoming or outgoing postal items;

“biosecurity quarantine” means confinement in isolation of a regulated article and any conveyance, container or packaging in which the article is carried, for inspection, testing or treatment, in order to prevent or limit the entry, introduction, establishment or spread of a regulated pest or disease;

“biosecurity quarantine station” means a facility under the control of the Director and designated under section 87 for the performance of biosecurity quarantine, and includes a temporary biosecurity quarantine station;

“biosecurity register” means the register kept by the Director under section 47;

“biosecurity risk” means the likelihood of the introduction, establishment or spread of a pest or disease which would adversely affect animals, plants, human beings, the environment or the economy;

“biosecurity risk assessment” in relation to a regulated article means evaluation of the biosecurity risk posed by the article;

“biosecurity threat” means the threat of harm being caused or adverse effects resulting to animals, plants, human beings, the environment or the economy as a result of the introduction, establishment or spread of a regulated pest or disease;

“captain”, in relation to an aircraft, means the person for the time being in command of the aircraft;

“compliance agreement” means an agreement provided for in section 43;

“consignment” means a quantity of goods which arrive in the same vessel or aircraft and which in accordance with this Act can be covered by a single import permit or sanitary or phytosanitary certificate;

“container” means anything in or by which goods are encased, covered, enclosed or packed, including any material in contact with the goods;

“contamination” means the presence in any item of a pest, not constituting an infestation;

“conveyance” means a vessel, aircraft, vehicle or other means of transportation by which people, goods, plants or animals are moved from one location to another;

“country of origin” for the purposes of this Act, means the country that issues a sanitary or phytosanitary certificate for an article or consignment that is being imported or exported and includes a re-exporting country;

“custodian”, in respect of an item, means the occupier of a place or the person in possession and charge of the item, whether lawfully or not, but does not include a person who has possession or control of the item only for the purpose of taking biosecurity measures in respect of it;

“Deputy Director” means the Deputy Director of Biosecurity appointed under section 20;

“Director” means the Director of Biosecurity appointed under section 17;

“disease” means any unhealthy condition in an animal or plant which is known or suspected to be caused by an organism, a species, strain or biotype of a plant, animal, microbe or pathogenic agent and includes a disease transmissible from animals and humans and a disease capable of harming the environment;

“document” means any mode of communicating information in a retrievable form, including electronically;

“environment” includes –

- (a) the ecosystem and its constituent parts, including people and communities;
- (b) all natural and physical resources;
- (c) the qualities and characteristics of locations, places and areas;

“eradication” means the application of measures to eliminate a pest or disease from an area;

“establishment”, in relation to a pest or disease, means the perpetuation in an area, of the pest or disease, for the foreseeable future after its entry into the area;

“export” means to take or send goods out of Seychelles;

“exporter” means a person who exports or seeks to export goods, other than as the master of the vessel or captain of the aircraft in which the goods are carried and includes a biosecurity clearance agent;

“fittings” means any stall, box, cage, enclosure, pen, net or other material used for penning, yarding, confining or containing any animal and includes any harness, saddlery, rope, bucket, trough, bedding, utensil or implement used in the handling or keeping of animals or animal products;

“fodder” means any hay, water, meat, vegetables, grain or material used for the food or litter of animals, or the storage of animal products;

“garbage” means waste material derived in whole or in part from any plant, fruit, vegetable, meat or other plant or animal material, or other refuse of any kind that has been associated with any plant, fruit, vegetable, meat or other plant or animal material;

“genetic material” means any material of plant, animal, microbial or other origin containing functional units of heredity;

“goods” means any kind of moveable property;

“host” means any animal, plant, human, animal product, plant product or any organism that harbours a pest or disease;

“host material” means any packing material, container, fittings, litter, manure, fodder or similar goods that might have had contact with animals, animal products, plants or plant products;

“import” means to bring goods, or cause goods to be brought, into Seychelles;

“importer” means a person who imports or seeks to import goods, other than as the master of a vessel or captain of the aircraft in which the goods are carried and includes a biosecurity clearance agent;

“importing country” means a country which is the intended destination of an article being or proposed to be exported and excludes a transit country;

“in transit”, in relation to goods, means the goods are not imported into an area but pass through it to another area, whether by the same or another conveyance, during which time they remain enclosed, are not split up, are not combined with other goods, and do not have their packaging changed;

“infected”, in relation an animal or plant, means that the animal or plant is diseased or may have been exposed to the risk of infection during the preceding 6 months;

“infested”, in relation an item or area, means that there is present in the item or area a living pest or disease;

“inspect”, in relation to an item, means an official examination of the item to determine if any pest or disease is present in the item and whether in other respects the item conforms to the requirements of this Act and “inspection” is construed accordingly;

“introduction”, in relation to a pest or disease, means the entry of the pest or disease into an area , resulting in its establishment in the area;

“item” means any kind of moveable or immoveable property and includes premises;

“living organism” means any organism capable of transferring or replicating genetic material, including sterile organisms, viruses, viroids, plasmids, bacteriophages and prions;

“master”, in relation to a vessel, means the person for the time being in charge of the vessel, not being the pilot;

“microbe” means any organism or biotic entity of microscopic proportions, whether unicellular, multicellular or sub-cellular in common form;

“Minister” means the Minister responsible for matters relating to biosecurity and “Ministry” is construed accordingly;

“National Biosecurity Committee” means the committee established by section 14;

“notifiable pest or disease” means a pest or disease declared under section 8 to be notifiable;

“occupier” in relation to any land or building, means the person in actual occupation thereof or, if there is no such person, the owner of such land or building;

“official control”, in relation to a pest or disease, means that its presence is known, its distribution is limited and its further spread is controlled by the exercise of powers under this Act;

“owner” in relation to any land, means the person who is receiving the rent of the land whether on his own account or as agent or representative for any other person, or who would so receive the rent if the land were let for rent;

“organism” means a biotic entity other than a human, capable of reproduction or replication;

“packaging” means any material and includes fabric, paper, cardboard, plastic, wood, palette, straw, grass or leaves used for supporting, protecting and carrying a regulated article;

“pest” means any species, strain or biotype of a plant, animal, microbe or pathogenic agent, alien invasive species or any organism, which –

- (a) causes disease; or
- (b) is detrimental to or capable of harming or adversely affecting animals or animal products, plants or plant products, human beings or the environment;

“pest or disease risk analysis” means the process of evaluating biological or other scientific and economic evidence to determine whether a pest or disease should be regulated and the nature and strength of any biosecurity measures to be taken against it;

“phytosanitary certificate” means a certificate issued by the biosecurity authority of the country of origin or re-exporting country from which a plant or plant produce originates or is re-exported, certifying that the plant or plant product is substantially free from plant pests and diseases and in other respects meets the import requirements of the importing country;

“plant” includes means living plants and parts thereof and includes seeds and germplasm;

“plant material” means any unprocessed material of plant origin, including grain;

“plant product” means –

- (a) plant material;
- (b) timber; or
- (c) any product manufactured wholly or partly from one or more plants;

“precautionary principle” means the principle that it is not unreasonable to refuse permission for an activity that has great potential negative impact, even if there is insufficient scientific data to support a refusal;

“premises” means any immovable property, other than land;

“prescribed” means prescribed by this Act or by regulations made under it;

“quarantine pest or disease” means a pest or disease of potential national economic importance to Seychelles which -

- (a) is not yet present in Seychelles;
- (b) is present in Seychelles but not widely distributed; or
- (c) is established in Seychelles but is under official control;

“reconsign”, in relation to a regulated article or consignment of regulated articles which has been refused biosecurity import clearance, means to send the article or consignment out of Seychelles, either by the vessel or aircraft on which it was imported or by another vessel or aircraft in accordance with section 37;

“re-exporting country”, in relation any goods, means a country which is not the country of origin of the goods, but the country where a container or consignment of goods is opened and re-packed for export;

“regulated article” has the meaning given to it by section 6(1);

“regulated pest or disease” means a pest or disease –

- (a) the importation into Seychelles of which is prohibited or restricted under section 7; or

(b) which is under official control;

“sanitary certificate” means an animal health certificate issued by the agency responsible for biosecurity matters or veterinary service of the country of origin or re-exporting country from which an animal or animal product originates or is re-exported, certifying that the animal or animal product is substantially free from animal pests and diseases and in other respects meets the animal health import requirements of the importing country and complies with relevant requirements of the exporting country;

“ship’s stores” means any food or other regulated articles carried on a vessel or aircraft for consumption or use on the vessel or aircraft;

“soil” means any medium which is capable of supporting plant life or of harbouring or transmitting pests and diseases and includes earth, compost, clay, peat moss or any artificial growth media;

“spread”, in relation to a pest or disease, means the expansion of the geographical distribution of the pest or disease within an area;

“status”, in relation to a pest or disease, means its presence, absence, prevalence, incidence, distribution and occurrence in an area;

“surveillance” means the official process by which data is collected on the occurrence or absence of a pest or disease by survey, monitoring and other procedures;

“test” means an examination which goes beyond a visual inspection, to determine if a pest or disease is or is likely to be present, or to identify a pest or disease, and includes chemical tests of plant material and diagnostic tests in respect of an animal;

“timber” includes round wood, sawn wood, wood chips and dunnage, with or without bark;

“treatment” means an officially authorised procedure for the killing, removal, modification or rendering infertile or non-viable of a pest or disease by way of cleansing, fumigation, inoculation, disinfection, disinfestation, decontamination, or otherwise;

“vehicle” includes a bicycle (whether motorized or not), a cart and any other wheeled conveyance;

“vessel” includes a ship, hovercraft, boat, ferry, raft, yacht, canoe or pontoon that is used as a conveyance in or on water, whether or not it is self-propelled.



**3. (1)** This Act applies to –

- (a) every person in Seychelles, irrespective of the person's nationality or citizenship;
- (b) all conveyances, containers and goods while they are in Seychelles, including vessels and aircraft owned or operated by the government of a foreign State; and
- (c) persons, conveyances, containers and goods outside Seychelles to the extent needed for its effective enforcement.

Application of  
Act

**(2)** This Act binds the Republic.

**PART II – RESPONSIBILITIES, FUNCTIONS AND DUTIES**

*The Minister*

**4. (1)** The Minister is responsible for the administration of this Act.

Administration of  
the Act

(2) The Minister may give written directions to the Director concerning administrative action needed to implement this Act and to achieve the functions of the agency responsible for biosecurity under this Act.

**5. The Minister -**

Functions and  
powers of  
Minister

- (a) has the functions assigned to the Minister by this Act;
- (b) may call for reports from the Director on any matter pertaining to this Act, the functions of the agency responsible for biosecurity specified in section 11 or the functions of the Director specified in section 18;
- (c) must endeavour to ensure that adequate staff and funds are available to the Director for the performance of the Director's functions specified in section 18, in accordance with any policy laid down by the Minister.

**6. (1)** For the purposes of this Act, “regulated article” means -

Regulated articles

- (a) any animal or animal product;
- (b) any plant or plant product;
- (c) any living organism, whether modified or not;

- (d) soil, sand, gravel and aggregate;
- (e) any genetic material;
- (f) human remains;
- (g) any host material;
- (h) a regulated pest or disease;
- (i) any clothing, machinery or other article that contains or has adhering to it anything mentioned in paragraph (a), (b), (c) or (d);
- (j) garbage;
- (k) any other article, goods, substance, product or thing declared by the Minister under sub-section (2).

(2) The Minister may, on the advice of the Director, by order, declare any article, goods, substance, product or thing, which is not specified in subsection (1), to be a regulated article for the purposes of this Act.

**7. (1)** The Minister may, by order, on the advice of the Director, declare regulated pests or diseases –

Regulated pests  
and diseases

- (a) the importation of which is prohibited for all purposes;
- (b) the importation of which is permitted subject to biosecurity import conditions specified by the Director under section 77;
- (c) which are under official control.

(2) Before making an order under this section, the Minister must obtain –

- (a) a pest or disease risk analysis; and
- (b) relevant technical advice from the Director.

(3) A person who –

- (a) imports or attempts to import a pest or disease which is prohibited under subsection (1)(a);

- (b) imports or attempts to import a pest or disease the importation of which is permitted subject to conditions under subsection (1)(b), in breach of such conditions;
- (c) knowingly propagates a regulated pest or disease including alien invasive species,

commits an offence.

**8. (1)** The Minister, on the advice of the Director and biosecurity committee may, by order, declare –

Notifiable pests  
and diseases

- (a) the pests and diseases that are notifiable for the purposes of this section; and
- (b) the manner of notifying such pests and diseases to the Director.

(2) A person who knows of or suspects the occurrence of a notifiable pest or disease in Seychelles must, as soon as reasonably practicable, notify the Director in the manner declared under subsection (1)(b), of such occurrence, unless the person reasonably believes that the Director has already been notified of the occurrence.

(3) A person who fails to comply with subsection (2) commits an offence.

(4) The master of a vessel or captain of an aircraft in Seychelles who knows of or suspects the occurrence of a notifiable pest or disease on board the vessel or aircraft must –

- (a) as soon as reasonably practicable notify the Director, of such occurrence, in the manner declared under subsection (1)(b); and
- (b) take such action in relation to the vessel or aircraft as is directed by the Director or a biosecurity officer.

(5) A master or captain who fails to comply with subsection (4)(a) or (b) commits an offence.

(6) The Director must record in the biosecurity register all occurrences of notifiable diseases that are notified under this section or that otherwise come to the notice of the Director.

**9. (1)** The Minister, on the advice of the Director and the National Biosecurity Committee, may, at any time issue a notice –

Notification of  
pest and diseases  
and  
classifications

- (a) stating that a particular pest or disease is known to exist in Seychelles;

- (b) stating, that to the best of the Minister's knowledge, a particular pest or disease does not exist in Seychelles;
- (c) specifying the classification, name or identity by which any animal, animal product, plant, plant product, pest or disease is known in Seychelles.

(2) A notice issued under subsection (1), unless revoked, is admissible in any court or other proceedings as conclusive evidence of the matters stated in it.

*Agency responsible for Biosecurity*

**10. (1)** The Minister may, by order published in the Gazette, designate a statutory or governmental body, authority or agency to be the agency responsible for biosecurity.

Designation and responsibility of agency responsible for biosecurity

(2) The agency designated under subsection (1) is responsible for the implementation and enforcement of this Act.

**11.** The functions of the agency responsible for biosecurity are, in accordance with this Act –

Functions of the agency

- (a) to regulate the entry into Seychelles of regulated pests and diseases affecting animals, plants, human beings and the environment;
- (b) to carry out surveillance of pests and diseases and assess the status of regulated pests and diseases in Seychelles;
- (c) to prevent the establishment and spread of regulated pests and diseases and the release of organisms that might adversely affect animals, plants, human beings and the environment in Seychelles;
- (d) to eradicate, contain or control, the movement of regulated pests and diseases that are already present in Seychelles;
- (e) to prevent the introduction and spread of regulated pests and diseases not already present in Seychelles;
- (f) to facilitate the safe importation of animals, animal products, plants and plant products and other regulated articles;
- (g) to facilitate the export of animals, animal products, plants and plant products, in accordance with the biosecurity requirements of the importing country;

- (h) to facilitate international cooperation for the prevention of the spread of pests and diseases affecting animals, plants, human beings and the environment; and
- (i) to perform any other functions as directed by the Minister.

**12. (1)** The agency responsible for biosecurity should –

Other responsibilities of the agency

- (a) in consultation with other government ministries, departments, agencies or authorities, and statutory bodies or authorities and the National Disaster Committee, devise a Biosecurity Emergency Response Plan to deal with any incursion of a regulated pest or disease in Seychelles and keep the plan under review;
- (b) produce an operations manual for the guidance of biosecurity officers;
- (c) to the extent possible, publicise the requirements of this Act and increase public awareness of the importance of biosecurity.

(1)(a) must - **(2)** The Biosecurity Emergency Response Plan referred to in subsection

- (a) contain the budgetary requirements needed for the effective implementation of the plan; and
- (b) identify the manner in which such requirements are to be funded.

**13. (1)** The funds of the agency responsible for biosecurity consist of –

Financial Provisions

- (a) money appropriated by the National Assembly for the use of the agency in respect of its functions under this Act;
- (b) money paid to the agency for services rendered to any person under this Act;
- (c) money obtained from the disposal, lease or hire of, or other dealing with, any property vested in or acquired by the agency in respect of its functions under this Act;
- (d) money paid to the agency by way of grants or donations for the performance of its functions under this Act; and
- (e) all other money lawfully received by the agency for the performance of its functions under this Act;

- (2) The Minister may –
- (a) establish a contingencies fund into which shall be paid –
    - (i) a sum not exceeding one third of the funds authorized by an Appropriation Act under subsection(1)(a) for each financial year; and
    - (ii) any other sum paid by any person, to be used by the agency responsible for biosecurity for the purpose for which payment from the fund is authorised under paragraph (b);
  - (b) authorize payment from the contingencies fund, to the agency responsible for biosecurity, where -
    - (i) there is an incursion of a regulated pest or disease into Seychelles which may threaten the livelihood and environment of the country or any part of it; and
    - (ii) a response is immediately required, whether by way of the declaration of a biosecurity emergency area or otherwise.
- (3) Any fine payable under this Act, is to be paid into the Consolidated Fund.
- (4) If a fee or charge payable under this Act is not paid –
- (a) the service for which the fee or charge is payable, if it has not been provided, may be withheld until the fee or charge is paid;
  - (b) the service for which the fee or charge is payable, if it has been provided, may be recovered as a debt owing to the agency responsible for biosecurity;
  - (c) and the fee or charge is in respect of an item in quarantine, the item may be sold once it has cleared quarantine, or otherwise be treated as abandoned goods.

*National Biosecurity Committee*

- 14. (1)** The National Biosecurity Committee is established.

Establishment  
and constitution  
of National  
Biosecurity  
Committee

(2) The National Biosecurity Committee consists of the following members

—

- (a) a representative of customs;
- (b) a representative of the authority responsible for civil aviation;
- (c) a representative of the authority responsible for sea ports;
- (d) a representative of the authority responsible for postal services;
- (e) a representative of the Medical officer of health;
- (f) a representative of the organisation responsible for plant and animal biosecurity;
- (g) a representative of the Department of Environment;
- (h) a representative of the Ministry responsible for International Trade;
- (i) a representative of the Farmers' Association; and
- (j) a representative of the civil society.

(3) The members of the National Biosecurity Committee specified in subsection (2) must have the technical competence relevant to the functions of the Committee.

(4) The Minister shall appoint the members of the National Biosecurity Committee for such period and on such conditions as the Minister considers appropriate and every such appointment shall be notified in the Gazette.

**15. (1)** The National Biosecurity Committee shall advise and provide guidance to the Director and the Minister on policy and technical matters.

Functions of  
National  
Biosecurity  
Committee

(2) If the Minister or Director takes a decision otherwise than as advised by the Committee, the Minister or Director shall cause the decision to be made public.

**16.** The National Biosecurity Committee shall regulate its own proceedings.

Proceedings of  
National  
Biosecurity  
Committee

#### *Director and Deputy Director of Biosecurity*

**17. (1)** The Minister must, in writing, appoint a Director of Biosecurity and every such appointment is to be published in the Gazette.

Appointment of  
Director of  
biosecurity

(2) The Director must be the head of the agency responsible for biosecurity.

(3) The Director is responsible to the Minister for the performance of his or her functions under this Act.

**18. (1)** The Director must -

Functions of  
Director

- (a) perform the functions assigned to the Director by this Act;
- (b) advise the Minister on matters relating to animal and plant biosecurity, and liaise with appropriate government ministries, departments, agencies or authorities, and statutory bodies or authorities on such matters;
- (c) report to the Minister as required by him or her;
- (d) ensure, with approval of the Minister, that Seychelles is represented internationally in respect of matters relating to biosecurity; and
- (e) perform any other functions relating to this Act, that the Minister in writing, confers on the Director.

(2) Before performing any technical function under this Act, the Director must, as appropriate, obtain advice from the Deputy Director, the Chief Veterinary Officer or Chief Plant Protection Officer.

**19. (1)** The Director may enter in an agreement with the owner or other person in charge of the administration of an island or an area protected under any written law for conservation or environmental protection purposes, permitting that owner or other person to, in relation to that island or area –

Power to  
conclude  
agreements with  
owners or  
administrators of  
islands etc.

- (a) carry out surveillance of pests and diseases for the purposes of this Act;
- (b) propose pest and disease management strategies to the agency responsible for biosecurity;
- (c) if a pest and disease management strategy proposed by the owner or administrator of the island has been approved by the agency responsible for biosecurity –
  - (i) perform the functions of the agency in respect of the strategy;



- (ii) provide for the management or eradication of pests and diseases;
- (iii) with the approval of the agency, review, extend or revoke the strategy;
- (d) advise the agency responsible for biosecurity on the need for and the nature of, appropriate controls in a biosecurity controlled area;
- (e) assist the agency responsible for biosecurity in making an appropriate response to a biosecurity emergency;
- (f) generally, assist the agency responsible for biosecurity in any action needed under Part VIII in respect of the island or area.

(2) A person with whom the Director has entered into an agreement under subsection (1) may, gather information, keep records, undertake research, and do any other similar thing approved by the Director, that the person considers necessary or desirable to enable it to act effectively under this Act.

**20. (1)** The Director may, in writing, appoint a Deputy Director of Biosecurity and every such appointment is to be published in the Gazette.

Appointment of  
Deputy Director

(2) The Deputy Director appointed under subsection (1) must be employed by the agency responsible for biosecurity and be technically competent in the field of plant or animal health.

(3) The Deputy Director is responsible to the Director for the performance of his or her functions under this Act.

**21. (1)** The Deputy Director must -

Functions of  
Deputy Director

- (a) perform the functions conferred on the Deputy Director by the Director;
- (b) perform the functions of a technical nature arising in the normal course of business of the agency responsible for biosecurity; and
- (c) perform the functions of the Director whenever the Director is unable to do so.

(2) Before performing any technical function under this Act, the Deputy Director must, as appropriate, obtain advice from the Chief Veterinary Officer or Chief Plant Protection Officer.

**22.** The Director and Deputy Director are, by virtue of their office, biosecurity officers for the purposes of this Act.

Director and Deputy Director  
ex officio  
biosecurity  
officers

**23.** If the Director is temporarily absent from Seychelles, or is temporarily unable to perform his or her duties for any other reason, and if no Deputy Director has been appointed under section 20, the Director may, in writing, designate a suitably qualified public officer to act in the place of the Director during that period.

Absence of  
Director and  
Deputy

**24.** An appointment under section 17 or 20 does not take effect until published in the Gazette.

Effect of  
publication of  
appointments etc.

### *Biosecurity Officers*

**25. (1)** The Minister must, in writing, designate one or more suitably qualified public officers or employees of the agency responsible for biosecurity to be biosecurity officers for the purposes of this Act.

Designation of  
biosecurity  
officers

(2) The Minister may, in writing, designate one or more suitably qualified public officers to be biosecurity officers for a particular purpose or at a particular location.

(3) The Minister may, in writing, designate one or more public officers or other suitably qualified persons to be temporary biosecurity officers for a period not exceeding 6 months for a particular purpose or at a particular location.

(4) Before designating a public officer from a Ministry other than the Ministry for which the Minister is responsible, to be a biosecurity officer, the Minister should consult the Minister of the relevant Ministry, but failure to do so does not invalidate the designation.

**26. (1)** A biosecurity officer must perform such functions, not inconsistent with this Act, as are assigned to the officer by the Director.

Functions of  
biosecurity  
officers

(2) The Director may limit the functions to be performed by a biosecurity officer to those within the officer's technical sphere of competence.

(3) The Director may give written directions to biosecurity officers as to the manner in which the functions of such officers are to be performed, consistent with this Act.

**27. (1)** The Director must ensure that every biosecurity officer is provided with a suitable form of identification as such officer.

Identification of  
biosecurity  
officers

(2) Upon the termination of the designation of a person as a biosecurity officer, that person must immediately surrender to the Director any identification provided under subsection (1).

(3) A person who –

- (a) contravenes subsection (2); or
- (b) forges or without the written authority of the Director alters, a form of identification provided under subsection (1),

commits an offence.

**28.** The Director must ensure that a person who is to discharge the duties of a biosecurity officer is given adequate training in biosecurity control measures and in the provisions of this Act before discharging those duties.

Training of  
biosecurity  
officers

**29. (1)** The powers of a biosecurity officer are as conferred by or under this Act.

Powers of  
biosecurity  
officers and  
exercise of  
powers

(2) The powers conferred by this Act on biosecurity officers may be exercised only for the purpose of ascertaining the existence of a biosecurity risk and eliminating or reducing the risk to an acceptable extent.

(3) A reference in this Act to a biosecurity officer when exercising powers, means a duly authorised biosecurity officer acting in the performance of his or her duties.

(4) A biosecurity officer may use only such force as is reasonably necessary when exercising a power under this Act, and if necessary, the officer should obtain the assistance of a police officer to effect an arrest or enter land, premises, building or area.

(5) Before exercising a power to enter and search land, premises, building or area, to search a conveyance or container or to inspect or test any article, a biosecurity officer must, if practicable, request the assistance of the person in control of the land, premises, building, area, conveyance, container or article.

(6) Except as otherwise provided in this Act, a biosecurity officer may exercise a power under this Act without a warrant or other order of a magistrate, provided the action is taken in good faith for the purposes of this Act.

(7) A biosecurity officer exercising powers under this Part must produce his or her identification as an officer, upon request by the person in charge of the land, premises, building, area, conveyance, container, item or article or the importer, exporter, owner or custodian of the article, in respect of which the power is being exercised.

(8) Before exercising a power in a situation that involves an activity governed by any other written law including shipping, civil aviation, human health or the environment, a biosecurity officer must, if practicable, consult the person or authority responsible for that activity under that law.

(9) The powers conferred on biosecurity officers by this Act must be exercised in accordance with –

- (a) any regulations made by the Minister under this Act in respect of those powers;
- (b) any biosecurity import conditions or biosecurity export requirements in respect of regulated articles;
- (c) any written directions of the Director given under section 26(3);
- (d) the provisions of –
  - (i) the Vienna Convention on Diplomatic Relations relating to the premises of a diplomatic mission, diplomatic bags and the personal baggage of diplomatic agents; 18th April 1961
  - (ii) the Vienna Convention on Consular Relations relating to consular premises, archives and documents. 24th April 1963

**30. (1)** A biosecurity officer may –

- (a) search an incoming vessel or aircraft at a biosecurity port holding area to ascertain whether the vessel or aircraft has, on board, any regulated article that might pose a biosecurity threat to Seychelles;
- (b) search an outgoing vessel or aircraft, if the officer has reason to believe that there is, on board, any article that requires export clearance and that has not received such clearance;
- (c) at any time, enter and search any premises, building or area, including a biosecurity holding area, biosecurity quarantine station or biosecurity approved premises and land including land adjacent to a dwelling house, but not a dwelling house, in order to ascertain the presence of regulated articles that have not received biosecurity import clearance;
- (d) at any time with the consent of the owner, enter and search a dwelling house for the purposes of this Act;

Power of entry, search and seizure in relation to regulated articles

- (e) at any time, on a warrant issued under subsection (2), enter and search a dwelling house for any regulated article that has not received biosecurity import clearance, that the officer reasonably suspects to be in the house.

(2) If a Magistrate is satisfied on affidavit evidence sworn by a biosecurity officer that –

- (a) there may be in a dwelling house, a regulated article that has not received biosecurity import clearance; and
- (b) the consent of the owner or occupier to enter and search the dwelling house cannot be obtained,

the magistrate may issue a warrant authorising the officer to enter and search the dwelling house for such article.

(3) A biosecurity officer may at any time enter and search any store, warehouse, silo, pen or similar premises, or any conveyance, in which regulated articles intended for importation to or exportation from Seychelles are kept.

(4) A person who keeps regulated articles in or on any premises, or in a conveyance, prior to importation or exportation of such articles must, upon request, make the premises or conveyance available for inspection by a biosecurity officer at any reasonable time.

(5) A person who fails or refuses to make any premises or conveyance available for inspection to a biosecurity officer in contravention of subsection (4) commits an offence.

(6) During a search of premises or a conveyance under this section a biosecurity officer may seize –

- (a) any regulated article that has not received biosecurity import clearance; or
- (b) anything which may be used as evidence of the commission of an offence under this Act.

(7) A biosecurity officer who seizes anything from a person under subsection (6) must –

- (a) give to the person a notice of seizure in the prescribed form containing a description of the thing seized and informing the person of the reason for the seizure; and

- (b) move the thing seized to a biosecurity quarantine station and deal with it in accordance with this Act.

(8) A biosecurity officer may, at the expense of the importer, submit to appropriate biosecurity measures any regulated article seized pursuant to this section.

**31. (1)** A biosecurity officer may -

- (a) call for and inspect any document on or in incoming or outgoing vessels and aircraft as provided in sections 53 and 61 respectively;
- (b) open and inspect, at a biosecurity point of entry, any incoming document, including mail, in order to ascertain whether the document contains or relates to a regulated article;
- (c) open and inspect at a biosecurity point of departure any outgoing document, including mail, if the officer reasonably suspects that the document contains or relates to -
  - (i) a regulated article that requires biosecurity export clearance which has not received such clearance; or
  - (ii) a regulated article that could pose a serious biosecurity threat to the country of destination of the document.

Inspection of documents in relation to regulated articles

(2) The powers relating to mail in subsection (1)(b) and (c) must be exercised in respect of personal letters only if the officer reasonably suspects that the letter contains or relates to a biosecurity threat.

**32. (1)** A biosecurity officer may, at a biosecurity holding area, inspect any incoming regulated article, and any conveyance, container or baggage in which the article is carried in, in order to assess the biosecurity risk presented by the article, conveyance, container or baggage.

Inspection of regulated articles

(2) A biosecurity officer may, at a biosecurity point of departure, inspect any article, which requires biosecurity export clearance, in order to facilitate such clearance.

(3) The powers of inspection in subsection (1) and (2) are in addition to the powers of inspection in sections 82 and 126 and any other powers of inspection conferred by this Act.

(4) For the purpose of exercising the powers of inspection under this Act, a biosecurity officer may request an importer or exporter to unpack or break up a consignment, or to open a container, at the risk and expense of the importer or exporter, as the case may be.

- (5) If an importer or exporter refuses to comply with a request under subsection (4) –
- (a) the person commits an offence;
  - (b) the biosecurity officer may break up the consignment or open the container or cause it to be broken or opened;
  - (c) the cost of any action taken under paragraph (b) is a debt owing to the Government by the importer or exporter, as the case may be; and
  - (d) no liability lies on, and no compensation is payable by, the Government, the Director or any biosecurity officer for any action taken under paragraph (b), unless negligence or malice is proved.
- (6) When conducting an inspection under this Act, a biosecurity officer may seek access to, and take photographic, electronic or other copies of, any evidence, information, records and things related to the regulated article or consignment that the officer reasonably requires in order to ensure compliance with, or to investigate a possible offence under, this Act.
- (7) Inspection of articles in transit is governed by section 86(2).

**33. (1)** If an incoming regulated article requires biosecurity measures to be taken in respect of the article before biosecurity import clearance can be granted, a biosecurity officer may detain the article, and any conveyance, container or baggage in which the article is carried, for such measures to be taken.

Detention of  
regulated articles

(2) If an outgoing regulated article that requires biosecurity export clearance has not received such clearance, a biosecurity officer may detain the article, and any conveyance, container or baggage in which the article is carried, until the article receives such clearance or is otherwise dealt with in accordance with this Act.

(3) An article detained under this section must be detained in a biosecurity holding area, biosecurity quarantine station or biosecurity approved premises specified by a biosecurity officer.

- (4) If an article is to be detained under this section, a biosecurity officer may –
- (a) direct the importer or exporter of the article to move the article to the place specified by the officer under subsection (3);
  - (b) if the importer or exporter refuses to obey a direction under paragraph (a), or because of the nature of the biosecurity threat,

arrange for the article to be moved to the place specified by the officer under subsection (3).

(5) If an article is detained under this section, a biosecurity officer must give to the importer or exporter a notice, in writing, stating the reasons for the detention and, if it was moved under subsection (4)(b), the place to which it was moved.

(6) The cost of moving an article under subsection (4), and its detention in a place specified by a biosecurity officer under subsection (3), is to be borne by the importer or exporter, and no compensation is payable for any loss or destruction or consequential loss caused as a result of any such moving or detention, unless negligence or malice is proved.

(7) The charges for detention of an article under this section are as prescribed.

**34. (1)** A biosecurity officer may, with the consent of the importer, owner or custodian of a regulated article, in accordance with regulations made under section 145(2)(e) and relevant international standards take samples from any consignment of incoming regulated articles.

Taking of  
samples

(2) If the importer, owner or custodian of a regulated article refuses to give his or her consent under subsection (1), the biosecurity officer may require that person to provide appropriate samples.

(3) An importer owner or custodian of a regulated article who refuses –

(a) to allow samples to be taken under subsection (1); or

(b) to provide samples, when required to do so under subsection (2), commits an offence.

(4) A biosecurity officer may, with the consent of the exporter of an outgoing regulated article, take samples of the article where the taking of such sample is necessary for the issue of a sanitary or phytosanitary certificate.

(5) If the exporter of a regulated article refuses to give his or her consent under subsection (4), the biosecurity officer may require the person to provide a sample, failing which the sanitary or phytosanitary certificate will not be issued.

(6) A biosecurity officer may request the importer, or exporter of a consignment to unpack or break up the consignment to facilitate the taking of samples under this section, at the risk and expense of the importer or exporter.



(7) When exercising powers under subsection (1), (2), (4) or (5) a biosecurity officer must give the importer, owner or custodian or exporter a written notice, identifying the quantity of the sample taken or provided, and the place where the sample is to be analysed.

(8) The importer, owner, custodian or exporter of a regulated article from which or by whom samples are taken or provided under subsection (1), (2), (4) or (5) must be notified in writing of the findings in respect of the samples as soon as reasonably practicable .

(9) In other respects, the procedure for taking and analysing samples, recording the results and disposing of the samples is as prescribed by regulations made under section 145(2)(e).

(10) If, in the course of sampling under this section, goods are destroyed or damaged, no compensation is payable to the importer or exporter of the goods unless negligence or malice is proved.

(11) The charges for taking and analysis of samples under this section are as prescribed.

**35. (1)** A biosecurity officer may test, or cause tests to be conducted on, any incoming regulated article, in order to ascertain whether the article meets biosecurity import requirements.

Testing of  
articles

(2) Following the test of an article under subsection (1), and on payment of the prescribed fee, if any, the article must be –

- (a) granted biosecurity import clearance and released to the importer; or
- (b) treated in accordance with section 36, reconsigned in accordance with section 37 or destroyed in accordance with section 38.

(3) A biosecurity officer may test, or cause tests to be conducted on, any outgoing regulated article that requires biosecurity export clearance if such tests are necessary for the issue of a sanitary or phytosanitary certificate.

(4) Following tests on an outgoing article under subsection (3), a sanitary or phytosanitary certificate will either be issued or not issued in respect of the article.

(5) Section 33(3) to (6) apply to articles detained for testing under this section.

(6) The importer or exporter of a regulated article which is tested under subsection (1) or (3) must be notified, in writing, of the results of the test before the article is released or otherwise dealt with in accordance with this Act.

(7) If a test conducted under subsection (1) or (3) destroys or damages an article being tested, no compensation is payable to the importer or exporter of the animal or other article unless negligence or malice is proved.

(8) The charges for testing of an article under this section are as prescribed.

**36. (1)** An incoming regulated article which requires treatment in order to meet the biosecurity import requirements in respect of that article must be treated before biosecurity import clearance is granted in respect of it.

Treatment of  
articles

(2) An incoming article which is found to be infected, infested or contaminated by a regulated pest or disease may be treated to reduce the biosecurity risk presented by the article to an acceptable level, whether or not treatment is a biosecurity import requirement or a condition of an import permit, but the importer may instead opt to have the article reconsigned under section 37 or destroyed under section 38.

(3) Section 33(3) to (6) apply to articles detained for treatment under this section.

(4) An article treated to the satisfaction of a biosecurity officer, must, on payment of the cost of the treatment which is to be borne by the importer, be granted biosecurity import clearance and released to the importer.

(5) If an importer fails to have an article which requires treatment under this section treated within a reasonable time, the biosecurity officer may require the article to be destroyed in accordance with section 38.

(6) If –

- (a) appropriate treatment is not available in Seychelles;
- (b) in the opinion of a biosecurity officer, an article would still present a biosecurity risk after treatment; or
- (c) the importer chooses not to have an article treated,

the article must be –

- (i) reconsigned; or
- (ii) if section 37(4) applies or the importer so chooses, destroyed.

(7) Notice of action to be taken under subsection (5) or (6) must be given to the importer in writing before the action is taken, except for articles in passenger baggage which are detained in the presence of the owner or custodian for destruction.

(8) If an outgoing regulated article requires treatment as a requirement of importation into the importing country, the article must be treated at the expense of the exporter before biosecurity export clearance is granted in respect of it.

(9) If, in the course of treatment, an article is destroyed or damaged, no compensation is payable to the importer or exporter of the goods unless negligence or malice is proved.

(10) Treatment of an article –

- (a) should be the minimum required to remove or adequately reduce the biosecurity risk presented by the article;
- (b) may be administered by an appropriately qualified biosecurity officer, or by any other suitably qualified person at the request of the officer or the importer.

(11) The charges for treatment of an article under this section are as prescribed.

**37. (1)** An incoming regulated article –

Reconsignment  
of articles

- (a) which requires an import permit or a sanitary or phytosanitary certificate but which does not have such permit or certificate attached to it;
- (b) the importation of which is prohibited under section 65(3)(a),

must, subject to subsection (4), at the option and cost of the importer of the article, be reconsigned under this section or destroyed under section 38.

(2) Section 33(3) to (6) apply to articles detained for reconsignment under this section.

(3) Reconsignment must be effected within the time specified by the officer, which must be reasonable in the circumstances.

(4) If –

- (a) the biosecurity officer considers that the biosecurity risk posed by reconsignment is unacceptable;

- (b) the reconsignment is not effected within the time specified in subsection (3),

the article must be destroyed.

(5) If an article is reconsigned under this section, any container, crate, baggage, package or mail which carries it may also be reconsigned.

(6) No compensation is payable to the importer for the cost of reconsignment under this section.

**38. (1)** An article required or authorized to be destroyed under this Act must be destroyed in accordance with this section.

Destruction of  
articles

(2) If an incoming article is found to be infected, infested or contaminated by a regulated pest or disease, and –

- (a) appropriate treatment is not available in Seychelles;
- (a) in the opinion of the Director, the article would still present a biosecurity risk after treatment; or
- (c) the importer chooses not to have the article treated,

the article must be –

- (i) reconsigned ; or
- (ii) if section 37(4) applies or the importer so chooses, destroyed.

(3) The power of destruction of articles in subsection (2) is in addition to any other power of destruction conferred by this Act.

(4) If an article is destroyed under this Act, any container, crate, baggage, package or mail which carries that article may also be destroyed.

(5) If the packaging of an article is considered to pose a biosecurity risk, it may be destroyed, whether or not the article is destroyed.

(6) Articles must be destroyed in the manner specified or approved by the Director and the Director must, before any article is destroyed under this section, give notice in writing to the importer or owner of the article, if they are known, of his intention to destroy that article, and invite that importer or owner to witness the destruction.

(7) No compensation is payable to the importer or owner of an article for the destruction of the article under this section.

(8) The charges for destruction of an article under this section are as prescribed.

**39. (1)** A biosecurity officer who is of the opinion that any person in Seychelles or seeking to enter or leave Seychelles is in possession or control of an article that poses a biosecurity threat to Seychelles, may detain and question that person.

Powers in  
relation to people

(2) If a biosecurity officer suspects that there may be –

- (a) upon a person seeking to enter Seychelles, an article that would, if imported, constitute an offence under this Act; or
- (b) upon a person seeking to leave Seychelles, an article that would, if exported, constitute an offence under this Act,

the officer may cause the person and the person's baggage to be searched.

(3) A search of a person under this section must be carried out by 2 public officers of the same sex as the person searched.

(4) A person may be detained under this section only for as long as is required to question and search the person and the person's baggage and to arrange for biosecurity measures to be taken in respect of such baggage.

(5) A person who refuses –

- (a) to answer to the best of his or her knowledge and ability questions reasonably put by a biosecurity officer; or
- (b) to submit to a search reasonably required,

under this section, commits an offence.

### **PART III – ADMINISTRATIVE PROVISIONS**

**40. (1)** Before making any statutory instrument, issuing a direction or exercising any other power under this Act, the Minister, the agency responsible for biosecurity, or

Consultation

Director should each obtain appropriate technical advice and consult relevant interested parties, but failure to do so does not invalidate the exercise of the power.

(2) The Minister, the agency responsible for biosecurity or Director should, before exercising a power under this Act that will or might affect matters within the responsibility of another government ministry, department, agency or authority, or statutory body or authority, including matters relating to customs services, immigration services, human health, natural resources, environment, fisheries, tourism, postal services, shipping, civil aviation, port and harbor services, transport and trade, and other similar matters, consult the relevant ministry, department, agency, authority or body, but failure to do so does not invalidate the exercise of the power.

(3) The agency responsible for biosecurity may, for the effective implementation of this Act, enter into memoranda of understanding or other agreements with -

- (a) government ministries, departments, agencies and authorities;
- (b) statutory bodies and authorities; and
- (c) private organizations,

in Seychelles.

**41. (1)** The agency responsible for biosecurity may –

- (a) use the services of an accredited laborator approved by the Director for the purpose of testing samples;
- (b) hire suitably qualified consultants to perform biosecurity risk assessments and to carry out surveys authorized under this Act;
- (c) hire any suitably qualified person approved by the Director to carry out any treatment or provide any other service necessary for the effective implementation of this Act.

Outsourcing

(2) Outsourcing under subsection (1) does not confer on any person the powers of a biosecurity officer.

**42. (1)** A biosecurity officer or any other person performing functions under this Act in respect of border control, the movement of vessels and aircraft, and biosecurity internal control should, as far as practicable, coordinate their functions with those of officers of other government ministries, departments, agencies and authorities, and statutory bodies and authorities, having responsibility for matters such as customs services, immigration services, human health, natural resources, environment, fisheries, tourism, postal services, shipping, civil aviation, port and harbor services, transport and trade, and other similar matters.

Duty to coordinate and cooperate

(2) Without limiting subsection (1) –

- (a) a biosecurity officer should notify officers of the customs, public health, immigration and postal services of any breach of any written law relating to customs, public health, immigration or postal services that comes to their notice;
- (b) officers of the customs, public health, immigration and postal services should -
  - (i) notify a biosecurity officer of the importation or proposed exportation of any regulated article that comes to their notice, which has not been granted biosecurity import clearance in accordance with section 84 or biosecurity export clearance in accordance with section 129;
  - (ii) hand over to a biosecurity officer any regulated article referred to in sub-paragraph (i) which comes into their possession for inspection and treatment in accordance with this Act;
- (c) police officers, customs officers, public health officers, immigration officers, postal service officers, environmental officers, agriculture officers, livestock officers, forestry officers and fisheries officers should co-operate with a biosecurity officer in the performance of the functions of the biosecurity officer under this Act and render such assistance as they lawfully can when called upon to do so by a biosecurity officer.

(3) The Minister should seek, as far as practicable, to coordinate the functions of the Biosecurity Agency under this Act with those of other government ministries, departments, agencies and authorities and statutory bodies and authorities.

**43. (1)** The Director, on behalf of the agency responsible for biosecurity, may enter into a written compliance agreement with any person including an importer, exporter or producer in connection with –

Compliance  
agreements

- (a) the application of particular biosecurity measures in respect of an item;
- (b) the way in which any requirement under this Act can be satisfied by the person; and
- (c) the supervision, monitoring and testing of the person's compliance with those measures or that requirement.

(2) A compliance agreement may provide that, in circumstances stated in the agreement, including the failure of a party to the agreement to comply with specified measures or

meet specified requirements, the Director may, by written notice, cancel or vary the agreement or suspend its operation for a specified period.

(3) A biosecurity officer may release an article to which a compliance agreement applies, and if it is a regulated article, grant biosecurity clearance in respect of it, on the basis of a written certificate, given by a person authorised under the agreement to issue such a certificate, certifying that all the measures have been complied with in respect of the article.

**44. (1)** The Director, on a written application by the owner or occupier of any premises and on payment of the prescribed fee, may in writing –

Biosecurity  
approved  
premises

- (a) approve the premises as premises where the inspection, testing and treatment of regulated articles can take place; and
- (b) approve specified action being taken under this Act in relation to all regulated articles, or specified regulated articles, while they are in the approved premises.

(2) Before an approval is granted under subsection (1) -

- (a) the premises must be inspected by a biosecurity officer; and
- (b) the Director must take into account –
  - (i) whether the specified action can be taken in the premises without an unacceptable biosecurity risk and without contravening this Act or the conditions of any permit;
  - (ii) whether the premises and facilities in them are adequate to enable such action to be taken efficiently and safely;
  - (iii) whether the location of the premises is appropriate having regard to the nature of the articles, the specified action and the level of biosecurity risk;
  - (iv) whether the premises are located in a place where biosecurity officers can conveniently check that this Act is being complied with in the premises; and
  - (v) any other matter the Director considers relevant.

(3) An approval granted under this section –

- (a) may be expressed to be subject to conditions stated in the approval and is of no effect if the conditions are not met;



- (b) has effect for a period not exceeding 12 months but may be renewed by following the procedure under subsections (1) and (2) for a new approval;
- (c) may be cancelled if the Director is satisfied –
  - (i) that the premises or facilities or action taken do not comply with this Act; or
  - (ii) that the premises are otherwise no longer suitable for approval.

**45. (1)** The Minister may facilitate the conclusion of bilateral or multilateral agreements between the Seychelles and other countries and international organisations for effective international control in biosecurity matters.

International  
cooperation

(2) The Director may pursuant to such agreements –

- (a) exchange information with other countries and international organisations;
- (b) contribute to the development of international sanitary and phytosanitary standards.

**46. (1)** The Minister may, in writing, delegate any of the Minister's functions, powers and duties under this Act to the Director, other than any legislative or appellate function or this power to delegate.

Delegation of  
functions

(2) Subject to subsection (3), the Director may, in writing, delegate any of the Director's functions under this Act to the Deputy Director or to a named biosecurity officer.

(3) The Director may not delegate any legislative, judicial or appellate function, the power of giving directions under section 26(3), or the power of delegation under this section, to any other person other than the Deputy Director.

(4) A delegation under this section may be made subject to such restrictions and conditions as the delegator thinks fit, and may be made either generally or in relation to any particular case or class of cases.

(5) A person purporting to perform any function by virtue of a delegation under this section must, when required to do so, produce evidence of the authority to perform the function.

(6) A delegation under this section continues in force until revoked, notwithstanding a change in the identity of the delegator.

**47. (1)** The Director must maintain a biosecurity register and other records needed for the administration of this Act and the performance of the functions of the agency responsible for biosecurity under this Act.

Biosecurity  
register and  
records

(2) Without limiting the matters to be recorded in the biosecurity register, details as specified in regulations made under section 145, of the following, must be included in that register –

- (a) regulated pests and diseases;
- (b) regulated articles the importation of which is prohibited under section 65(3)(a);
- (c) biosecurity points of entry and departure;
- (d) biosecurity holding areas;
- (e) biosecurity clearance agents;
- (f) biosecurity port quarantine areas;
- (g) biosecurity quarantine stations;
- (h) biosecurity approved premises;
- (i) biosecurity import permits issued, refused or revoked under Part VI;
- (j) exemptions granted under section 81;
- (k) biosecurity controlled areas declared under section 107 or 111;
- (l) occurrences of notifiable pests and diseases notified under section 8;
- (m) beneficial organisms and biocontrol agents released under section 114;
- (n) agreements and memoranda of understanding with other

government ministries, departments and agencies, statutory bodies and authorities, and private organisations under section 40(3);

- (o) compliance agreements entered into by the Director under section 43;
- (p) bilateral agreements entered into with potential importing countries under section 45;
- (q) any other public biosecurity register required by or under this Act or considered by the Director to be necessary or appropriate.

(3) The biosecurity register must include details of –

- (a) biosecurity import conditions and biosecurity export requirements for regulated articles specified under sections 77 and 128 respectively, including the biosecurity measures appropriate to each type of regulated article;
- (b) any other form or matter specified by the Director under this Act.

(4) In respect of the biosecurity requirements of importing countries, the biosecurity register must include details of –

- (a) the requirements of those countries for which biosecurity export clearance has been granted in the past 12 months;
- (b) source material for ascertaining the biosecurity requirements of all potential importing countries.

(5) The Director must maintain records relating to the functions of the agency responsible for biosecurity under this Act, including, but not limited to –

- (a) financial and resource management records, with budgets and records of expenditure and revenue;
- (b) personnel records including the identities, job description and terms and conditions of employment of all biosecurity officers; and
- (c) operational statistics relating to the biosecurity functions of the agency responsible for biosecurity.

**48. (1)** The biosecurity register kept pursuant to section 47(1) must be made available for inspection and copying by members of the public during office hours at the office of the Director on payment of the prescribed fee.

Status of  
biosecurity  
register and  
records

(2) Subject to any other Act, the biosecurity register and other records kept under section 47 must only be used for the purposes of this Act.

(3) A copy of an entry in the biosecurity register which is certified by the Director to be an accurate copy may be produced in court as prima facie evidence of the entry.

(4) The biosecurity register and other records kept under section 47 may be in electronic format, provided the information is readily retrievable and is protected against unintended loss and unauthorised alteration.

(5) The Minister, on the advice of the Director, may, by order, determine the period for which entries in the biosecurity register and other records under section 47 must be kept, consistent with any other written law relating to public records.

#### **PART IV – VESSELS AND AIRCRAFT**

**49. (1)** The Minister may, by order, designate –

- (a) any part of the territorial waters of Seychelles or any part of a seaport in Seychelles as a biosecurity port quarantine area for vessels;
- (b) any part of an airport in Seychelles as a biosecurity port quarantine area for aircraft.

Designation of  
biosecurity port  
quarantine area  
for vessels and  
aircraft

(2) An order under subsection (1) must be made on the advice of the Director and in consultation with the authorities responsible for the movement of vessels and aircraft in Seychelles.

**50. (1)** A person, other than the person in charge of a biosecurity port quarantine area or a biosecurity officer acting in the course of that officer's duty, must not enter such an area without the written permission of the Director or the person in charge of the area.

Management of  
of biosecurity  
port quarantine  
area for vessels  
and aircraft

(2) A person who –

- (a) enters a biosecurity port quarantine area without permission given under subsection (1); or
- (b) damages, interferes with or in any way reduces the effectiveness

of measures taken to secure a biosecurity port quarantine area, or any regulated article or other item in that area,

commits an offence.

(3) The Director may issue written instructions to the person in charge of a biosecurity port quarantine area for the management of the area.

**51. (1)** A biosecurity officer may affix a notice at any biosecurity port quarantine area, and on any vessel or aircraft held in that area, stating the conditions and duration of the biosecurity port quarantine of the vessel or aircraft, and other information specified by the Director relating to the area or the vessel or aircraft.

Biosecurity port  
quarantine  
notices

(2) A person who removes a notice affixed under subsection (1) without lawful authority commits an offence.

**52. (1)** The master of every vessel or captain of every aircraft destined for Seychelles or its agent, must declare the following information to the Director –

Biosecurity  
arrival  
declaration

- (a) the destination seaport or airport in Seychelles and the estimated time of arrival, of the vessel or aircraft;
- (b) the immediately preceding port or place of call of the vessel or aircraft;
- (c) the proposed itinerary of the vessel or aircraft until it leaves Seychelles;
- (d) the nature and country of origin of its cargo;
- (e) the number of passengers and crew on the vessel or aircraft;
- (f) whether there is any live animal or plant on the vessel or aircraft;
- (g) whether there is any illness or malady affecting any live animal or plant on board the vessel or aircraft; and
- (h) any other matter specified by the Director that is relevant to facilitating biosecurity landing clearance of the vessel or aircraft.

(2) A declaration under subsection (1) –

- (a) subject to subsection (3), must be made, in the case of a vessel not less than 24 hours, or in the case of an aircraft not less than 60 minutes, before the estimated time of arrival of the vessel or aircraft;
- (b) may be made by electronic means, in accordance with directions issued by the Director;
- (c) may be made through a biosecurity clearance agent;
- (d) may be made as part of a declaration made for customs or other border control purposes.

(3) Where it is not reasonably practicable for a declaration to be made within the time specified in subsection (2)(a), a master or captain may make the declaration upon arrival of the vessel or aircraft.

(4) A master or captain who fails to make a declaration under subsection (1), either directly or through a biosecurity clearance agent, commits an offence.

**53. (1)** The master of every incoming vessel or captain of every incoming aircraft must –

Biosecurity  
landing clearance

- (a) take the vessel or aircraft directly to a biosecurity port holding area designated under section 69 (1) as directed by a biosecurity officer;
- (b) permit a biosecurity officer to board and search the vessel or aircraft in accordance with section 30(1)(a);
- (c) give access to the biosecurity officer who boards the vessel or aircraft under paragraph (b), the log, cargo manifest, bill of lading, stores list, passenger list, crew list and any other document that is on, in, or relates to, the vessel or aircraft that the officer reasonably requests for the purposes of this Act;
- (d) make a declaration, in the form specified or approved by the Director, certifying that all garbage, live animal, animal product, plant or plant product on board the vessel or aircraft will be dealt with in accordance with this Act.

(2) After inspecting relevant documents and conducting any necessary search of an incoming vessel or aircraft, and if satisfied –

- (a) that the vessel or aircraft is not infected or infested with a regulated pest or disease, or does not have on board any regulated article that might pose a biosecurity threat to Seychelles; and
- (b) that the prescribed fee, if any, has been paid,

a biosecurity officer may grant clearance to the vessel or aircraft to unload or land cargo, crew members or passengers.

(3) Biosecurity landing clearance of a vessel or aircraft may be granted unconditionally, or on condition that the master of the vessel or captain of the aircraft enters into a bond with the Government, in the form specified or approved by the Director, to ensure compliance with any requirements imposed by this Act in respect of the vessel, aircraft or their cargo.

(4) Notwithstanding the grant of biosecurity landing clearance to a vessel or aircraft, any cargo of the vessel or aircraft remains subject to biosecurity import clearance under section 84 and crew members and passengers of the vessel or aircraft remains subject to biosecurity entry clearance under section 63.

(5) Biosecurity landing clearance must be refused if a biosecurity officer orders a vessel or aircraft into port quarantine pursuant to section 54(1).

(6) The master of an incoming vessel or captain of an incoming aircraft who

- (a) contravenes a provision of subsection (1);
- (b) unloads or lands any cargo, crew or passengers from a vessel or aircraft without biosecurity landing clearance, except with the permission of a biosecurity officer,

commits an offence.

(7) A crew member or passenger who lands from a vessel or aircraft before it has received biosecurity landing clearance, except with the permission of a biosecurity officer, commits an offence.

**54. (1)** If a biosecurity officer reasonably suspects that an incoming vessel or aircraft is –

- (a) infected or infested with a regulated pest or disease; or
- (b) carrying any regulated article which might pose a biosecurity threat to Seychelles,

Biosecurity port  
quarantine of  
vessels and  
aircraft

the officer may order the vessel or aircraft into biosecurity port quarantine.

(2) The Director shall give a written notice to the owner or charterer of the vessel or aircraft and the master of the vessel or captain of the aircraft stating the reasons for an order under subsection (1) in respect of the vessel or aircraft.

**55.** If a vessel or aircraft is ordered into biosecurity port quarantine under section 54, a biosecurity officer may -

Moving of  
vessels and  
aircraft to  
biosecurity port  
quarantine area

- (a) direct the master of the vessel or captain of the aircraft to move the vessel or aircraft to a biosecurity port quarantine area; or
- (b) if the master or captain refuses to obey the direction, or because of the nature of the biosecurity threat, arrange for the vessel or aircraft to be moved to the biosecurity port quarantine area,

and if the vessel or aircraft was moved under subsection (1)(b), the Director shall give a written notice to the owner or charterer of the vessel or aircraft and the master of the vessel or captain of the aircraft stating the location of the vessel or aircraft.

**56. (1)** The Director may give written directions to the master of a vessel or captain of an aircraft in biosecurity port quarantine –

Conduct of  
vessels and  
aircraft in  
biosecurity port  
quarantine

- (a) as to the movement of the vessel or aircraft while it is in quarantine;
- (b) as to the movement of passengers, crew members and cargo while the vessel or aircraft is in quarantine;
- (c) as to any treatment or other biosecurity measure that must be applied to the vessel or aircraft.

(2) A master or captain who fails to take all reasonable steps to ensure that the vessel or aircraft and its cargo, crew and passengers conform to directions given under subsection (1) commits an offence.

**57. (1)** The cost of moving a vessel or aircraft to a biosecurity port quarantine area and keeping it in quarantine and of any treatment or other measures that must be applied to that vessel or aircraft is to be borne by the owner or charterer of the vessel or aircraft.

Costs and  
compensation

(2) No compensation is payable for any loss or destruction or consequential loss caused by a vessel or aircraft being moved to a biosecurity port quarantine area and detained in quarantine, unless negligence or malice is proved.



**58. (1)** If satisfied –

Biosecurity port  
quarantine  
clearance of  
vessels and  
aircraft

- (a) that a vessel or aircraft in biosecurity port quarantine is substantially free from regulated pests and diseases;
- (b) that any potential biosecurity risk from ships' stores and other regulated articles on the vessel or aircraft is suitably contained; and
- (c) that the prescribed fee, if any, has been paid,

a biosecurity officer may grant biosecurity port quarantine clearance for the vessel or aircraft to unload or land passengers, crew members and cargo.

(2) Biosecurity port quarantine clearance of a vessel or aircraft may be granted unconditionally, or on condition that the master of the vessel or captain of the aircraft enters into a bond with the Government, in the form specified or approved by the Director, to ensure compliance with any requirements imposed by this Act in respect of the vessel, aircraft or cargo.

(3) Notwithstanding the grant of biosecurity port quarantine clearance to a vessel or aircraft under subsection (1), the vessel or aircraft still has to be granted biosecurity landing clearance to enter Seychelles in accordance with section 53.

**59.** If the Director reasonably believes that an incoming vessel or aircraft poses a serious biosecurity threat to Seychelles which cannot adequately be dealt with by appropriate biosecurity measures, the Director may, in writing, and after consulting the officers or authorities responsible for the movement of vessels or aircraft in Seychelles, direct the vessel or aircraft to leave Seychelles.

Incoming vessel  
or aircraft posing  
serious  
biosecurity threat  
to leave  
Seychelles

**60. (1)** The master of every incoming vessel must, while the vessel is in Seychelles -

Obligations of  
masters and  
captains of  
incoming vessels  
and aircrafts with  
regards to  
garbage, ballast  
etc.

- (a) take all necessary steps to prevent any animal on board the vessel from having contact with any animal on shore unless permitted by a biosecurity officer, and then only as directed by the officer;
- (b) seal all hatches, holds and enclosed cargo areas during the hours of darkness, except as needed for the working of the vessel or its cargo.

(2) The master of every incoming vessel must take all reasonable steps to ensure that, whilst the vessel is in Seychelles –

- (a) no garbage containing any animal, animal product, plant or plant product is discharged from the vessel into the sea;
- (b) no bilge water is discharged from the vessel into the sea;
- (c) no sewage or foul wastewater is discharged from the vessel into the sea;
- (d) ballast water is discharged from the vessel only in accordance with any applicable written law.

(3) The master of every incoming vessel and captain of every incoming aircraft must, while the vessel or aircraft is in Seychelles, take all reasonable steps to ensure that all garbage generated on the vessel or aircraft -

- (a) is placed in a suitable leak-proof container, with a lid, and that the container is securely fastened at all times and kept within the vessel or aircraft and is only removed from the vessel or aircraft under and in accordance with the directions of a biosecurity officer;
- (b) is not disposed of in the sea.

(4) The master of every incoming vessel and captain of every incoming aircraft must take all reasonable steps to ensure that no ships' stores are removed from the vessel or aircraft while it is in Seychelles, except under and in accordance with the directions of a biosecurity officer.

(5) The master of every incoming vessel must take all reasonable steps to ensure that the vessel complies with any de-ratting requirements prescribed by any other written law.

(6) Notwithstanding subsection (1)(b), a biosecurity officer may lock or seal the stores of any incoming vessel or aircraft while it is in Seychelles.

(7) The cost of disposal of garbage under this section is to be borne by the owner or charterer of the vessel or aircraft.

(8) The master of a vessel who –

- (a) fails to take all reasonable steps as required by subsection (1)(a);

- (b) contravenes subsection (1)(b), (2), (3), (4) or (5) or fails to obey a direction of a biosecurity officer given under any of those subsections,

commits an offence.

(9) The captain of an aircraft who fails to take all reasonable steps as required by subsection (3) or (4) or fails to obey a direction of a biosecurity officer given under those subsections commits an offence.

**61. (1)** If a biosecurity officer has reason to believe that there is on board an outgoing vessel or aircraft, any regulated article that requires biosecurity export clearance and that has not received such clearance, the officer may –

Outgoing vessels  
and aircraft

- (a) board and search the vessel or aircraft in accordance with section 30(1)(a);
- (b) request the master of the vessel or captain of the aircraft to produce for inspection the cargo manifest, bill of lading, stores list, passenger list, crew list and any other document that is on, in or relates to the vessel or aircraft and that the officer reasonably requires for the purposes of this Act;
- (c) direct the master of the vessel or captain of the aircraft not to move the vessel or aircraft unless permitted by the officer, and then only as directed by the officer;
- (d) direct the vessel or aircraft to be subjected to any treatment or other biosecurity measure that is requested by the destination country;
- (e) give to the master of the vessel or captain of the aircraft any other lawful direction that is reasonably required to protect the destination country from any biosecurity threat posed by the vessel or aircraft.

(2) A master or captain who –

- (a) refuses to permit a search under subsection (1)(a); or
- (a) fails to comply with a request or direction given under subsection (1)(b),(c), (d) or (e),

commits an offence.

**62. (1)** Subject to subsections (2) and (3), every passenger or crew member who arrives in Seychelles on board a vessel or aircraft must make a passenger arrival biosecurity declaration to a biosecurity officer.

Passenger arrival  
biosecurity  
declaration

(2) The passenger arrival biosecurity declaration must be in the form specified or approved by the Director and contain all particulars required by that form, relating to the person making the declaration and any baggage that accompanies the person.

(3) A passenger or crew member does not need to declare –

- (a) articles of clothing worn on the body;
- (b) articles visibly attached or connected to the body or clothing; or
- (c) suitcases and other visible containers of personal baggage,

unless a biosecurity officer so requests because of the biosecurity risk posed by the article, and in the absence of any such request, the article or container is deemed to have biosecurity entry clearance.

(4) An arriving passenger or crew member who fails to make a declaration as required by subsection (1) commits an offence.

**63. (1)** When a passenger arrival biosecurity declaration is made under section 62, a biosecurity officer may –

Biosecurity entry  
clearance

- (a) question the passenger or crew member making the declaration;
- (b) inspect the baggage to which it relates.

(2) After taking the steps specified in subsection (1), a biosecurity officer may –

- (a) grant biosecurity entry clearance to the person and baggage to which the declaration relates;
- (b) detain the passenger or crew member for further questioning and search; or
- (c) detain the baggage and other articles in the possession of the passenger or crew member for further inspection and application of other biosecurity measures as the officer considers appropriate.

(3) An arriving passenger or crew member who fails to submit baggage for inspection when so directed under subsection (1) commits an offence.

(4) Section 39 applies to the questioning, detention and searching of persons and baggage under this section.

**64. (1)** Every passenger or crew member departing from Seychelles must -

Departing  
passengers

- (a) submit for inspection on request by a biosecurity officer any regulated article on the passenger or crew member or in his or her baggage;
- (b) permit the officer to search the passenger or crew member's baggage.

(2) A departing passenger or crew member who fails to comply with subsection (1) commits an offence.

(3) Section 39 applies to the questioning, detention and searching of persons and baggage under this section.

## **PART V – BIOSECURITY BORDER CONTROL**

Import regulated  
articles

**65. (1)** The Minister may regulate the importation of –

- (a) particular regulated articles from all countries; or
- (b) particular regulated articles from one or more countries of origin.

(2) Before exercising powers under subsection (1) the Minister must obtain

- (a) a pest or disease risk analysis in relation to the article;
- (b) the advice of the Director and of the Chief Veterinary Officer or Chief Plant Protection Officer.

(3) If as a result of a pest or disease risk analysis made under subsection (2)(a), the Minister considers that the importation of an article referred to in subsection (1)(a) or (b) –

- (a) would present an unacceptable biosecurity risk to Seychelles, the Minister may, by order, prohibit the importation of that article;

- (b) would not present an unacceptable biosecurity risk to Seychelles, importation of that article may be permitted subject to biosecurity import conditions specified by the Director under section 77.

(4) In making an order prohibiting the importation of an article under subsection (3)(a), the Minister –

- (a) must have regard to the international obligations of Seychelles in respect of biosecurity; and
- (b) may apply the precautionary principle.

(5) An order under subsection (3)(a) in respect of an article –

- (a) may be made at any time before biosecurity import clearance is granted in respect of the article; and
- (b) continues in force until the prohibition is revoked or varied but must be reviewed every 12 months.

(6) If a person imports or attempts to import –

- (a) an article the importation of which is prohibited under subsection (3)(a) –
  - (i) that person commits an offence; and
  - (ii) biosecurity import clearance will be refused for the article;
- (b) an article referred to in subsection (3)(b) in respect of which biosecurity import conditions have been specified without meeting such conditions, biosecurity import clearance will be refused for the article.

**66. (1)** The Minister may, by order, designate –

- (a) as biosecurity points of entry, the seaports, airports and mail exchange at which regulated articles may enter Seychelles;
- (b) as biosecurity points of departure the seaports, airports and mail exchange at which regulated articles may leave Seychelles.

Designation of  
biosecurity points  
of entry and  
departure

(2) Before making an order under subsection (1) the Minister must obtain the advice of the Director and consult, as the case may be, the authorities responsible for postal, immigration and customs services, airports, seaports and the movement of vessels and aircraft, in Seychelles.

(3) A biosecurity point of entry or departure may be limited to a particular type of conveyance or article or to imports from or exports to particular countries.

(4) A person who -

- (a) imports or attempts to import, a regulated article or consignment of regulated articles, other than at a biosecurity point of entry; or
- (b) exports or attempts to export, a regulated article or consignment of regulated articles, other than at a biosecurity point of departure,

commits an offence.

**67. (1)** Subject to subsection (3) -

- (a) an incoming vessel must berth at a sea port;
- (b) an incoming aircraft must land at an airport,

which is a biosecurity point of entry.

(2) Where -

- (a) except in the circumstances provided for in subsection (3), the master of an incoming vessel or captain of an incoming aircraft, causes or permits the vessel to berth at any place other than at a seaport or the aircraft to land at any place other than an airport that is a biosecurity point of entry ; or
- (b) the master of an outgoing vessel or captain of an outgoing aircraft, causes or permits the vessel or aircraft to leave Seychelles from any place other than a seaport or airport that is a biosecurity point of departure;

that master or captain commits an offence.

Incoming vessels and aircraft to berth or land at biosecurity point of entry

(3) A vessel may berth or an aircraft may land at a place other than a biosecurity point of entry –

- (a) if constrained by adverse weather conditions, mechanical failure or any other cause beyond the control of the master of the vessel or captain of the aircraft; or
- (b) if so directed or permitted by the Director or a biosecurity officer.

(4) In the circumstances provided for in subsection (3), the place where the vessel has berthed or the aircraft has landed is deemed to be a biosecurity point of entry for the purposes of this Act, once the Director has been notified of the berthing or landing.

**68. (1)** The operator of every biosecurity point of entry or departure in Seychelles must, to the extent possible and at the cost of the operator, provide on the premises for the purposes of this Act and to the satisfaction of the Director –

Facilities at  
biosecurity points  
of entry or  
departure

- (a) an area suitable for use by biosecurity officers stationed at the point of entry or departure, for the performance of their functions;
- (b) adequate space for the display of notices regarding the biosecurity requirements of this Act;
- (c) areas for interview and physical examination of incoming passengers and crew members, if required;
- (d) biosecurity holding areas as designated under section 69, 70 and 71;
- (e) facilities and suitable containers for garbage collection and incineration or other form of disposal;
- (f) facilities for the incineration or other form of disposal of regulated articles which do not create an unacceptable biosecurity risk;
- (g) fencing of premises in which equipment for the holding and disposal of garbage is situated; and
- (h) any other facilities the Director reasonably requests in writing as being needed for the performance of biosecurity functions at the point of entry or departure.



(2) If the operator of a biosecurity point of entry or departure fails to provide facilities as required by subsection (1)(a) to (h), they may be provided by the agency responsible for biosecurity and the cost of providing such facilities under this section is a debt owing by the operator to the Government.

(3) An operator of a biosecurity point of entry or departure, who fails to keep the premises and facilities mentioned in subsection (1)(e), (f) and (g) free from weeds and vermin, to the satisfaction of the Director, commits an offence.

**69.** The Minister may, on the advice of the Director and in consultation with authorities responsible for the movement of vessels and aircraft in Seychelles, by order, designate –

Designation of  
biosecurity port  
holding area

- (a) any part of the territorial waters of Seychelles or any part of a seaport in Seychelles as a biosecurity port holding area for vessels;
- (b) any part of an airport in Seychelles as a biosecurity port holding area for aircraft,

where incoming conveyances may be held for biosecurity inspection pending biosecurity landing clearance or other disposition under this Act.

**70. (1)** The Minister may, on the advice of the Director and in consultation with the authorities responsible for the movement of vessels and aircraft in Seychelles, by order, designate any area of land at or adjacent to a seaport or airport in Seychelles, as a biosecurity goods holding area where incoming or outgoing articles or containers may be held for biosecurity inspection pending biosecurity clearance or other disposition under this Act.

Designation of  
biosecurity goods  
holding area

(2) Before designating any land as a biosecurity holding area, the Minister, through the Director, must consult the owner of the land and pay compensation as agreed by the Director and the owner or as determined by a court, for the use of the land as a biosecurity holding area.

**71. (1)** The Minister may, on the advice of the Director and in consultation with authorities responsible for the movement of postal items in Seychelles, by order, designate any part of a mail exchange in Seychelles as a biosecurity postal holding area where incoming or outgoing postal items may be held for biosecurity inspection pending biosecurity clearance or other disposition under this Act.

Designation of  
biosecurity postal  
holding area

(2) Only regulated articles that, at the time of entry or departure are in a mail bag or other container that conforms to the requirements of the postal legislation of Seychelles may be held at a biosecurity postal holding area designated under subsection (1).

**72.** The Director must ensure that every biosecurity holding area is provided with such buildings and facilities as are reasonably needed –

Facilities at  
biosecurity  
holding areas

- (a) to hold regulated articles for biosecurity inspection;
- (b) to prevent unauthorized persons from entering or removing items from the area; and
- (c) to enable the carrying out of biosecurity inspection.

**73. (1)** The Director may issue written directions to the person in charge of a biosecurity holding area for the management of the area.

Management of  
biosecurity  
holding areas

(2) A biosecurity officer may, in order to reduce a biosecurity threat, lock, seal or otherwise prevent entry to and exit from a biosecurity holding area or any building in it.

(3) A person, other than the person in charge of a biosecurity holding area or a biosecurity officer acting in the course of that officer's duty must not enter such an area without the written permission of the Director, or the permission of the person in charge of the area or of a biosecurity officer.

(4) A person who -

- (a) enters a biosecurity holding area without permission given under subsection (3);
- (b) damages, interferes with or in any way reduces the effectiveness of measures taken to secure a biosecurity holding area, or any regulated article or other item in the area; or
- (c) removes or attempts to remove from a biosecurity holding area any regulated article without obtaining biosecurity clearance in respect of it, other than for the purpose of the application of biosecurity measures to the article in accordance with this Act,

commits an offence.

**74. (1)** A person who proposes to import or export a regulated article through a seaport or airport in Seychelles but who will not be present when biosecurity inspection in respect of that article is to take place must –

Biosecurity  
clearance agents

- (a) appoint a person resident in Seychelles, in writing, as a biosecurity clearance agent, to perform such functions of the

importer or exporter under this Act as are specified by the person making the appointment; and

- (b) notify the Director, in writing, of the appointment before the agent performs any agency functions.

(2) If an importer or exporter referred to in subsection (1) fails to comply with that subsection, biosecurity clearance will not be granted for any regulated article which the person seeks to import or export.

(3) If, in the opinion of the Director, the conduct of a biosecurity clearance agent appointed under subsection (1), in the performance of his functions under this Act, renders the agent unacceptable for the purposes of the performance of such functions, the Director must notify the importer or exporter of the same and the agent shall cease to be an agent from the date specified in the notification.

(4) A notice under subsection (2) must be given in sufficient time to allow the importer or exporter to appoint another agent.

(5) A biosecurity clearance agent who performs or purports to perform any functions of an importer or exporter under this Act is liable to the same extent as the importer or exporter for any act or omission which amounts to an offence or which creates any legal obligation under this Act.

## **PART VI – BIOSECURITY IMPORT PROCEDURES**

**75. (1)** A person seeking to import any animal, animal product, plant, plant product or other regulated article must make an application for a biosecurity import permit in respect of that animal, animal product, plant, plant product or other regulated article.

Application for  
biosecurity  
import permit

(2) An application for a biosecurity import permit must –

- (a) be made to the Director in writing in Part A of the form contained in Schedule 1;
- (b) be made before the regulated article in respect of which the application is made, leaves the country of origin or, in the case of re-exported goods, the re-exporting country; and
- (c) be accompanied by the prescribed fee, if any.

(3) An application for a biosecurity import permit must –

- (a) include evidence of the country of origin of the regulated article in respect of which the application is made;

- (b) state the nature and amount of the regulated article in respect of which the application is made;
- (c) state the expected date of arrival in Seychelles, of the regulated article in respect of which the application is made; and
- (d) give any other information that the Director reasonably requires to enable the Director to make a biosecurity risk assessment.

(4) A decision on an application for a biosecurity import permit must be communicated to the applicant as soon as reasonably practicable after the duly completed application is received and if an application is refused, the applicant must be notified in writing, with brief reasons for the refusal

**76. (1)** Where an application for a biosecurity import permit is made to the Director, in respect of an article, the Director or a biosecurity officer must –

Decision on  
application for  
biosecurity  
import permit

- (a) if biosecurity import conditions have been specified under section 77 in relation to the article, on payment of the prescribed fee, if any, as soon as practicable, issue a biosecurity import permit;
- (b) if biosecurity import conditions have not been specified under section 77 in relation to the article, take the actions specified in section 79;
- (c) if the importation of the article is prohibited under section 65(3)(a), refuse the application.

(2) Where a biosecurity import permit is issued under subsection (1)(a) the Director shall state this fact and the conditions subject to which the permit is granted, in Part B of the form contained in Schedule 1 and this shall be deemed to be a biosecurity import permit for the purposes of this Act.

(3) A biosecurity import permit may –

- (a) be general or specific;
- (b) relate to a single article or to a consignment of articles;
- (c) be different for different types of regulated articles and relate to different countries of origin.

(4) A general permit may relate to all imports of a type specified in the permit, or from an area specified in the permit, and may relate to continuing imports over a period specified in the permit.

(5) A specific permit will relate to a single article or to a consignment and may specify an expiry date.

**77.** (1) The Director may specify biosecurity import conditions in respect of incoming regulated articles –

Biosecurity  
import conditions

- (a) as to whether a biosecurity import permit must be obtained for the article and if so the conditions to be attached to the permit;
- (b) as to whether a sanitary or phytosanitary certificate from the authority responsible for biosecurity in the country of origin is required for an article, and if so the matters that must be certified;
- (c) as to what biosecurity measures, if any, must be applied to the article on arrival in Seychelles, before biosecurity import clearance can be granted.

(2) Biosecurity import conditions under subsection (1) –

- (a) may be different for different types and quantities of regulated articles;
- (b) may be by reference to the country or area of origin of the article;
- (c) must only be those reasonably necessary to reduce or eliminate the biosecurity risk to Seychelles presented by the article.

(3) In determining biosecurity import conditions under subsection (1), the Director –

- (a) must make or cause to be made, a biosecurity import risk analysis;
- (b) must have regard to international standards relating to biosecurity matters;
- (c) must have regard to the resources available for biosecurity control;
- (d) may apply the precautionary principle.

- (4) A biosecurity import risk analysis under subsection (3)(a) –
- (a) may include a pest or disease risk analysis;
  - (b) must assess the impact of the imported article on biodiversity, human health, agriculture and the environment;
  - (c) may include an audit of the place or facilities where the article is produced or processed;
  - (d) may include an assessment of the biosecurity risk associated with the packaging and conveyance of the article;
  - (e) may be performed by any suitably qualified person, other than the importer, at the request of the Director;
  - (f) is performed at the importer's expense.

(5) Biosecurity import conditions made under this section must be entered in the biosecurity register and made available to the public for inspection.

(6) A person who imports or attempts to import a regulated article for which a biosecurity import permit is required in accordance with subsection (1)(a), and which has not been exempted from such requirement under section 81 –

- (a) without such permit; or
- (b) in breach of the conditions of such permit,

commits an offence.

**78. (1)** The Director may, after obtaining the advice of the Chief Veterinary Officer or Chief Plant Protection Officer, as the case may be, change the biosecurity import conditions made under section 77 in respect of an article at any time before biosecurity import clearance is granted in respect of that article, if the biosecurity risk presented by the article changes.

Change of  
biosecurity  
import conditions

(2) Notice of a change in the biosecurity import conditions in respect of an article under subsection (1) should be given to intending importers as soon as practicable but no liability arises from a failure to do so.

(3) Section 77(5) applies to a change of biosecurity import conditions made under this section.

**79. (1)** Where an application for a biosecurity import permit is made in respect of a regulated article which is not the subject of biosecurity import conditions, the Director must inform the person who made the application of that fact, and the person may make a request in writing for biosecurity import conditions to be specified in respect of the article.

Development of  
new biosecurity  
import conditions

(2) A request under subsection (1) must –

- (a) be made in sufficient time before the intended importation of the article; and
- (b) give adequate information about the biosecurity procedures of the country of origin, the nature of the article, and the proposed importation,

to enable the Director to undertake a biosecurity risk analysis in relation to the article.

(3) Upon receipt of a request under subsection (2), and on payment of the prescribed fee, if any, the Director must as soon as practicable, unless the importation of the article in respect of which the request is made is prohibited under section 65(3)(a), develop biosecurity import conditions in respect of the article in accordance with section 77(2), (3) and (4).

**80. (1)** The Government of any country from which any animal, animal product, plant, plant product or any other regulated article is sought to be exported to Seychelles may apply in writing to the Director through the Ministry of Foreign Affairs or Trade, for market access.

Application for  
access to  
Seychelles  
market

(2) Sections 79(2) and (3) apply to an application under subsection (1).

**81. (1)** The Director may, on the advice of the Chief Veterinary Officer or Chief Plant Protection Officer, and if satisfied that the biosecurity risk to Seychelles is not increased as a result, in writing, exempt any regulated article, class of regulated articles or consignment of regulated articles –

Exemption from  
biosecurity  
import  
requirements

- (a) from any or all of the biosecurity import conditions that would otherwise apply to the article, or class or consignment of articles; or
- (b) from a requirement for a biosecurity import permit that would otherwise apply to the article, or class or consignment of articles.

(2) An exemption under subsection (1) –

- (a) may specify the conditions on which the article, or class or consignment of articles is exempt and the exemption ceases to apply if the conditions are not met; and
  - (b) applies only to a single importation.
- (3) A request for exemption under this section must be –
- (a) made in writing to the Director;
  - (b) accompanied by the prescribed fee, if any, and the specified documents;
  - (c) made in sufficient time to allow the Director to give due consideration to the request.
- (4) An article or class or consignment of articles exempted from biosecurity import specifications or the requirement for an import permit under this section is not exempt from the requirement for biosecurity import clearance.

**82. (1)** Every incoming article or consignment of articles is liable to biosecurity entry inspection by a biosecurity officer at the biosecurity point of entry to ascertain whether the article is or consignment includes a regulated article.

Biosecurity entry inspection of incoming articles

(2) If an importer fails to make an incoming article or consignment available for biosecurity entry inspection as required under subsection (1) at the request of a biosecurity officer –

- (a) the importer commits an offence; and
- (b) the article or consignment may be reconsigned or destroyed as if they were a regulated article for which biosecurity import clearance had been refused.

(3) If a biosecurity officer is satisfied, after verifying the documents relating to an incoming article or consignment and, if the officer considers necessary, inspecting the article or consignment –

- (a) that the article is or the consignment includes a regulated article, the article or consignment must be granted biosecurity import clearance in accordance with the provisions of this Part, before they are released from the biosecurity point of entry;
- (b) that the article is not or the consignment does not include a regulated article, the article or consignment may be released



from the biosecurity point of entry upon payment of the prescribed fee, if any.

(4) Section 32 applies to an inspection under this section.

(5) Subject to section 139 and 140, the opinion of a biosecurity officer under subsection (3)(a) or (b) as to whether an article is or is not, or a consignment includes or does not include, a regulated article is conclusive for the purposes of this Act.

(6) This section does not apply to baggage accompanying passengers or crew members, but sections 62 and 63 apply to such baggage.

- 83. (1)** Every incoming regulated article or consignment of regulated articles –
- (a) is liable to biosecurity import clearance inspection by a biosecurity officer; and
  - (b) for that purpose must be taken to or retained in a biosecurity goods holding area.

Biosecurity  
import clearance  
of incoming  
regulated articles

(2) An application for biosecurity import clearance of a regulated article or consignment of regulated articles under subsection (1) must –

- (a) be made to a biosecurity officer in the manner specified or approved by the Director;
- (b) be accompanied by the prescribed fee, if any;
- (c) state the country of origin of the article or consignment;
- (d) state the nature and quantity of the article or consignment;
- (e) be accompanied by any sanitary or phytosanitary certificate issued by the country of origin in relation to the article or consignment;
- (f) be accompanied by any biosecurity import permit relating to the article or consignment;
- (g) be accompanied by documentation relating to any biosecurity measures specified under section 77(1)(c) in relation to the article or consignment.

(3) The importer of an incoming regulated article or consignment of regulated articles must, on the request of a biosecurity officer –

- (a) if the article or consignment is in a container, open the container or enable the officer to do so;
- (b) allow the officer to inspect the article or consignment in accordance with section 32;
- (c) allow the officer to take samples and conduct tests in accordance with sections 34 and 35 respectively, to enable the officer to determine whether biosecurity import clearance should be granted;
- (d) if the article or consignment requires biosecurity measures to be applied to it, submit the article or consignment to such measures.

(4) If the importer of a regulated article or consignment of regulated articles fails to comply with any of the requirements of subsection (3) –

- (a) the importer commits an offence; and
- (b) a biosecurity officer may refuse to grant biosecurity import clearance for the article or consignment, and may order the article or consignment to be reconsigned or destroyed.

(5) The cost of taking an article or consignment of articles to and keeping the article or consignment at a biosecurity goods holding area, is to be borne by the importer of the article or consignment, and no compensation is payable for any loss or destruction or consequential loss caused as a result of the taking or keeping, unless negligence or malice is proved.

(6) This section does not apply to passengers or crew members, but section 62 and 63 apply to such persons.

**84. (1)** Before granting biosecurity import clearance of a regulated article or consignment of regulated articles, a biosecurity officer must be satisfied that the article or consignment meets the biosecurity import requirements in relation to it, that is to say –

- (a) if a biosecurity import permit is required, that it has been obtained in respect of the article or consignment and the conditions of the permit have been complied with;

Grant and refusal  
of biosecurity  
import clearance

- (b) if a sanitary or phytosanitary certificate is required, that the certificate has been issued by the country of origin, and any requirement of the certificate complied with;
- (c) if any other biosecurity measures are specified under section 77(1)(c), that they have been applied to or in respect of the article or consignment.

(2) If a biosecurity officer is satisfied -

- (a) of the matters mentioned in subsection (1) in respect of an article or consignment ; and
- (b) that all prescribed fees and charges relating to the article or consignment have been paid,

the officer must grant biosecurity import clearance for the article or consignment.

(3) If the biosecurity risk presented by an incoming regulated article or consignment of regulated articles so requires, a biosecurity officer may -

- (a) refuse to grant biosecurity import clearance for the article or consignment; or
- (b) require additional biosecurity measures to be applied to it, even if the article or consignment meets the biosecurity import conditions in relation to it.

(4) Biosecurity import clearance of an article or consignment of articles may be made conditional on the article or consignment undergoing biosecurity quarantine if -

- (a) quarantine is a biosecurity import requirement for the article or consignment; or
- (b) during biosecurity entry inspection or biosecurity import clearance inspection, the article or consignment is found or is suspected to be, infested, infected or contaminated.

(5) Biosecurity import clearance must be refused for an incoming article or consignment of articles the importation of which is prohibited pursuant to section 65(3) (a).

(6) A biosecurity officer may cause any incoming article or consignment in respect of which biosecurity import clearance is refused, to be reconsigned or destroyed, but the importer must be given reasonable time to make arrangements for reconsignment of the article or consignment before it is destroyed.

(7) No compensation is payable in respect of a refusal in good faith to grant biosecurity import clearance under this section.

**85. (1)** The Director may at any time, on written notice to the holder of a biosecurity import permit, revoke the permit, or vary the conditions of the permit, if a change in the biosecurity risk to Seychelles presented by the article or consignment of articles to which the permit relates, so requires.

Revocation of  
biosecurity  
import permit

(2) Biosecurity import clearance must be refused for an article or consignment in respect of which a biosecurity import permit is revoked.

(3) The holder of a biosecurity import permit which is revoked -

- (a) must surrender it to a biosecurity officer as soon as practicable after such revocation;
- (b) who fails or refuses to surrender the permit to a biosecurity officer as soon as practicable after the revocation in contravention of paragraph (a), commits an offence.

(4) No compensation is payable in respect of the revocation in good faith of a permit under this section.

**86. (1)** Regulated articles in transit including those which accompany a crew member or passenger in transit are liable to biosecurity control.

Articles and  
passengers in  
transit

(2) A biosecurity officer may at any time inspect an article in transit if the officer reasonably suspects the article might pose a biosecurity threat to Seychelles or a receiving country and such inspection must be carried out in a secure biosecurity holding area.

(3) Where a biosecurity officer reasonably suspects that an article in transit might pose a biosecurity threat to a receiving country, the biosecurity officer should take all necessary steps to inform the receiving country.

## **PART VII – BIOSECURITY QUARANTINE**

**87. (1)** The Minister, on the advice of the Director, and after consulting other relevant government ministries, departments, agencies or authorities, or statutory bodies or authorities, may, by order, designate any public or private land or premises as a biosecurity quarantine station for animals, animal products, plants, plant products or other regulated articles for the purposes of this Act.

Designation of  
biosecurity  
quarantine  
stations

(2) Before designating any land under private ownership as a biosecurity quarantine station, the Minister, through the Director, must –

- (a) consult the owner of the land; and
  - (b) pay adequate consideration as agreed by the owner of the land and the Director or as determined by a court for use of the land as a quarantine station.
- (3) A biosecurity quarantine station designated under subsection (1) –
- (a) must be under the control of the Director; and
  - (b) may be designated as a temporary quarantine station for a specified duration.

**88.** The Director must ensure that every biosecurity quarantine station is provided with such buildings and facilities as are reasonably needed –

Facilities at  
biosecurity  
quarantine  
stations

- (a) to hold regulated articles in biosecurity quarantine;
- (b) to prevent unauthorized persons from entering the station or removing items from the station; and
- (c) to enable the Director to perform tests, provide treatment and apply other biosecurity measures as required by or under this Act.

**89. (1)** The Director may prescribe –

Conditions of  
biosecurity  
quarantine

- (a) the manner as to the safe handling, examination, treatment, destruction or other disposal of articles while in a biosecurity quarantine station or in transit to or from such a station;
- (b) the period for which different types of regulated articles must remain in a biosecurity quarantine station.

(2) The fees or charges payable for keeping items in biosecurity quarantine are as prescribed.

(3) The cost of keeping an article in biosecurity quarantine is to be borne by the importer of the article and no compensation is payable for any loss or destruction or consequential loss caused by an item being detained in biosecurity quarantine, unless negligence or malice is proved.

**90. (1)** The Director may issue written instructions to the person in charge of a biosecurity quarantine station for the management of the station.

Management of  
biosecurity  
quarantine  
stations

(2) A biosecurity officer may, in order to reduce a biosecurity threat, lock, seal or otherwise prevent entry to and exit from a biosecurity quarantine station or any building in it, regardless of the ownership of the station.

(3) A person, other than the person in charge of a biosecurity quarantine station or a biosecurity officer acting in the course of that officer's duty, must not enter the station without the written permission of the Director or of the person in charge of the station.

(4) A person who –

- (a) enters a biosecurity quarantine station without permission contrary to subsection (3); or
- (b) damages, interferes with or in any way reduces the effectiveness of measures taken to secure a biosecurity quarantine station, or any regulated article or other item in the station,

commits an offence.

**91. (1)** A biosecurity officer may affix a notice on any biosecurity quarantine station, and on any conveyance, container or article held in biosecurity quarantine, stating the conditions and duration of quarantine and other information relating to the station or the conveyance, container or article as specified by the Director.

Biosecurity  
quarantine  
notices

(2) A person who removes a notice affixed under subsection (1) without lawful authority commits an offence.

**92. (1)** A biosecurity officer may, by notice in writing to the importer of a regulated article, order into biosecurity quarantine any incoming regulated article if –

Biosecurity  
quarantine of  
regulated articles

- (a) the article is one the importation of which is prohibited under section 65(3)(a) and must therefore be reconsigned or destroyed;
- (b) quarantine is a biosecurity import requirement for the article; or
- (c) during biosecurity entry inspection under section 82 or biosecurity import clearance inspection under section 83 the article is found to be, or is suspected to be, infested, infected or contaminated.

(2) If an article is ordered into biosecurity quarantine under this section, the importer must be given written notice stating the reasons for the order.

**93. (1)** If an article is ordered into biosecurity quarantine under section 92, a biosecurity officer may –

Moving of regulated articles to biosecurity quarantine station

- (a) in writing, direct the importer to move the article to a specified biosecurity quarantine station;
- (b) if the importer fails or refuses to obey the direction, or because of the nature of the biosecurity threat, arrange for the article to be moved to a biosecurity quarantine station.

(2) An importer who refuses to move an article to biosecurity quarantine as directed under this section commits an offence.

(3) The cost of moving an article to biosecurity quarantine is to be borne by the importer of the article, and no compensation is payable for any loss or destruction or consequential loss caused as a result of any such moving, unless negligence or malice is proved.

(4) If an article ordered into biosecurity quarantine is moved under subsection (1)(b), the importer must be given written notice stating the location of the article.

**94. (1)** A conveyance, container or article must not be released from biosecurity quarantine except upon the issue of a biosecurity quarantine release certificate by a biosecurity officer.

Release from biosecurity quarantine

(2) Before a biosecurity quarantine release certificate is issued under subsection (1) –

- (a) any treatment required as a condition of importation of the article must have been applied; and
- (b) all quarantine fees must have been paid.

(3) If a biosecurity officer is satisfied that subsection (2) has been complied with, he must issue a biosecurity quarantine release certificate and release the conveyance, container or article from biosecurity quarantine as soon as practicable.

(4) A person who releases an article from a biosecurity quarantine station contrary to subsection (1) commits an offence.

**95. (1)** No person may release or cause to be released from a biosecurity quarantine station, biosecurity port quarantine area, or biosecurity holding area or let go at

No plant or animal to be at large

large in Seychelles any animal, plant or organism which is subject to biosecurity control under this Act.

- (2) If a person contravenes subsection (1) –
- (a) the animal, plant or organism may be recaptured and confined and if necessary destroyed in accordance with section 38 and Part VIII;
  - (b) that person commits an offence and, in addition to the prescribed maximum penalty, is liable to pay the costs of recapturing, confining or destroying the animal, plant or organism; and
  - (c) that person is not entitled to any compensation for loss of or damage to the animal, plant or organism occasioned by its being recaptured, confined or destroyed.

## **PART VIII – BIOSECURITY INTERNAL CONTROL**

**96.** The Minister, on the advice of the Director, may, by order, direct a survey to be conducted of –

Order to conduct pest and disease surveys

- (a) any area of Seychelles, to ascertain the status of pests and diseases in the area and the biosecurity risk of moving animals, plants, humans or organisms into, out of, or through the area;
- (b) a particular pest or disease, to monitor that pest or disease.

**97. (1)** A biosecurity officer may, for the purposes of a survey conducted under section 96(a), in the area to be surveyed, or for the purposes of a survey conducted under section 96(b), in any area where the pest or disease is found –

Powers in relation to pest and disease surveys

- (a) enter any land, premises, building or area including biosecurity approved premises but not a dwelling house, and inspect such land, premises, building or area and any equipment found in or on them;
- (b) take photographs and films and make drawings;
- (c) inspect animals and plants and their products;
- (d) question any person;



- (e) collect specimens and perform tests relating to animals, animal products, plants, plant products, land, water and the environment.

(2) The Director may, direct the owner or person who has custody or control of an animal or plant –

- (a) in the case of a survey under section 96(a), in the area to be surveyed; or
- (b) in the case of a survey under section 96(b), in the area where the pest or disease is found,

to make such animals or plants available for inspection at places designated by the Director.

(3) A person who refuses, in the course of a survey under section 96 –

- (a) to permit a biosecurity officer to enter any land, premises, building or area and inspect such land premises, building or area or any equipment in or on them, as reasonably required, in contravention of subsection (1)(a);
- (b) to answer to the best of that person's knowledge and ability, oral or written questions, reasonably put to the person by a biosecurity officer, in contravention of subsection (1)(d);
- (c) to permit a biosecurity officer to collect specimens or perform tests as reasonably required, in contravention of subsection (1)(e);
- (d) to make animals or plants in the ownership, custody or control of the person available for inspection as required under subsection (2).

commits an offence.

**98.** The Director may, in compliance with international agreements, provide for the publication and transmission of the results of a survey under section 96 to other interested governments and organisations.

Publication and transmission of survey results

**99. (1)** If a biosecurity officer reasonably suspects the presence of a regulated pest or disease, the officer may –

- (a) at any time stop, board and search any conveyance;

Powers of entry, search and seizure where presence of regulated pest or disease is suspected

- (b) at any time enter and search any premises, building or area, including a biosecurity holding area, biosecurity quarantine station or biosecurity approved premises and land including land adjacent to a dwelling house, but not a dwelling house;
- (c) at any time, with the consent of the owner, enter and search a dwelling house for animals, animal products, plants and plant products;
- (d) at any time, on a warrant issued under subsection (2), enter and search a dwelling-house for any regulated pest or disease or regulated article that the officer reasonably suspects to be in the dwelling house and to pose a biosecurity threat to Seychelles.

(2) If on an application made to a Magistrate, for a warrant authorizing a biosecurity officer to enter and search a dwelling house, the Magistrate is satisfied on affidavit evidence sworn by that officer that-

- (a) there may be in the dwelling house, a regulated pest or disease or regulated article that poses a biosecurity threat to Seychelles; and
- (b) the consent of the owner or occupier to enter and search the dwelling house cannot be obtained,

the Magistrate may issue a warrant authorising the officer to enter and search the dwelling house for the article.

(3) During a search under this section a biosecurity officer may seize anything which -

- (a) is a regulated article which the officer reasonably suspects poses a biosecurity threat to Seychelles; or
- (b) may be used as evidence of the commission of an offence under this Act.

(4) A biosecurity officer who seizes anything from a person under subsection (3) must -

- (a) give to the person a notice of seizure in the prescribed form containing a description of the thing seized and informing the person of the reason for the seizure; and

- (b) move the thing seized to a place of safekeeping and deal with it in accordance with this Act.

**100.** (1) If an animal, animal product, plant or plant product in Seychelles is suspected of being infected or infested by a regulated pest or disease, a biosecurity officer may direct that the animal, animal product, plant or plant product be detained and confined in a place specified by the Director, for tests to be conducted on that animal, animal product, plant or plant product.

Detention and testing of animals, plants and their products suspected of being infested by regulated pest or disease

(2) The owner or custodian of an animal, animal product, plant, or plant product detained pursuant to subsection (1), must be given a written notice stating the reasons for the detention.

(3) A biosecurity officer may test, or cause to be tested, an animal, animal product, plant, or plant product detained pursuant to subsection (1), and such tests may include –

- (a) the taking of samples in accordance with section 34, with such modifications and adaptations to that section as are necessary;
- (b) the conduct of a post mortem examination in accordance with section 103.

(4) If, after testing an animal, animal product, plant or plant product pursuant to subsection (3), the animal, animal product, plant or plant product is considered to pose a biosecurity threat to Seychelles, the officer may further detain it in the place specified by the Director under subsection (1) for biosecurity measures to be taken in respect of it, but only for so long as is required for such measures to be taken.

**101.** (1) If an animal, animal product, plant, or plant product is to be detained under section 100 a biosecurity officer may –

Moving of animals, plants and their products suspected of being infested by regulated pest or disease to place of detention

- (a) direct the owner or custodian of the animal, animal product, plant, or plant product to move it to the place specified by the Director under section 100(1); or
- (b) if the owner or custodian of the animal, animal product, plant or plant product refuses to obey a direction under paragraph (a), or because of the nature of the biosecurity threat, arrange for the animal, animal product, plant, or plant product to be moved to the place specified by the Director under section 100(1),

and if the animal, animal product, plant, or plant product is moved under paragraph (b), its owner or custodian must be given a written notice stating the place to which it was moved.

(2) The cost of moving an animal, animal product, plant, or plant product to, and its detention in, a place specified by the Director under section 100(1), is to be borne by the Government, and its owner is entitled to compensation for damage to or destruction of such animal, animal product, plant, or plant product excluding consequential loss, caused as a result of any such moving or detention.

**102.** Section 90 applies, with such modifications or adaptations as are necessary, to places specified by the Director under section 100(1) for the detention of animals, animal products, plants, or plant products, as they apply to biosecurity quarantine stations.

Management of  
places of  
detention

**103.** (1) If a biosecurity officer examining an animal pursuant to section 100(3)(b) suspects that the animal is diseased and considers a post mortem examination to be necessary to establish a diagnosis, the officer may, on the written authority of the Director, and without the consent of the owner –

Post mortem  
examination of  
animals  
suspected of  
being infected by  
regulated disease

- (a) cause a post mortem examination to be conducted to decide whether the animal is diseased; and
- (b) obtain specimens from the animal for laboratory examination and diagnosis.

(2) The results of an examination conducted pursuant to subsection (1) and of any laboratory reports resulting from the examination must be provided in writing to the Director and to the owner of the animal, if the owner can be identified and located.

**104.** If a treatment is available to eliminate or reduce to an acceptable level the biosecurity threat posed by an animal, animal product, plant or plant product that has been detained under section 100, a biosecurity officer may –

Treatment of  
animals, plants  
and their  
products  
suspected of  
being infested by  
regulated pest or  
disease

- (a) with the consent of the owner or custodian of the animal, animal product, plant, or plant product, administer or cause to be administered, such treatment, to the animal, animal product, plant, or plant product;
- (b) after treatment administered under paragraph (a), release the animal, animal product, plant, or plant product, to its owner or custodian.

**105.** (1) A biosecurity officer may order an animal, animal product, plant or plant product detained under section 100, to be destroyed if –

- (a) in the opinion of the biosecurity officer, appropriate treatment is not available in Seychelles;

Destruction of  
animals, plants  
and their  
products  
suspected of  
being infested by  
regulated pest or  
disease

- (b) in the opinion of the biosecurity officer, there would still be a biosecurity risk after treatment; or
- (c) the owner or custodian of the animal, animal product, plant or plant product does not consent to the treatment being administered,

and notice of any action to be taken under this subsection must be given, in writing, to the owner or custodian of the animal, animal product, plant or plant product before such action is taken.

(2) Subject to section 106, section 38 applies to the destruction of animals, animal products, plants, and plant products under this section, with such modifications or adaptations as are necessary to that section.

**106.** (1) The cost of the treatment under section 104 or destruction under section 105 of an animal, animal product, plant, or plant product is to be borne by the Government.

Cost of treatment  
and destruction  
and  
compensation

(2) The owner of an animal, animal product, plant, or plant product destroyed under section 105 is entitled to compensation excluding consequential loss, for such destruction, from the Government.

**107.** (1) The Minister, on the advice of the Director, may, by order, declare –

- (a) the land or premises in any area of Seychelles on which an animal or plant which is infested by a pest or disease is found; and
- (b) an area adjacent to the land or premises referred to in paragraph (a), where necessary to effectively contain the infestation referred to in that paragraph,

Declaration of  
infested  
biosecurity  
controlled area

to be an infested biosecurity controlled area in respect of that pest or disease, if the powers in sections 97 to 106 are inadequate to control the outbreak of the infestation.

(2) An order under this section must be made as soon as practicable after the finding of the infestation.

(3) Except with the permission of a biosecurity officer and in accordance with any conditions reasonably imposed by the officer, no animal, animal product, plant, plant product, fodder, fitting or other thing specified in an order under this section, may be moved out of, into or within an infested biosecurity controlled area, pending the making of an order under section 109.

(4) A person who contravenes subsection (3) commits an offence.

(5) Subsection (3) ceases to have effect upon the coming into force of an order under subsection 109.

**108.** A biosecurity officer may enter into an infested biosecurity controlled area, at any time, in order to ascertain the status of a regulated pest or disease.

Power to enter  
infested  
biosecurity  
controlled area

**109. (1)** The Director may, by order -

Regulation of  
infested  
biosecurity  
controlled areas

- (a) direct, in an infested biosecurity controlled area –
  - (i) the treatment or disposal of diseased animals and plants;
  - (ii) the destocking, cleaning, disinfecting or other treatment of land, premises and conveyances;
  - (iii) the inspection and treatment of regulated articles in or entering or leaving the area;
  - (iv) any other biosecurity measures the Director considers necessary to control the infestation;
- (b) control, in respect of an infested biosecurity controlled area –
  - (i) the movement of animals, animal products, plants, plant products or other regulated articles into, out of or within the area;
  - (ii) the movement of humans and conveyances into, out of or within the area;
  - (iii) any other activity that the Director considers necessary to be controlled to prevent the movement of host material into and out of the area.

(2) A person who contravenes a provision of an order made under subsection (1) commits an offence.

**110. (1)** The cost of the treatment of an animal, animal product, plant or plant product or other regulated article or destruction of an animal or plant under section 109 is to be borne by the Government.

Cost of treatment  
and destruction  
and  
compensation

(2) The owner of an animal or plant destroyed under section 109 is entitled to compensation excluding for consequential loss, for such destruction, from the Government.

**111.** (1) The Minister, on the advice of the Director, may, by order, declare any area of Seychelles, where a particular regulated pest or disease does not occur, so far as is known, and where incursions of that pest or disease should be prevented, to be a pest-free biosecurity controlled area in respect of that pest or disease.

Declaration of  
pest free  
biosecurity  
controlled area

(2) The Minister may, on the advice of the Director, amend or revoke an order made under subsection (1) where there is any change in the pest free status of the area declared under that subsection determined as a result of a survey conducted under section 96.

(3) Before advising the Minister under subsections (1) and (2), the Director must obtain appropriate scientific advice from the Chief Veterinary Officer, Chief Plant Protection Officer or other technically competent person.

**112.** (1) The Director may, by order, in respect of a pest-free biosecurity controlled area -

Regulation of  
pest free  
biosecurity  
controlled areas

- (a) control the movement of regulated articles, humans and conveyances into, out of, and within the area;
- (b) direct the inspection and treatment of regulated articles in or entering or leaving the area;
- (c) establish surveillance procedures for particular pests or diseases in the area.

(2) An order under subsection (1) must only be made for the purpose of preventing incursions into the pest-free biosecurity controlled area of the particular pest or disease in respect of which the pest-free biosecurity controlled area is declared.

(3) A person who contravenes a provision of an order made under this section commits an offence.

(4) The Director may by administrative means institute other measures to keep the pest-free biosecurity controlled area free of the particular pest or disease in respect of which the pest-free biosecurity controlled area is declared.

**113.** (1) If the Director has reason to suspect that a wild, feral or stray animal is carrying a regulated pest or disease, the Director may, in order to prevent the pest or disease from being established or spreading in Seychelles, cause the animal to be destroyed.

Destruction of  
wild, feral or  
stray animals

(2) Before taking any action under subsection (1), the Director must consult with the Chief Veterinary Officer or Chief Plant Protection Officer, the National Biosecurity Committee, the Department of Environment, the authority responsible for public health and any other relevant technically competent persons.

(3) The carcass of an animal destroyed under subsection (1) must be disposed of in a manner that will not create the risk of the spread of any regulated pest or disease.

**114.** (1) The Minister may, in writing, authorise the release of beneficial organisms or biocontrol agents that are necessary or appropriate for the control of a particular pest or disease in Seychelles.

Beneficial  
organisms and  
biocontrol agents

(2) In this section, “beneficial organism” and “biocontrol agent” mean a natural enemy, antagonist or competitor of a pest or disease, and any other self-replicating biotic entity used for pest and disease control.

(3) Before authorising a release under subsection (1), the Minister must obtain the advice of the Director as to the biosecurity risk posed by the release and ensure that authorization has been obtained from the authorities responsible for agriculture, fisheries, environment and natural resources.

(4) Before advising the Minister under subsection (3), the Director must obtain appropriate scientific advice.

(5) An authorisation under subsection (1) must identify –

- (a) the organism or agent;
- (b) the pest or disease which it is intended to control;
- (c) the area where it may be released;
- (d) the period during which it may be released;
- (e) the person or persons who may release it; and
- (f) any condition subject to which the authorisation is granted.

(6) No liability attaches to the Minister, the Director or any public officer in respect of the release of organisms or biocontrol agents in accordance with this section, except if negligence or malice is proved.

(7) The Director must record in the biosecurity register -



- (a) the names of any beneficial organisms or biological agents released under this section; and
- (b) the place and extent of release of such organisms and agents.

## PART IX– BIOSECURITY EMERGENCIES

**115.** (1) Upon receiving evidence that a biosecurity emergency has arisen in the whole or any part of Seychelles, the Minister, on the advice of the Director given after consulting the National Biosecurity Committee may, by notice, declare the whole of, or that part of Seychelles in which the emergency has arisen, a biosecurity emergency area.

Declaration of  
biosecurity  
emergency area

(2) A biosecurity emergency area may include an area where an animal or plant is found to be infested with or infected by a regulated pest or disease, and any area that is adjacent thereto, to the extent reasonably necessary.

(3) Before making a declaration under subsection (1), the Minister may consult the National Disaster Committee.

**116.** The Director must ensure that a notice of a declaration of a biosecurity emergency area under section 115 is displayed in a conspicuous manner, on noticeboards or in a similar manner throughout the area.

Display of notice  
of declaration

**117.** (1) A declaration of a biosecurity emergency area under section 115 must be revoked as soon as the incursion or other biosecurity threat giving rise to the declaration is removed or reduced to an acceptable level.

Revocation and  
expiry of  
declaration

(2) A declaration of a biosecurity emergency area under section 115 expires 12 months after it comes into force unless –

- (a) revoked in accordance with subsection (1); or
- (b) extended on or before that date, by the Minister on the advice of the Director, and where the Minister considers necessary after consulting the National Biosecurity Committee and the National Disaster Committee, but an extension under this paragraph may not be for more than 6 months from the date of such extension, unless renewed in the same manner before the end of that period.

**118.** (1) When a biosecurity emergency area is declared under section 115, the Director must undertake a detailed survey, using the powers in section 96, to ascertain the precise extent and severity of the incursion or other biosecurity threat which gave rise to the declaration, and determine the most appropriate measures to take in response.

Response to  
biosecurity  
emergency

(2) In deciding which appropriate measure to take in response to a biosecurity emergency in respect of which a declaration has been made under section 115, the Director should –

- (a) should be guided by the Biosecurity Emergency Response Plan under section 12(a) or any other contingency plan developed for a particular regulated pest or disease in respect of which the emergency is declared;
- (b) may consult and liaise with the National Disaster Committee.

(3) The Minister may authorize payment of funds from the contingencies fund established under section 13(2) to meet the costs of a response to a biosecurity emergency in respect of which a declaration has been made under section 115.

**119. (1)** In respect of a biosecurity emergency area –

- (a) the Director may request the Commissioner of Police, any government ministry, department, agency or authority, or statutory body or authority to use their powers and resources to assist in the control or eradication of any pest or disease in the area;
- (b) the Director may, in writing, requisition any conveyance or equipment which the Director reasonably considers is necessary or useful for preventing, eradicating or limiting the spread of a pest or disease, for that purpose;
- (c) the Minister may appoint or designate temporary additional personnel, whether or not having the powers of biosecurity officers, to effectively respond to the biosecurity emergency in respect of which the biosecurity emergency area has been declared;
- (d) a biosecurity officer may, at any time, in order to ascertain the status of a pest or disease -
  - (i) enter and search any land, premises, building or area, but not a dwelling house;
  - (ii) with the consent of the owner, enter and search a dwelling house;

Powers in relation to a biosecurity emergency area

- (iii) on a warrant issued under subsection (2), enter and search a dwelling house.

- officer that –
- (2) If a Magistrate is satisfied on affidavit evidence sworn by a biosecurity officer that –
    - (a) it is necessary to enter a dwelling house to ascertain the status of a pest or disease; and
    - (b) the consent of the owner or occupier to enter and search the dwelling house cannot be obtained,

the magistrate may issue a warrant authorising the officer to enter and search the dwelling house for such article.

- any of the following –
- (3) In a biosecurity emergency area, the Director may do or cause to be done any of the following –
    - (a) mark the boundaries of the area;
    - (b) set up roadblocks at all entrances to and exits from the area;
    - (c) set up facilities for the cleansing and disinfection of all persons and conveyances entering or leaving the area and any other thing likely to spread any pest or disease;
    - (d) disinfect all conveyances, crates, packaging, animals, plants and other things which are likely to carry pests or diseases and which are being sent out of the area;
    - (e) inspect and disinfect all persons and their possessions leaving the area so as to prevent any host material that may be infected from leaving the area;
    - (f) for the purposes of paragraphs (d) and (e), detain persons, animals, animal products, plants, plant products, goods and vehicles for as long as is necessary to minimise or eliminate the biosecurity risk presented by them;
    - (g) perform surveillance activities to ascertain the extent and status of the emergency.

- (4) A person who –
  - (a) resists, knowingly obstructs, or knowingly and without reasonable excuse fails to comply with a direction of the

Director, a biosecurity officer, a police officer or other person performing duties under this section;

- (b) knowingly enters or leaves a biosecurity emergency area , except with and in accordance with the written permission of the Director or a biosecurity officer; or
- (c) knowingly moves any article out of or into a biosecurity emergency area, or from one place to another within that area, except with and in accordance with the written permission of the Director or a biosecurity officer ,

commits an offence.

(5) Articles moved in contravention of subsection (4)(c) may be seized by a biosecurity officer and –

- (a) held pending criminal proceedings for the contravention; or
- (b) if necessary, to remove a biosecurity threat, destroyed as the Director directs, without an order by the court.

**120.** (1) The cost of treatment or destruction of any article under section 119(3) and (5) is to be borne by the government.

Cost of treatment  
or destruction  
and  
compensation

(2) The owner of any land, premises, conveyance or article that is used, lost, destroyed or damaged as a result of any action taken under section 119 is entitled to compensation excluding for consequential loss.

**121.** (1) The Minister, on the advice of the Director, may, at any time, make regulations in respect of a biosecurity emergency declared under section 115.

Biosecurity  
emergency  
regulations

(2) Regulations made under subsection (1) –

- (a) come into force on the day on which a biosecurity emergency declaration takes effect in accordance with section 143;
- (b) lapse upon the revocation or expiry of the declaration referred to in paragraph (a);
- (c) may come into force again if a further declaration is made under section 115.

**122.** (1) Regulations made under section 121 may, in respect of a biosecurity emergency area –

Matters for which  
biosecurity  
emergency  
regulations may  
provide

- (a) create one or more exclusion zones within the area and control the movement of conveyances, humans, animals and plants and host material into, out of and within such zones;
- (b) prohibit specified activities in the area;
- (c) provide for the destruction or treatment of specified goods and the treatment of land in the area;
- (d) regulate the use of the area for a specified period after the lifting of emergency restrictions;
- (e) generally, specify the conditions which apply to the area to control the biosecurity emergency.

(2) Regulations made under subsection (1) may –

- (a) confer on the Director and on biosecurity officers powers additional to those conferred by this Act and reasonably needed to deal with the emergency;
- (b) prescribe the measures to be adopted in respect of any item which is infected, infested or contaminated including its disposal, destruction, treatment;
- (c) require the cleansing or disinfecting of soil, conveyances, machinery, tools, equipment, clothing, footwear or other things which may have come into contact with infected, infested or contaminated items;
- (d) prescribe measures to be taken to prevent pests and diseases from spreading, including but not limited to cleansing of homes and utensils, removal of stagnant water and disposal of garbage;
- (e) prohibit or restrict the use of any seaport or airport, or any facilities at any seaport or airport, situated within a biosecurity emergency area, to the extent specified.

(3) Regulations made under subsection (1) may create offences for contravention of such regulations, and in respect of any such offence, provide for a penalty of a fine not exceeding ..... or imprisonment for a term not exceeding .....

**123.** In respect of action taken under Biosecurity Emergency Regulations made under section 121 –

Cost of treatment  
or destruction  
and  
compensation

- (a) the cost of treatment or destruction of any article is to be borne by the Government; and
- (b) the owner of any land, premises, conveyance or article that is used, lost, destroyed or damaged is entitled to compensation excluding for consequential loss.

## **PART X – BIOSECURITY EXPORT PROCEDURES**

**124.** (1) A regulated article or consignment of regulated articles intended for export to an importing country –

Requirement for  
biosecurity  
export clearance

- (a) for which the importing country requires a sanitary or phytosanitary certificate for importation of the article or consignment into that country; or
- (b) for which other biosecurity measures specified by the Director under section 128 are required to be taken in respect of the article or consignment before being exported to that country,

must have biosecurity export clearance for export to that country.

(2) A person who exports or attempts to export an article or consignment of articles that requires biosecurity export clearance without such clearance commits an offence.

**125.** (1) A person who intends to export an article or consignment of articles, which requires biosecurity export clearance for export to the importing country in accordance with section 124, must make an application for biosecurity export clearance of the article or consignment.

Application for  
biosecurity  
export clearance

(2) An application for biosecurity export clearance under subsection (1) must –

- (a) be made to a biosecurity officer, in the manner specified or approved by the Director;
- (b) specify the importing country;
- (c) specify the nature and quantity of the article or consignment; and
- (d) be accompanied by the prescribed fee, if any.

(3) An application for biosecurity export clearance of an article or consignment of articles under subsection (1), must be made sufficiently before the time the article or consignment arrives at a biosecurity point of departure so as to allow for processing of the application.

**126.** (1) Where an application for biosecurity export clearance is made under section 125 in respect of an article or consignment of articles, the Director must carry out or cause to be carried out appropriate inspection of, and apply appropriate biosecurity measures to, the article or consignment as required by the importing country or as required under section 128.

Inspection and application of biosecurity measures

(2) An inspection carried out in respect of an article or consignment of articles –

- (a) for which the importing country requires a sanitary or phytosanitary certificate for importation of the article or consignment into that country, should be carried out in accordance with procedures specified by that importing country;
- (b) for which biosecurity measures specified by the Director under section 128 are required to be taken in respect of the article or consignment before being exported, should be carried out in accordance with procedures specified or approved by the Director.

(3) A person making an application for biosecurity export clearance must submit the article or consignment in respect of which the application is made for inspection or other biosecurity measures as provided by subsection (1) failing which such clearance may be refused.

(4) An inspection under this section does not apply to baggage accompanying passengers or crew members.

**127.** (1) Where the issue of a sanitary or phytosanitary certificate is required by an importing country for importation of an article or consignment of articles into that country, if the Director is satisfied that the sanitary and phytosanitary certification requirements and other requirements and conditions of the importing country have been met, he may issue the appropriate certificate upon payment of the prescribed fee.

Issue of sanitary and phytosanitary certificates

(2) A sanitary and phytosanitary certification requirement of an importing country in respect of a regulated article must be entered in the biosecurity register.

(3) A sanitary and phytosanitary certification requirement entered in the biosecurity register –

- (a) if certified by or on behalf of the Director, is conclusive evidence of the requirement for the purposes of this Act; but
- (b) does not create any liability on the Government or the Director if relied on by an exporter to the exporter's detriment.

**128. (1)** The Director may specify biosecurity export requirements in respect of an outgoing animal, animal product, plant or plant product including sanitary and phytosanitary certification requirements and any biosecurity measures of the importing country that must be applied to the animal, animal product, plant or plant product, before export.

Biosecurity  
export  
requirements

(2) Biosecurity export requirements under subsection (1) may –

- (a) only be made, if required by an international agreement to which Seychelles and the importing country are party in respect of the movement of animals, animal products, plants or plant products, and must conform to any such agreement;
- (b) be changed at any time before biosecurity export clearance is granted, if there is a change in the relevant international obligations relating to the animal, animal product, plant or plant product:  
Provided that notice of such a change is given to intending exporters as soon as practicable but no liability arises from a failure to do so.

(3) Before making or changing a biosecurity export requirement under subsection (2(b)), the Director must obtain the advice of the Chief Veterinary Officer and Chief Plant Protection Officer.

(4) Biosecurity export requirements made under subsection (1), must be entered in the biosecurity register and made available to the public for inspection.

**129. (1)** Before granting biosecurity export clearance in respect of an article or consignment, a biosecurity officer must be satisfied –

Grant or refusal  
of biosecurity  
export clearance

- (a) that the sanitary and phytosanitary certification requirements of the importing country have been complied with;
- (b) that any biosecurity measures specified under section 128 in respect of an animal, animal product, plant or plant product have been applied;



(c) that the prescribed fee, if any, has been paid.

(2) If, after an application for biosecurity export clearance of an article or consignment of articles is made, a biosecurity officer is satisfied of the matters specified in paragraphs (a), (b) and (c) of subsection (1), that officer may grant such clearance.

(3) If an outgoing article that requires biosecurity export clearance is found to be infested with or infected or contaminated by a regulated pest or disease, biosecurity clearance must be refused in respect of it.

(4) A decision to grant or refuse an application for biosecurity export clearance made under section 125 must be communicated to the applicant as soon as reasonably practicable after the duly completed application is received and where such clearance is refused, the applicant must be notified in writing of the refusal with reasons for such refusal.

**130.** The Director may, on behalf of an exporter, make an application to the Government of an exporting country for market access with respect to any animal, animal product, plant, plant product or any other regulated article which is sought to be exported to the exporting country.

Market access  
application

## **PART XI – OFFENCES AND PENALTIES**

**131.** A biosecurity officer commits an offence if the officer -

Dereliction of  
duty by officers

- (a) fails without reasonable excuse to perform any of his or her duties under this Act;
- (b) disposes of a regulated article or other item under the control of the officer other than in accordance with this Act;
- (c) except for purposes of this Act, discloses information of a confidential or commercial nature which has come into the officer's knowledge while performing functions under this Act;
- (d) in the course of performing his or her duties willfully intimidates or unlawfully assaults any person;
- (e) in connection with his or her functions or duties solicits or accepts a gift or bribe; or
- (f) knowingly or recklessly makes a false or misleading statement, or issues a false or misleading certificate or other document, while purporting to perform his or her duties.

**132.** A person commits an offence if that person –

Obstruction, false information etc

- (a) willfully fails to comply with a lawful request made or direction given by a biosecurity officer under this Act;
- (b) knowingly obstructs a biosecurity officer in the performance of his or her functions under this Act;
- (c) assaults, or threatens to assault a biosecurity officer performing functions under this Act;
- (d) bribes a biosecurity officer in relation to the performance of that officer's functions under this Act;
- (e) makes a false or incomplete statement, whether orally or in writing, in relation to any matter under this Act, intending to mislead a biosecurity officer in the performance of functions under this Act;
- (f) knowingly or recklessly –
  - (i) makes a declaration required under this Act which is false or misleading ; or
  - (ii) issues a certificate required under this Act which is false or misleading;
- (g) knowingly or recklessly gives false or misleading information to a biosecurity officer while the officer is performing functions under this Act.

**133. (1)** A person to whom a permit or other document is issued under this Act commits an offence if that person –

Fraudulent use of official document

- (a) forges or unlawfully alters the document;
- (b) allows any other person to use or attempt to use the document for any purpose under this Act.

**(2)** A person who, for the purposes of this Act, produces a document which is false or misleading, knowing it to be so, and intending another person to rely on it, commits an offence.

(3) A person who uses or affixes an official stamp or seal required under this Act, without lawful authority and with intent to defraud or deceive, commits an offence.

**134.** (1) An individual who commits an offence under a section of this Act listed in column 3 of Schedule 2 is liable on conviction to the maximum penalties listed in columns 4 and 5 of that Schedule.

Penalties

(2) A court may impose on an individual any penalty for an offence up to the amount of fine or period of imprisonment or both such imprisonment and fine listed in respect of the offence.

(3) A body corporate that commits an offence is liable to a maximum fine of five times the maximum fine for the same offence if committed by an individual, as provided in Schedule 2.

(4) If a body corporate commits an offence under this Act, every person who is a board member or director or otherwise concerned in the management of the body also commits the offence as an individual, unless the person proves –

- (a) that the offence was committed without his or her consent or connivance; and
- (b) that he or she exercised reasonable diligence to prevent the commission of the offence, having regard to the nature of his or her functions in the body corporate and to all the circumstances.

**135.** (1) A court convicting a person of an offence under this Act may, in addition to any other penalty imposed, order that any article used in committing the offence, or, if the article has been sold, the proceeds of the sale, be confiscated.

Forfeiture

(2) An article or proceeds confiscated under subsection (1) are forfeited to the Republic and –

- (a) proceeds so forfeited must be paid into the Consolidated Fund;
- (b) an article so forfeited –
  - (i) may be sold and the proceeds of its sale paid into the Consolidated Fund; or
  - (ii) if it poses a biosecurity threat, must be destroyed as directed by the Director.

(3) For the purposes of subsection (1), “article used in committing the offence” includes equipment, a conveyance and any other movable thing owned by the offender which was used directly in the commission of the offence, but does not include land or buildings and fixtures on land.

(4) In deciding whether to order confiscation of any article or proceeds under this section, a court must have regard to the principle of proportionality.

**136.** (1) The Director, if he has reason to believe that a person has committed an offence under this Act for which a fixed penalty is provided in column 6 of Schedule 2, may offer the person an opportunity to discharge that person’s liability to conviction for that offence by paying the fixed penalty in accordance with subsection (3).

Fixed penalty

(2) If there are any goods liable to confiscation in connection with the alleged offence, the Director may, in addition, seek the consent of the alleged offender for the forfeiture of such goods to the Republic.

(3) The Director must give a notice to the alleged offender in the prescribed form which must -

- (a) contain particulars of the alleged offence;
- (b) state the maximum penalty that a court could impose;
- (c) state the fixed penalty that is proposed, the place where it is to be paid and the date by which it is to be paid;
- (d) give particulars of any goods liable to confiscation in connection with the alleged offence, and state that such goods will be forfeited to the Republic, sold and the proceeds thereof paid into the consolidated fund or if they pose a biosecurity threat, destroyed;
- (e) contain a statement that, if the alleged offender does not wish to have a complaint of the alleged offence heard and determined by a court –
  - (i) the amount of the fixed penalty specified in the notice may be paid to the Agency responsible for Biosecurity within the time specified in the notice; and
  - (ii) the alleged offender may consent to the forfeiture of any goods liable to confiscation within the time specified in the notice.

(4) Where a person is given a notice under this section in respect of an alleged offence -

- (a) no proceedings shall be instituted for that offence before the expiry of the time specified in the notice for payment of the fixed penalty;
- (b) the person shall not be convicted of that offence if the person pays the fixed penalty before the expiry the time specified in the notice for such payment and if in custody must be released.

(5) In any proceedings, a certificate purported to be signed by the Director, stating that the payment of a fixed penalty was or was not received by a date specified in the certificate, shall, without proof of signature, be evidence of the facts stated therein.

(6) Payment of a fixed penalty is not to be regarded as an admission of guilt for the purpose of any civil or criminal proceedings.

(7) The fixed penalty to which a body corporate is liable is 5 times the amount of the penalty for which an individual is liable for the same offence.

## **PART XII - MISCELLANEOUS PROVISIONS**

**137.** (1) An article may be treated as abandoned and disposed of under this section if -

Abandoned  
goods

- (a) any fee or charge payable by a person under this Act in respect of the article is not paid within 3 months of the notice of the fee or charge being served on the person;
- (b) the article is in a biosecurity holding area and is not removed from the area after biosecurity import clearance or biosecurity export clearance has been granted in respect of it, within a time specified in a notice served on the owner, importer or exporter of the article; or
- (c) the article is in biosecurity quarantine and is not removed from a biosecurity quarantine station or biosecurity approved premises after the end of the quarantine period in respect of it, within a time specified in a notice served on the owner or importer of the article.

(2) An article that has been abandoned may be destroyed, sold or otherwise disposed of in the manner prescribed by regulations under this Act, or, in the absence of regulations, in any manner the Director thinks fit that does not present a biosecurity risk.

(3) The cost of disposal of an abandoned article is a debt due to the Government by the person who was the owner of the article, and proceeds of any sale or disposal of an abandoned article revert to the Government.

**138.** (1) Except as otherwise provided in this Act, no compensation is payable for loss of or damage to any item as a result of any search, seizure, inspection, examination, sampling, testing, detention, treatment, quarantine or other biosecurity measure taken under this Act unless negligence or malice on the part of the person taking the measure is proved.

Compensation

(2) Compensation is not payable under this Act, or may be reduced proportionately, if the biosecurity measures that caused the loss or damage were occasioned by a willful or negligent act or omission of the person claiming compensation.

(3) If this Act provides for payment of compensation in any circumstances -

- (a) the compensation must be claimed in accordance with a prescribed procedure;
- (b) if the amount of the compensation is not agreed upon by the parties, it must be determined by the Minister in accordance with prescribed rates, not exceeding the market value of the item including consequential loss unless otherwise provided, reflecting contemporary costs; and
- (c) the compensation must be paid by Government.

(4) An appeal against a determination under subsection (3)(b) lies to the Supreme Court in accordance with section 139.

**139.** (1) A person who is aggrieved by a decision of a biosecurity officer under this Act made at a biosecurity point of entry or departure, in a biosecurity holding area or at a biosecurity quarantine station, may, within 24 hours of being notified of such decision, appeal to the officer's supervisor at that place, the Chief Veterinary Officer or the Chief Plant Protection Officer.

Appeals from decisions of biosecurity officers, Chief Veterinary Officer and Chief Plant Protection Officer

(2) A person who is aggrieved by -

- (a) any decision of a biosecurity officer other than a decision referred to in subsection (1); or
- (b) the decision of a supervisor, the Chief Veterinary Officer or the Chief Plant Protection Officer under subsection (1), on appeal,

may within 7 days of being notified of the decision, appeal in writing to the Director.

(3) The lodging of an appeal in respect of an article does not prevent biosecurity measures being taken in respect of the article to reduce or eliminate the biosecurity risk posed by the article, and section 141 applies to the taking of such measures.

(4) The person deciding an appeal must give the appellant and the respondent the opportunity to be heard, in writing or in person, and to produce evidence and call witnesses, and must give reasons for the decision on the appeal.

(5) If an appeal involves a technical issue, the person hearing the appeal must obtain the advice of the Chief Veterinary Officer or Chief Plant Protection Officer, not being the person whose decision is being appealed against.

**140.** (1) A person who is aggrieved by -

Appeals to  
Supreme Court

- (a) a decision of the Director, including a decision on an appeal under section 139(2);
- (b) a determination of the Minister made under section 138(3)(b),

may within 21 days of being notified of the decision or determination, appeal in writing to the Supreme Court.

(2) An appeal under this section shall be prosecuted in the manner provided by rules made by the Chief Justice.

(3) On appeal, the Supreme Court may –

- (a) affirm, reverse, amend, alter the decision or determination appealed against;
- (b) remit the matter to be further determined by the person who made the decision or determination appealed against, with the Court's opinion on the matter; or
- (c) make such orders as it thinks fit.

(4) Section 139(3) applies to an appeal under this section.

**141.** (1) Neither the Minister, the Director, any biosecurity officer or any other public officer is personally liable for action taken under this Act in good faith and without negligence.

Limitation of  
liability

(2) A breach of a duty imposed on the Minister, the Director, a biosecurity officer or any other public officer by this Act does not give rise to any civil liability except as provided by this Act.

**142.** (1) In any proceedings under this Act -

Evidence

- (a) a document purporting to have been issued by the Minister, Director, a biosecurity officer or other public officer for the purposes of this Act is presumed, until the contrary is proved, to have been duly executed or signed by that person;
- (b) a copy of or extract from a document issued by the Minister, Director, a biosecurity officer or other public officer, certified by the Director to be a true and correct copy or extract is, unless the contrary is proved -
  - (i) presumed to be a true and correct copy or extract; and
  - (ii) on its production in court, prima facie proof of any matter contained in it.

(2) In any proceedings under this Act -

- (a) a certificate, in a form approved by the Director, of the results of any test conducted on an article, by the person who conducted the test, may be tendered in evidence and is prima facie evidence of the facts stated in it;
- (b) a certificate of analysis of a sample of any article or thing may be tendered in evidence and is prima facie evidence of the facts stated in it if the procedure prescribed in relation to the taking and analysis of the sample has been substantially followed.

(3) Section 48 governs the evidential status of the biosecurity register and records kept under this Act.

**143.** Orders and notices under this Act must be published in the Gazette and unless otherwise provided, do not take effect until published in the Gazette.

Publication of  
orders and  
notices

**144.** (1) Unless otherwise provided and subject to subsection (2), a notice or other document required by this Act to be given or served must be effected -

Mode of service



- (a) by personal service on the person; or
- (b) by registered post to the address of the person given to the Director, in which case service is presumed to have been effected 2 days after posting.

(2) A notice required to be given by this Act may, where approved by the Director, be given electronically and a printed copy of an electronic record of a notice, given or received by electronic means is prima facie evidence of the notice if the record purports to have been made at the time of sending or receipt.

**145. (1)** The Minister may make regulations not inconsistent with this Act for the effective implementation of this Act and the performance of functions under this Act.

Regulations

(2) Without limiting subsection (1) or affecting any other regulation-making power in this Act, regulations made by the Minister may –

- (a) provide for protection of animals;
- (b) provide for protection of plants;
- (c) provide for the prevention of entry and establishment, control, spread and management of pests, diseases and Invasive Alien Species in Seychelles;
- (d) prescribe fees and charges for the biosecurity services provided by the agency responsible for biosecurity;
- (e) prescribe the method of taking and analyzing samples, recording the results and disposing of the samples;
- (f) prescribe the manner of disposal of abandoned goods under section 137;
- (g) prescribe the procedure for claiming compensation, and the rates payable, pursuant to section 138;
- (h) regulate the procedure on appeals under sections 139 and 140;
- (i) provide for the de-ratting of vessels, and the form of de-ratting certificate;
- (j) regulate the disposal of garbage so as to minimise any biosecurity risk;

- (k) provide for the electronic filing of declarations and applications required by this Act and the electronic keeping of registers;
- (l) prescribe the language of documents required by this Act;
- (m) prescribe the manner and language of markings on containers of incoming and outgoing regulated articles;
- (n) prescribe the methods of handling, sealing, treating and disposing of containers of regulated articles;
- (o) provide for the placing and use of amnesty bins or other containers for regulated articles at points of entry;
- (p) subject to the approval of the civil aviation and maritime authorities, require a video film about biosecurity to be shown on all aircraft and vessels arriving in Seychelles and carrying passengers;
- (q) require treatment to be applied in respect of a vessel or aircraft before it arrives in Seychelles;
- (r) prescribe additional measures, consistent with this Act, to implement Seychelles international standards and requirements relating to biosecurity;
- (s) prescribe documents and forms for use in connection with this Act, including the format of documents transmitted by electronic means;
- (t) prescribe the procedures for applying for and issuing permits and other documents;
- (u) provide for any matter relating to the passenger arrival biosecurity declaration under section 62 including the obligation of the master of a vessel or captain of an aircraft to ensure the distribution of such declarations and liability for failure to do so;
- (v) prescribe any other matter which this Act requires to be prescribed or which is necessary for carrying out or giving effect to this Act.

(3) The Minister, after consultation with the Director, may, by regulation, amend column 4, 5 or 6 of Schedule 2.

(4) Before making regulations under this section, the Minister must obtain the advice of the Director and the National Biosecurity Committee and consult other government ministries, departments, agencies and authorities, statutory bodies and authorities and organizations of the civil society and private sector, as appropriate.

(5) Regulations made under this section may create offences for breaches of such regulations and prescribe maximum penalties not exceeding a fine of ..... rupees or imprisonment for a term not exceeding ..... years.

(6) The matters to be prescribed under subsection (2)(s) and (t) must be entered in the biosecurity register, published in any operations manual provided to biosecurity officers pursuant to section 12(b) and made available to the public for inspection.

**146.** (1) The following Acts are repealed -

- (a) Animals (Diseases and Imports) Act;
- (b) Plant Protection Act

Repeals and savings

Cap 131

Cap 171A

(2) Statutory instruments repealed by subsection (1) that could be made under this Act except for any requirement for advice or consultation, continue in force as if made under this Act until amended, replaced or repealed under this Act, unless and to the extent that –

- (a) the matter is provided for in this Act;
- (b) the statutory instrument is inconsistent with the provisions of this or any other Act.

(3) Provisions of regulations made under the Acts repealed under subsection (1) dealing with the treatment of animals, animal products, plants and plant products on arrival in and before export from Seychelles –

- (a) are deemed to have been made by the Director as biosecurity import conditions under section 77 or biosecurity export requirements under section 128;
- (b) may be varied by the Director under those sections;
- (c) if included in a biosecurity register are governed by section 48 as to their evidential status.

**147.** (1) Permits equivalent to biosecurity import permits issued under any provision of the Acts repealed under subsection (1) remain in force until they expire in accordance with their terms, or until revoked in accordance with this Act.

Transitional provisions

(2) Delegations, directions, notices, agreements and other administrative actions or decisions issued or made under the Acts repealed under subsection (1) which could be issued or made by equivalent officers under this Act continue to have effect as if issued or made under this Act until varied or revoked under this Act.

(3) Any bond, agreement, instrument or arrangement to which the Government is a party subsisting immediately before the commencement of this Act and relating to the biosecurity functions of the Government continues to have effect after that date and is enforceable by or against the Government as if it had been entered into under the provisions of this Act.

(4) Subject to subsection (4), any action, arbitration, proceeding or cause of action that relates to a biosecurity function of the Government and that immediately before the commencement of this Act is pending or existing by, against or in favour of the Government, or to which the Government is a party, may be continued and enforced under the provisions of this Act.

**148.** (1) A reference in another Act to any of the Acts repealed under subsection (1) is, to the extent possible, to be read as a reference to this Act.

Consequential amendments

(2) A reference in another Act to an inspector, authorized officer, a quarantine officer, animal health inspector, veterinary officer, veterinary health officer, plant inspector plant protection officer or animal health officer under any of the repealed laws is to the extent possible, to be read as a reference to the Director or a biosecurity officer exercising equivalent functions under this Act.

**149.** (1) This Act is in addition to and does not derogate from any other Act and in particular, but without limiting this subsection –

Relationship with other Acts

- (a) the provisions of Part IV relating to biosecurity port quarantine of vessels and aircraft do not displace any provision of any other Act relating to quarantine of vessels and aircraft;
- (b) the requirements relating to imports in Part VI and exports in Part X do not displace any other statutory requirements relating to imports and exports, customs, trade in endangered species, biosafety, biodiversity or environmental Acts generally.

(2) To the extent of any inconsistency between this Act and any other Act, every other Act must so far as possible be construed so as to fulfill the purpose of this Act.

[Section 75]

**SCHEDULE 1****APPLICATION FOR IMPORT PERMIT****PART A****PART B**

[Sections 134 and 136]

**SCHEDULE 2****MAXIMUM PENALTIES AND FIXED PENALTIES**

Item	Section	Offence	Fine (SR)	Prison	FP(SR)
1.	7(3)(a)	Importation of prohibited pest or disease			
2.	7(3)(b)	Importation of regulated pest or disease in breach of conditions			
3.	7(3)(c)	Propagation of regulated pest or disease			
4.	8(3)	Failure to notify occurrence of notifiable pest or disease			
5.	8(5)	Failure of master or captain to notify occurrence of notifiable pest or disease etc.			
6.	27(3)(a)	Failure to surrender identification			
7.	27(3)(b)	Forging or altering of identification etc.			
8.	30(5)	Failure to make premises etc. available			
9.	32(5)	Refusal to unpack or break up consignment etc.			
10.	34(3)	Refusal to allow samples to be taken or provide samples			
11.	39(5)(a)	Refusal to answer questions			
12.	39(5)(b)	Refusal to submit to search			
13.	50(2)(a)	Entering port quarantine area without permission			
14.	50(2)(b)	Interference with port quarantine area etc.			
15.	51(2)	Removal of port quarantine notice			
16.	52(4)	Failure to make biosecurity arrival declaration			
17.	53(6)(a)	Failure to comply on arrival			
18.	53(6)(b)	Landing of cargo, crew etc without			

		landing clearance			
19.	53(7)	Crew or passenger unlawful landing			
20.	56(2)	Failure of master or captain to ensure conformity to port quarantine			
21.	60(1)(a)	Failure to secure animal			
22.	60(1)(b)	Failure to secure hatches			
23.	60(2)(a)	Discharge of garbage			
24.	60(2)(b)	Discharge of bilge water			
25.	60(2)(c)	Discharge of sewage or waste water			
26.	60(2)(d)	Discharge of ballast water			
27.	60(3)(a)	Failure to control garbage			
28.	60(3)(b)	Disposal of garbage in the sea			
29.	60(4)	Release of ships' stores			
30.	60(5)	Failure to comply with de-ratting requirements			
31.	61(2)(a)	Failure to allow search of vessel or aircraft			
32.	61(2)(b)	Failure to comply with request or direction			
33.	62(4)	Failure to make passenger arrival biosecurity declaration			
34.	63(3)	Failure to submit incoming baggage for inspection			
35.	64(2)	Failure to submit outgoing articles for inspection			
36.	65(6)(a)	Importation of prohibited regulated article			
37.	66(4)(a)	Importation except at point of entry			
38.	66(4)(b)	Exportation except at point of departure			
39.	67(2)(a)	Landing etc. except at point of entry			
40.	67(2)(b)	Depart except at point of departure			
41.	68(3)	Failure to keep points of entry or departure clean			
42.	73(4)(a)	Entering holding area without permission			
43.	73(4)(b)	Interference etc. with holding area			
44.	73(4)(c)	Removal of article from holding area without clearance			
45.	77(6)(a)	Importation without import permit			
46.	77(6)(b)	Importation in breach of conditions of import permit			
47.	82(2)	Failure of importer to make incoming article available for entry inspection			
48.	83(4)(a)	Failure of importer to allow import clearance inspection etc.			
49.	85(3)	Failure to surrender revoked import permit			
50.	90(4)(a)	Entering quarantine station without permission			
51.	90(4)(b)	Interference etc. with quarantine station			

52.	91(2)	Removal of quarantine notice			
53.	93(2)	Failure of importer to move article to quarantine			
54.	94(4)	Release of article from quarantine without quarantine release certificate			
55.	95(2)	Unlawful release of animal etc. subject to biosecurity control			
56.	97(3)	Refusal to cooperate with survey			
57.	107(4)	Movement of regulated articles etc. in breach of order declaring infested biosecurity controlled area			
58.	109(1)(a)	Contravention of order for biosecurity measures in infested biosecurity controlled area			
59.	109(1)(b)	Contravention of order for control of activity in infested biosecurity controlled area			
60.	112(3)	Contravention of order in respect of a pest-free biosecurity controlled area			
61.	119(4)	Breach of emergency directions			
62.	124(2)	Export without clearance			
63.	131	Dereliction of duty by officer			
64.	132	Obstruction etc. of an officer			
65.	133(1)	Forgery etc. of a document			
66.	133(2)	Producing false or misleading document			
67.	133(3)	Unlawful use of official stamp or seal			

Notes:

1. The fines and periods of imprisonment are the maximum for individuals.
2. If the offence is committed by a body corporate, the maximum fine is 5 times that for an individual
3. 'FP' means the fixed penalty for the offence under section 136. If no figure is shown, the fixed penalty option is not available. The FP for a body corporate is 5 times that shown.
4. The description of the offence in column 3 is for purposes of this Schedule only.