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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 shall be 5 times that for an individual.
3. 'FP' means the fixed penalty for the offence under section 129. If no figure is shown, the fixed penalty option is not available. The FP for a body corporate shall be 5 times that shown.
4. The description of the offence in column 3 is for purposes of this Schedule only.

I certify that this is a correct copy of the Bill which was passed by the National Assembly on 15th April, 2014.



Luisa Waye-Hive
Deputy Clerk

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46.	70(6)(b)	Importation in breach of conditions of import permit	50,000	3	5,000
47.	75(2)	Failure of importer to make incoming regulated article available for entry inspection	10,000	1	Na
48.	76(4)(a)	Failure of importer to allow import clearance inspection etc.	10,000	1	Na
49.	78(3)	Failure to surrender revoked import permit	10,000	1	1000
50.	83(4)(a)	Entering quarantine station without permission	50,000	3	5000
51.	83(4)(b)	Interference etc. with quarantine station	50,000	3	5000
52.	84(2)	Removal of quarantine notice	50,000	3	5000
53.	86(2)	Failure of importer to move regulated article to quarantine	20,000	2	2,000
54.	87(4)	Release of regulated article from quarantine without quarantine release certificate	50,000	3	5000
55.	88(2)	Unlawful release of animal etc. subject to biosecurity control	50,000	3	5000
56.	90(3)	Refusal to cooperate with survey	10,000	1	Na
57.	100(3)	Movement of regulated articles etc. in breach of order declaring infested biosecurity controlled area	50,000	3	5000
58.	102(1)(a)	Contravention of order for biosecurity measures in infested biosecurity controlled area	50,000	3	5000
59.	102(1)(b)	Contravention of order for control of activity in infested biosecurity controlled area	50,000	3	5000
60.	105(3)	Contravention of order in respect of a pestfree biosecurity controlled area	50,000	3	5000
61.	112(4)	Breach of emergency directions	50,000	3	5000
62.	117(2)	Export without clearance	10,000	1	1000
63.	124	Dereliction of duty by officer	n/a		5,000
64.	125	Obstruction etc. of an officer	50,000	3	5,000
65.	126(1)	Forgery etc. of a document	25,000	2	2,000
66.	126(2)	Producing false or misleading document	25,000	2	2,000
67.	126(3)	Unlawful use of official stamp or seal	25,000	2	2,000

20.	49(2)	Failure of master or captain to ensure conformity to port quarantine	50,000	3	5,000
21.	53(1)(a)	Failure to secure animal	50,000	3	5,000
22.	53(1)(b)	Failure to secure hatches	50,000	3	5,000
23.	53(2)(a)	Discharge of garbage	50,000	3	5,000
24.	53(2)(b)	Discharge of bilge water	50,000	3	5,000
25.	53(2)(c)	Discharge of sewage or waste water	50,000	3	5,000
26.	53(2)(d)	Discharge of ballast water	50,000	3	5,000
27.	53(3)(a)	Failure to control garbage	50,000	3	5,000
28.	53(3)(b)	Disposal of garbage in the sea	50,000	3	5,000
29.	53(4)	Release of ships' stores	50,000	3	5,000
30.	53(5)	Failure to comply with deratting requirements	50,000	3	5,000
31.	54(2)(a)	Failure to allow search of vessel or aircraft	20,000	3	5000
32.	54(2)(b)	Failure to comply with request or direction	20,000	3	5000
33.	55(4)	Failure to make passenger arrival biosecurity declaration	10,000	1	1000
34.	56(3)	Failure to submit incoming baggage for inspection	10,000	1	1000
35.	57(2)	Failure to submit outgoing regulated articles for inspection	10,000	1	1000
36.	58(6)(a)	Importation of prohibited regulated article	50,000	3	5000
37.	59(4)(a)	Importation except at point of entry	50,000	3	5000
38.	59(4)(b)	Exportation except at point of departure	50,000	3	5000
39.	60(2)(a)	Landing etc. except at point of entry	50,000	3	5000
40.	60(2)(b)	Depart except at point of departure	50,000	3	5000
41.	61(3)	Failure to keep points of entry or departure clean	50,000	3	5000
42.	66(4)(a)	Entering holding area without permission	50,000	3	5000
43.	66(4)(b)	Interference etc. with holding area	50,000	3	5000
44.	66(4)(c)	Removal of regulated article from holding area without clearance	50,000	3	5000
45.	70(6)(a)	Importation without import permit	100,000	5	20,000

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[Sections 127 and 129]

SCHEDULE**MAXIMUM PENALTIES AND FIXED PENALTIES**

Item	Section	Offence	Fine (SCR)	Imprisonment (years)	FP(SCR)
1.	20(3)(a)	Importation of prohibited pest or disease	100,000	5	20,000
2.	20(3)(b)	Importation of regulated pest or disease in breach of conditions	100,000	5	20,000
3.	20(3)(c)	Propagation of regulated pest or disease	20,000	3	Na
4.	21(4)	Failure to notify occurrence of notifiable pest or disease	5,000	6 months	Na
5.	21(6)	Failure of master or captain to notify occurrence of notifiable pest or disease etc.	100,000	5	20,000
6.	28(3)(a)	Failure to surrender identification	10,000	1	500
7.	28(3)(b)	Forging or altering of identification etc.	25,000	2	2,000
8.	31(5)	Failure to make premises etc. available	20,000	2	2,000
9.	33(4)(a)	Refusal to unpack or break up consignment etc.	10,000	1	Na
10.	35(3)	Refusal to allow samples to be taken or provide samples	10,000	1	Na
11.	40(5)(a)	Refusal to answer questions	10,000	1	Na
12.	40(5)(b)	Refusal to submit to search	10,000	1	Na
13.	43(2)(a)	Entering port quarantine area without permission	50,000	3	5,000
14.	43(2)(b)	Interference with port quarantine area etc.	50,000	3	5,000
15.	44(2)	Removal of port quarantine notice	50,000	3	5,000
16.	45(4)	Failure to make biosecurity arrival declaration	10,000	1	1,000
17.	46(6)(a)	Failure to comply on arrival	10,000	1	1,000
18.	46(6)(b)	Landing of cargo, crew etc without landing clearance	50,000	3	5,000
19.	46(7)	Crew or passenger unlawful landing	50,000	3	5,000

Consequential
amendments

140.(1) A reference in another Act to any of the Acts repealed under subsection (1) of section 138, shall to the extent possible, be read as a reference to this Act.

(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 Acts repealed under subsection (1) of section 138 shall to the extent possible, be read as a reference to the Agency, Director or a biosecurity officer exercising equivalent functions under this Act.

Relationship
with other
Acts

141.(1) This Act is in addition to and does not derogate from any other Act and in particular, but without limiting this subsection—

- (a) the provisions of Part IV relating to biosecurity port quarantine of vessels and aircraft shall 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 shall 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 shall so far as possible be construed so as to fulfill the purpose of this Act.



ANIMAL AND PLANT BIOSECURITY ACT, 2014

(Act 10 of 2014)

I assent

J. A. Michel
President

25th April, 2014



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 matters connected therewith and incidental thereto.

ENACTED by the President and the National Assembly.

PART I - PRELIMINARY

1. This Act may be cited as the Animal and Plant Biosecurity Act, 2014 and shall come into operation on such date as the Minister may by notice published in the *Gazette*, appoint.

Short title and
commencement

2. In this Act —

“Agency” means the authority designated by the President under section 4, to be the agency responsible for biosecurity;

“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;

- (a) are deemed to have been made by the Director as biosecurity import conditions under section 70 or biosecurity export requirements specified by the Agency under section 121;
- (b) may be varied by the Director or Agency under those sections;
- (c) if included in a biosecurity register are governed by section 23 as to their evidential value.

139.(1) Permits equivalent to biosecurity import permits issued under any provision of the Acts repealed under subsection (1) of section 138 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) of section 138 which could be issued or made by officers exercising equivalent functions 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) 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.

Agreement on the Application of Sanitary and Phytosanitary Measures and any other applicable international or regional standard.

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

(7) The matters to be prescribed under subsection (2)(s) and (t) shall be entered in the biosecurity register, published in any operations manual provided to biosecurity officers pursuant to section 6 (1)(b) and made available to the public for inspection.

Repeals and
savings

Act 19 of 1981

Cap 171A

S.I. 88 of 2011

138.(1) The following Acts and Order are repealed —

- (a) Animals (Diseases and Imports) Act;
- (b) Plant Protection Act;
- (c) Plant Protection and Veterinary Services (Biosecurity) Function Order.

(2) Statutory instruments made under the Acts 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 or any statutory instruments made thereunder;
- (b) the statutory instrument is inconsistent with the provisions of this or any other Act.

(3) Provisions of statutory instruments 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 —

(d) any product or biological preparation derived from any animal tissue or animal secretion;

“Appeals Board” means the Board established under section 132;

“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;

“beneficial organism” means any organism including fungi, material, virus like organisms or invertebrate animals and commercially produced biological agents which are utilized specifically for control of a pest, disease or invasive alien species, for pollination, for production of commercially valuable products or for other purposes beneficial to agriculture production or environment protection;

“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 10;

“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 67 as the agent of the importer or exporter for the purposes of this Act to supervise the biosecurity clearance of any regulated article;

“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 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 100 or a pest-free biosecurity controlled area declared under section 104;

“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 under section 108 in response to a biosecurity emergency;

and the implementation of requirements relating to biosecurity.

- (s) specify documents, notices and forms for use in connection with this Act, including the format of documents transmitted by electronic means;
- (t) specify 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 55 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) specify any other matter which this Act requires to be prescribed or which is necessary for carrying out or giving effect to this Act;
- (w) make provision in respect of regulated pests and diseases declared under section 20 where this is necessary to protect plant and animal life and health in Seychelles.

(3) The Minister, after consultation with the Agency, may, by regulation, amend the Schedule.

(4) Before making regulations under this section, the Minister shall obtain the advice of the Agency and the National Biosecurity Committee.

(5) In making regulations under subsection (2)(w), account shall be taken of the World Trade Organisation

- this Act and the electronic keeping of registers;
- (l) specify the language of documents required by this Act;
 - (m) specify the manner and language of markings on containers of incoming and outgoing regulated articles;
 - (n) specify 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) provide for, in compliance with Seychelles' obligations under any bilateral or multilateral agreement and consistent with this Act—
 - (i) any matter required to be prescribed or provided for under such agreement;
 - (ii) any measures in addition to those provided for under this Act, for the application of international standards

“biosecurity entry clearance” means the permission granted under section 56 to a passenger or crew member and their baggage to leave a biosecurity point of entry;

“biosecurity entry inspection” means an inspection of an incoming article or consignment of articles pursuant to section 75;

“biosecurity export clearance” means the permission granted under section 122 for the export of an article or consignment;

“biosecurity export inspection” means inspection of an outgoing article pursuant to section 119;

“biosecurity export requirements” means requirements specified under section 121;

“biosecurity goods holding area” means an area of land at or adjacent to a seaport or airport, designated under section 63 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” means the permission granted under section 77 for the removal of a regulated article or consignment from a biosecurity holding area;

“biosecurity import clearance inspection” means the inspection of an incoming article pursuant to section 76;

“biosecurity import conditions” in relation to an regulated article means —

- (a) the requirement for and conditions attached to a biosecurity import permit for the regulated article under section 70(1)(a);
- (b) the requirements for the issue of any sanitary or phytosanitary certificate relating to the regulated article under section 70(1)(b);
- (c) any other biosecurity measures specified under section 70(1)(c);

“biosecurity import permit” means a biosecurity import permit issued under section 69;

“biosecurity inspection” means an inspection to ascertain whether the incoming or outgoing 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 46;

“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 regulated article;

(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 within the scope of this Act;
- (b) provide for protection of plants within the scope of this Act;
- (c) provide for the prevention of entry and establishment, control, spread and management of pests, diseases and invasive alien species in Seychelles;
- (d) specify fees and charges for the biosecurity services provided by the Agency;
- (e) specify the method of taking and analyzing samples, recording the results and disposing of the samples;
- (f) specify the manner of disposal of abandoned goods under section 130;
- (g) specify the procedure for claiming compensation, and the rates payable, pursuant to section 131;
- (h) regulate the procedure on review and appeal under section 133;
- (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

- (a) a certificate, in a form approved by the Agency of the results of any test conducted on a regulated 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 regulated 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 24 shall govern the evidential status of the biosecurity register and records kept under this Act.

Mode of
service

136.(1) Subject to subsection (2), a notice or other document required by this Act to be given or served shall be effected —

- (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 two 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 shall be prima facie evidence of the giving of the notice if the record purports to have been made at the time of sending or receipt of such notice.

Regulations

137.(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.

“biosecurity officer” means —

- (a) the Chief Plant Protection Officer;
- (b) the Chief Veterinary Officer;
- (c) any person designated as a biosecurity officer under section 26;
- (d) in respect of any particular function, a biosecurity officer to whom the function has been assigned;

“biosecurity point of departure” means a seaport, airport or mail exchange designated under section 59 for the export of regulated articles;

“biosecurity point of entry” means a seaport, airport or mail exchange designated under section 59 for the import of regulated articles or a place deemed to be a biosecurity point of entry under section 60(4);

“biosecurity port holding area” means an area designated under section 62 for the biosecurity inspection of incoming vessels or aircraft;

“biosecurity port quarantine” means quarantine of a vessel or aircraft under section 47 in a biosecurity port quarantine area;

“biosecurity port quarantine area” means an area designated under section 42 for the quarantine of vessels and aircraft;

“biosecurity port quarantine clearance” means permission granted under section 51 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 64 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 regulated 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 80 for the performance of biosecurity quarantine, and includes a temporary biosecurity quarantine station;

“biosecurity register” means the register kept by the Director under section 23;

“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;

- (b) varying the decision;
- (c) quashing the decision;
- (d) ordering to reconsider the Director's decision.

(5) The Appeals Board shall not vary any decision taken on technical issues by the Director.

134.(1) The Minister, the Agency, the Director, any biosecurity officer or any other public officer shall not be criminally or civilly liable for an act done or omission made in good faith in exercise of a power and in the performance of a function under this Act.

Limitation
of liability

135.(1) In any proceedings under this Act —

Evidence

- (a) a document purporting to have been issued by the Minister, Agency, 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, Agency, 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 before a court, prima facie proof of any matter contained in it.

(2) In any proceedings under this Act —

(4) The Chairperson and other members of the Appeals Board shall hold office for three years and are eligible for reappointment.

(5) The President may at any time terminate the appointment of a member who has been found guilty of—

- (a) any misconduct, default or breach of trust in the discharge of that member's duties; or
- (b) an offence of such a nature as renders it desirable that the member's appointment be terminated.

(6) The Appeals Board shall regulate its own proceedings.

(7) The Appeals Board may appoint as advisor for a specific appeal a person whose specialised knowledge or experience is such that the person is able to assist the Appeals Board in its deliberations.

133.(1) A person dissatisfied by the decision of a biosecurity officer may apply for review of the decision to the Director in such manner as may be prescribed.

(2) A person aggrieved by the decision of the Director under subsection (1) or any other decision of the Director under the Act may appeal to the Appeals Board.

(3) An appeal under subsection (2) may be filed in such manner as may be prescribed.

(4) The Appeals Board may, where it entertains an appeal, decide the appeal by—

- (a) confirming the decision of the Director;

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

“Chief Plant Protection Officer” means a person appointed as such under section 25(1)(a);

“Chief Veterinary Officer” means a person appointed as such under section 25(1)(b);

“compliance agreement” means an agreement provided for in section 7;

“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” means the country that issues a sanitary or phytosanitary certificate for a regulated 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;

“Director” means the Director of Biosecurity appointed under section 18;

“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” in relation to a pest or disease, means the application of measures to eliminate the 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;

payable, if it has been provided, may be recovered as a debt owing to the Agency; and

- (c) 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.

131.(1) Except as otherwise provided in this Act, no compensation shall be 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.

Compensation

(2) Where this Act provides for payment of compensation in any circumstances —

- (a) the compensation shall be claimed in accordance with the prescribed procedure.
- (b) the compensation shall be paid by Government.

132.(1) There shall be established an Appeals Board.

Establishment
of Appeals
Board

(2) The Appeals Board shall consist of the following members appointed by the President —

- (a) a Chairperson;
- (b) a representative of the Attorney General;
- (c) a person having technical competence relevant to the functions of the Act.

(3) The President shall appoint the Chairperson and members of the Appeals Board on such terms and conditions as the President may determine and the appointments shall be published in the Gazette.

- (a) any fee or charge payable by a person under this Act in respect of the regulated article is not paid within 3 months of the notice of the fee or charge being served on the person;
- (b) the regulated 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 regulated article; or
- (c) the regulated 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 regulated article.

(2) A regulated article that has been abandoned may be destroyed, sold or otherwise disposed of in the manner prescribed under this Act.

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

(4) Where 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

“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 a regulated article being or proposed to be exported and excludes a transit country;

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

“infested”, means an item or area where a living pest or disease is present;

“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;

“in transit”, means the stage where 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;

(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 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 shall 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 shall 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 shall be five times the amount of the penalty for which an individual is liable for the same offence.

PART XII - MISCELLANEOUS PROVISIONS

130.(1) A regulated article may be treated as abandoned and disposed of under this section if —

Abandoned
goods

Director may offer the person an opportunity to discharge his or her liability to conviction for that offence by paying the fixed penalty in accordance with subsection (3).

(2) Where 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 shall give a notice to the alleged offender in the prescribed form which shall —

- (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 if the alleged offender consents, 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 Registrar of the Supreme Court or any other person authorised by the Registrar within the time specified in the notice; and

“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;

“invasive alien species” means a species, subspecies or lower taxon, including any part, gametes, seeds, eggs, or propagules of such species that might survive and subsequently reproduce, whose introduction and/or spread outside its natural past or present distribution threaten biological diversity.

“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 under section 16;

“notifiable pest or disease” means a pest or disease declared under section 21.

“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 let for rent, means the person who is receiving the rent of the land whether on his or her own account or as agent or representative for any other person, or who would so receive the 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

- (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.

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

Forfeiture

(2) A regulated article or proceeds confiscated under subsection (1) shall be forfeited to the Republic and —

- (a) proceeds so forfeited shall be paid into the Consolidated Fund;
- (b) a regulated 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, shall be destroyed as directed by the Director.

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

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

129.(1) Where the Director, 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 the Schedule, the

Fixed penalty

Fraudulent
use of
official
document

126.(1) A person to whom a permit or other document is given or issued under this Act commits an offence if that person —

- (a) forges or unlawfully alters the permit or document;
- (b) allows any other person to use or attempt to use the permit or 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.

Penalties

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

(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 shall be liable to a fine of five times the fine for the same offence if committed by an individual, as provided in the Schedule.

(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

strength of any biosecurity measures to be taken against it;

“phytosanitary certificate” means —

- (a) 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; and
- (b) where Seychelles is the country of origin or re-exporting country, a certificate issued under section 120;

“plant” 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 immoveable property, other than land;

“prescribed” means prescribed by regulations made under the Act;

“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 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 regulated 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 38;

“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” means —

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

125. A person commits an offence if that person —

- (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.

Obstruction,
false
information
etc

Market
access
application

123. 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.

PART XI - OFFENCES AND PENALTIES

Dereliction
of duty by
officers

124. A biosecurity officer commits an offence if the officer —

- (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.

- (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 adhere to anything mentioned in paragraph (a), (b), (c) or (d);
- (j) garbage;
- (k) any invasive alien species;
- (l) any other article, goods, substance, product or thing prescribed under section 19;

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

- (a) the importation into Seychelles of which is prohibited or restricted by the regulations issued under section 20;
- (b) which is a quarantine pest or disease;

“sanitary certificate” means —

- (a) 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; and

- (b) where Seychelles is the country of origin or re-exporting country, a certificate issued under section 120;

“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;

Provided that notice of such a change shall be given to intending exporters as soon as practicable.

(3) The Agency shall obtain the advice of the Chief Veterinary Officer or Chief Plant Protection Officer as appropriate before making a biosecurity export requirement under subsection (1) or changing it under subsection (2(b)).

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

122.(1) Where a biosecurity export clearance in respect of a regulated article or consignment of regulated articles is granted, a biosecurity officer shall 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 biosecurity measures specified under section 119 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) Where an outgoing regulated article that requires biosecurity export clearance is found to be infested with or infected or contaminated by a regulated pest or disease, biosecurity clearance shall be refused.

(3) A decision to grant or refuse an application for biosecurity export clearance made under section 118 shall 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 shall be notified in writing of the refusal with reasons for such refusal.

(3) A sanitary or phytosanitary certification requirement of an importing country in respect of a regulated article shall be entered in the biosecurity register.

(4) A sanitary or 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, Agency or the Director if relied on by an exporter to the exporter's detriment.

Biosecurity
export
requirements

121.(1) The Agency may specify biosecurity export requirements in respect of an outgoing animal, animal product, plant or plant product or any other regulated article including sanitary and phytosanitary certification requirements and any biosecurity measures of the importing country that shall be applied to the animal, animal product, plant or plant product or any other regulated article, before export.

(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 or any other regulated article 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 or any other regulated article:

“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 motorised 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 —

Application
of Act

- (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.

(2) This Act binds the Republic.

PART II - AGENCY RESPONSIBLE FOR BIOSECURITY, NATIONAL BIOSECURITY COMMITTEE, DIRECTOR- FUNCTIONS, DUTIES AND RESPONSIBILITIES

4.(1) The President 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 shall be responsible for the implementation and enforcement of this Act.

Functions
of Agency

5.(1) The functions of the Agency shall be—

- (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;

- (a) for which the importing country requires a sanitary or phytosanitary certificate for importation of the regulated article or consignment of regulated articles into that country, shall be carried out in accordance with procedures specified by that importing country;
- (b) for which biosecurity measures specified by the Agency under section 121 are required to be taken in respect of the regulated article or consignment of regulated articles before being exported, shall be carried out in accordance with procedures specified or approved by the Agency.

(3) A person making an application for biosecurity export clearance shall submit the regulated article or consignment of regulated articles 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 shall not apply to baggage accompanying passengers or crew members.

120.(1) Where the issue of a sanitary or phytosanitary certificate is required by an importing country for importation of a regulated article or consignment of regulated articles into that country, and 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 or phytosanitary certificate issued under subsection (1) shall be in a form approved by the Agency based on the requirements of the importing country.

Application
for
biosecurity
export
clearance

118.(1) A person who intends to export regulated article or consignment of regulated articles, which requires biosecurity export clearance for export to the importing country in accordance with section 117, may make an application for biosecurity export clearance of the regulated article or consignment of regulated articles.

(2) An application for biosecurity export clearance under subsection (1) shall —

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

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

Inspection
and
application of
biosecurity
measures

119.(1) Where an application for biosecurity export clearance is made under section 118 in respect of a regulated article or consignment of regulated articles, the biosecurity officer shall carry out or cause to be carried out appropriate inspection of, and apply appropriate biosecurity measures to, the regulated article or consignment of regulated articles as required by the importing country or as required under section 121.

(2) An inspection in respect of a regulated article or consignment of regulated articles —

- (i) to participate on the Sanitary and Phytosanitary Committee, Technical Barriers to Trade Committee as well as other national and international standard setting bodies; and
- (j) to perform any other functions as directed by the Minister.

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

6.(1) The Agency shall —

- (a) in consultation with other relevant government Ministries, departments, agencies or authorities, and statutory bodies 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) frame an operations manual for the guidance of biosecurity officers;
- (c) publicise the requirements of this Act and increase public awareness of the importance of biosecurity.

Biosecurity
Emergency
Response
Plan,
operational
manual etc.

(2) The Biosecurity Emergency Response Plan referred to in subsection (1)(a) shall —

- (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.

Compliance
agreements

7.(1) The Agency may enter into a written compliance agreement with any person including an importer, exporter or producer in connection with —

- (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 Agency 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 regulated article.

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

8.(1) The Agency may enter into 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 —

- (a) carry out surveillance of pests and diseases for the purposes of this Act;
- (b) propose pest and disease management strategies to the Agency;

any such offence, provide for a penalty of a fine not exceeding SCR50,000 or imprisonment for a term not exceeding 2 years or both such fine and imprisonment.

116. Where an action is taken under Biosecurity Emergency Regulations made under section 114 —

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

Cost of
treatment or
destruction
and
compensation

PART X - BIOSECURITY EXPORT PROCEDURES

117.(1) A regulated article or consignment of regulated articles intended for export to an importing country —

- (a) for which the importing country requires a sanitary or phytosanitary certificate for importation of the regulated article or consignment into that country; or
- (b) for which other biosecurity measures specified by the Agency under section 121 are required to be taken in respect of the regulated article or consignment before being exported to that country,

Requirement
for biosecurity
export
clearance

shall have biosecurity export clearance for export to that country.

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

- (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 required 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 and 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

- (c) if a pest and disease management strategy proposed by the owner or administrator of the island has been approved by the Agency —
 - (i) perform the functions of the Agency under the strategy;
 - (ii) provide for the management or eradication of pests and diseases in accordance with the strategy; and
 - (iii) with the approval of the Agency, review, extend or revoke the strategy;
- (d) advise the Agency on the need for and the nature of, appropriate controls in a biosecurity controlled area;
- (e) assist the Agency in making an appropriate response to a biosecurity emergency; and
- (f) generally, assist the Agency in any action needed under Part VIII in respect of the island or area.

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

(3) The Agency 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 organisations, in Seychelles.

Outsourcing

9.(1) The Agency may —

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

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

(3) The Minister may prescribe the procedure for approval of laboratories for testing of samples, qualification of consultants to perform biosecurity risk assessment and surveys, hiring of qualified persons to carry out any treatment or other services under the Act.

Biosecurity approved premises

10.(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 —

- (a) approve the premises where the inspection, testing and treatment of regulated articles can take place; and
- (b) approve specified action 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 shall be inspected by a biosecurity officer; and

113.(1) The cost of treatment or destruction of any regulated article under section 112(3) and (5) shall be borne by the government.

Cost of treatment or destruction and compensation

(2) The owner of any land, premises, conveyance or regulated article that is used, lost, destroyed or damaged as a result of any action taken under section 112 shall be entitled to compensation excluding for consequential loss.

114.(1) The Minister may, on the advice of the Agency, make regulations in respect of a biosecurity emergency declared under section 108.

Biosecurity emergency regulations

(2) Regulations made under subsection (1) shall —

- (a) come into force on the day on which a biosecurity emergency declaration under section 108 is published in the Gazette;
- (b) lapse upon the revocation or expiry of the declaration or any extension of such declaration;
- (c) come into force again if a further declaration is made under section 108.

115.(1) Regulations made under section 114 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;

- (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 regulated 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) Regulated 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.

(b) the Director shall 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 therein are adequate to enable to take such action efficiently and safely;
- (iii) whether the location of the premises is appropriate having regard to the nature of the regulated 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 the compliance of this Act in the premises; and
- (v) any other matter the Director considers relevant.

(3) An approval granted under this section —

- (a) may be subject to conditions stated in the approval and is of no effect if the conditions are not met;
- (b) may be for a period not exceeding 12 months but may be renewed by following the procedure for approval under subsections (1) and (2);
- (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.

International
cooperation

11.(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.

(2) Pursuant to agreements concluded under subsection (1), the Agency—

- (a) may exchange information with other countries and international organisations;
- (b) may contribute to the development of international sanitary and phytosanitary standards; and
- (c) shall ensure that Seychelles complies with its obligations under these agreements.

Funds of the
Agency

12.(1) The Agency shall have separate funds for the purpose of this Act, which shall be administered in the same manner and in accordance with the same procedure applicable to funds of the public service from which all payments by the Agency shall be made.

(2) The funds of the Agency for the purpose of this Act shall consist of—

- (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

(2) Where on an application made to a Magistrate, for a warrant authorising a biosecurity officer to enter and search a dwelling house, the Magistrate is satisfied on affidavit 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.

(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;

meet the costs of a response to a biosecurity emergency in respect of which a declaration has been made under section 108.

Powers in
relation to a
biosecurity
emergency
area

112.(1) Where a biosecurity emergency area is declared under section 108 —

- (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, request any conveyance or equipment which is reasonably considered necessary or useful for preventing, eradicating or limiting the spread of a pest or disease, for that purpose;
- (c) the Agency 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;
 - (iii) on a warrant issued under subsection (2), enter and search a dwelling house.

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;
- (3) The Minister may —
- (a) establish a Contingencies Fund and may authorise payment from that Fund to the Agency 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.

(4) Any fine payable under this Act shall be paid into the Consolidated Fund.

13.(1) The Agency shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in the form and in the manner approved by the Auditor General.

(2) The accounts of the Agency shall be audited by the Auditor General in accordance with Article 158 of the Constitution.

Annual
financial
statement

(3) The Agency shall prepare, in each financial year an annual financial statement for the next financial year showing separately —

- (a) the expenditure which is proposed to be met from the internal sources for the Agency; and
- (b) the sum required from the Government to meet other expenses distinguishing revenue expenditure from other expenditure.

Statement
of accounts

14. Where the accounts and statement of accounts of the Agency in respect of any financial year have been audited, the Agency shall furnish to the Minister a statement of accounts or on the accounts of the Agency.

Annual
Report

15. The Agency shall prepare once every calendar year in such form and within such time as may be prescribed, an annual report giving account of its activities during the previous year and forward copies together with the audited statement of accounts to the Minister and the Minister shall cause the report to be tabled before the National Assembly.

Establishment
and
constitution
of National
Biosecurity
Committee

16.(1) There is established the National Biosecurity Committee.

(2) The National Biosecurity Committee shall consist of—

- (a) a representative of the Ministry of Foreign Affairs;
- (b) a representative of the Ministry responsible for natural resources;
- (c) a representative of the agency responsible for Agriculture;

- (b) extended on or before that date, by notice published in the Gazette by the Minister on the advice of the Chief Veterinary Officer, Chief Plant Protection Officer, Agency, Director, and where the Minister considers necessary after consulting the National Biosecurity Committee and the National Disaster Committee, but an extension under this paragraph shall not be for more than 6 months from the date on which such extension begins, unless the declaration is further extended in the same manner, before the end of that period.

111.(1) Where a biosecurity emergency area is declared under section 108, the Director shall undertake a detailed survey, using the powers in section 89 and 90, to ascertain the precise extent and severity of the incursion or other biosecurity threat which give rise to the declaration, and determine the most appropriate measures to be taken in response.

Response to
biosecurity
emergency

(2) In deciding which appropriate measure is to be taken in response to a biosecurity emergency in respect of which a declaration has been made under section 108, the Director—

- (a) shall be guided by the Biosecurity Emergency Response Plan devised under section 6(1)(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 authorise payment of funds from the contingencies fund established under section 12(3) to

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

PART IX - BIOSECURITY EMERGENCIES

Declaration
of
biosecurity
emergency
area

108.(1) The Minister may, if satisfied that a biosecurity emergency has arisen in the whole or any part of Seychelles, by notice published in the *Gazette*, declare the whole of, or that part of Seychelles in which the emergency has arisen, a biosecurity emergency area.

(2) The Minister shall seek the advice from the Agency, Chief Veterinary Officer, Chief Plant Protection Officer and the National Biosecurity Committee before taking action under subsection (1).

(3) 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.

Display of
notice of
declaration

109. The notice of declaration of a biosecurity emergency area under section 108 shall be displayed in a conspicuous manner, throughout the area and in the notice board.

Revocation
and expiry
of
declaration

110.(1) A declaration of a biosecurity emergency area under section 108 shall be revoked as soon as the incursion or other biosecurity threat giving rise to the declaration is removed or reduced to an acceptable level.

(2) A declaration of a biosecurity emergency area under section 108 expires 12 months after it comes into force unless—

- (a) revoked in accordance with subsection (1); or

- (d) a representative of the Ministry responsible for International trade and investment;
- (e) a representative of the authority responsible for customs;
- (f) a representative of the authority responsible for civil aviation;
- (g) a representative of the authority responsible for sea ports;
- (h) a representative of the authority responsible for fisheries;
- (i) a representative of the authority responsible for national parks;
- (j) a representative of the authority responsible for tourism;
- (k) a representative from Seychelles Bureau of Standards;
- (l) a representative of the authority responsible for outer islands;
- (m) a representative from the Seychelles Island Foundation;
- (n) a representative of the authority responsible for public health;
- (o) a representative of the organisation responsible for plant and animal biosecurity;
- (p) a representative of the Department of Environment;

(q) a representative of an organisation representing the interests of farmers in Seychelles; and

(r) a representative of the civil society.

(3) The members of the National Biosecurity Committee shall have the technical competence relevant to the functions of the Committee.

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

(5) The National Biosecurity Committee shall regulate its own proceedings.

Functions of
National
Biosecurity
Committee

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

(2) The National Biosecurity Committee may, if necessary, obtain appropriate scientific advice from the technically competent persons before advising the Agency or the Director.

Director of
biosecurity

18.(1) The President may appoint a person who is suitably qualified and experienced to be Director of Biosecurity and such appointment shall be published in the *Gazette*.

(2) The Director shall be the head of the Agency for the purposes of this Act.

(3) The President may appoint a suitably qualified public officer to act in the office of the Director, during —

(a) the vacancy in that office; or

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

107.(1) The Director may, authorise the release of beneficial organisms in Seychelles.

Beneficial
organisms
and
Biocontrol
agents

(2) Before authorising a release under subsection (1), the Director shall obtain the advice of the Agency, Chief Veterinary Officer, Chief Plant Protection Officer and the National Biosecurity Committee as to the biosecurity risk posed by the release and ensure that authorisation has been obtained from the authorities responsible for agriculture, fisheries, environment and natural resources.

(3) An authorisation under subsection (1) shall identify —

- (a) the organism;
- (b) the purpose for which the organism is utilised;
- (c) where the purpose for which the organism is utilised is the control of a pest, disease or invasive alien species, that pest, disease which it is intended to control;
- (d) the area where it may be released;
- (e) the period during which it may be released;
- (f) the person or persons who may release it; and
- (g) any condition subject to which the authorisation is granted.

(4) The Agency shall record in the biosecurity register —

- (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) shall 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 Agency may 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.

Destruction of
wild, feral or
stray animals

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

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

- (b) any period in which the person holding that office is unable to perform the functions of that office.

(4) The Director may, in writing delegate any of Director's functions under this Act except the power of review under section 133(1) to the Chief Veterinary Officer, Chief Plant Protection Officer or a named Biosecurity Officer.

(5) The Director shall —

- (a) perform the functions assigned to the Director by this Act;
- (b) 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.

(6) The Minister may call for reports from the Director on any matter pertaining to his or her functions under this Act.

19. The Minister may make regulations declaring any article, goods, substance, product or thing, to be a regulated article for the purposes of this Act.

Declaration
of regulated
articles

Regulated
pests and
diseases

20.(1) The Minister may make regulations declaring regulated pests or diseases —

- (a) the importation of which is prohibited;
- (b) the importation of which is permitted subject to biosecurity import conditions specified under section 70; and
- (c) which are quarantine pests or diseases.

(2) Before making regulations under this section, the Minister shall obtain a pest or disease analysis report and the advice of the Agency, Chief Veterinary Officer or Chief Plant Protection Officer as appropriate and may obtain the advice of the National Biosecurity Committee.

(3) A person who —

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

commits an offence.

Notifiable
pests and
diseases

21.(1) The Minister may make regulations declaring the pests and diseases that are notifiable for the purposes of this Act and the manner of notifying such pests and diseases.

(2) Before making regulations under this section, the Minister shall obtain the advice of the Agency, Chief Veterinary Officer or Chief Plant Protection Officer as

- (ii) the movement of humans and conveyances into, out of or within the area;
- (iii) any other activity that the Agency 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.

103.(1) The cost of the treatment of an animal, animal product, plant or plant product or other a regulated article or destruction of an animal or plant under section 102 shall be borne by the Government.

Cost of
treatment or
destruction
and
compensation

(2) The owner of an animal or plant destroyed under section 102 shall be entitled to compensation excluding for consequential loss, for such destruction, from the Government.

104.(1) The Minister, may, on the advice of the Director, Agency, Chief Veterinary Officer, Chief Plant Protection Officer and the National Biosecurity Committee may, by notice published in the *Gazette*, 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
areas

(2) The Minister may, on the advice of the Director, Agency, Chief Veterinary Officer, Chief Plant Protection Officer and the National Biosecurity Committee, amend or revoke a notice 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 89.

105.(1) The Agency may, by order, in respect of a pest-free biosecurity controlled area —

Regulation of
pest free
biosecurity
controlled
areas

section, shall be moved out of, into or within an infested biosecurity controlled area, pending the making of an order under section 102.

(3) A person who contravenes subsection (2) commits an offence.

(4) Subsection (3) ceases to have effect upon the coming into force of an order under section 102.

Power to enter infested biosecurity controlled area

101. 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.

Regulation of infested biosecurity controlled areas

102.(1) The Agency may, by order —

- (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 Agency 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;

appropriate and may obtain the advice of the National Biosecurity Committee.

(3) A person who knows of or suspects the occurrence of a notifiable pest or disease in Seychelles shall, as soon as reasonably practicable, notify the Director of such occurrence, unless the person reasonably believes that the Director has already been notified of the occurrence.

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

(5) 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 shall —

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

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

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

22.(1) The Agency may, on the advice of the National Biosecurity Committee, at any time issue a notice —

- (a) stating that a particular pest or disease is known to exist in Seychelles;
- (b) stating that to the best of its knowledge, a particular pest or disease does not exist in Seychelles;

Notification of pest and diseases and their classifications

- (c) specifying the classification, name or identity by which any animal, animal product, 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.

(3) A notice under subsection (1) shall be published in the *Gazette*.

Biosecurity
register and
records

23.(1) The Agency shall maintain —

- (a) a biosecurity register which may be in the form of separate registers or databases; and
- (b) other records, required for the administration of this Act and the performance of the functions of the Agency under this Act.

(2) Without limiting the matters to be recorded in the biosecurity register, details as specified in regulations made under section 137, the following shall be included in the register —

- (a) regulated pests and diseases;
- (b) regulated articles the importation of which is prohibited under section 58(3)(a);
- (c) biosecurity points of entry and departure;
- (d) biosecurity holding areas;
- (e) biosecurity clearance agents;
- (f) biosecurity port quarantine areas;

animal product, plant or plant product before such action is taken.

(2) Subject to section 99, section 39 shall apply 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.

99.(1) The cost of the treatment under section 97 or destruction under section 98 of an animal, animal product, plant or plant product shall be borne by the Government.

Cost of
treatment and
destruction

(2) The owner of an animal, animal product, plant or plant product destroyed under section 98 shall be entitled to compensation excluding consequential loss for such destruction from the Government.

100.(1) The Minister may, on the advice of the Agency, Chief Veterinary Officer, Chief Plant Protection Officer and the National Biosecurity Committee, by notice published in the *Gazette*, declare —

Declaration of
infested
biosecurity
controlled area

- (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,

to be an infested biosecurity controlled area in respect of that pest or disease, if the powers in sections 90 to 99 are inadequate to control the outbreak of the infestation.

(2) 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

the Director and if the owner of the animal can be identified and located, to the owner.

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

97. Where 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 93, a biosecurity officer may —

- (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; and
- (b) after treatment administered under paragraph (a), release the animal, animal product, plant or plant product, to its owner or custodian.

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

98.(1) A biosecurity officer may order an animal, animal product, plant or plant product detained under section 93, to be destroyed if —

- (a) in the opinion of the biosecurity officer, appropriate treatment is not available in Seychelles;
- (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 shall be given, in writing, to the owner or custodian of the animal,

- (g) biosecurity quarantine stations;
 - (h) biosecurity approved premises;
 - (i) biosecurity import permits issued, refused or revoked under Part VI;
 - (j) exemptions granted under section 74;
 - (k) biosecurity controlled areas declared under section 104;
 - (l) occurrences of notifiable pests and diseases declared under section 21;
 - (m) beneficial organisms released under section 107;
 - (n) memoranda of understanding and other agreements entered into between the Agency and government ministries, departments and agencies, statutory bodies and authorities, and private organisations under section 8(3);
 - (o) compliance agreements entered into by the Agency under section 7;
 - (p) bilateral agreements entered into with potential importing countries under section 11;
- (3) The biosecurity register shall include details of —
- (a) biosecurity import conditions and biosecurity export requirements for regulated articles specified under sections 70 and 121 respectively, including the biosecurity measures appropriate to each type of regulated article;
 - (b) any form or other matter specified by the Agency under this Act.

(4) In respect of the biosecurity requirements of importing countries, the biosecurity register shall 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 Agency shall maintain records relating to its functions 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.

Status of
biosecurity
register and
records

24.(1) The biosecurity register kept pursuant to section 23(1) shall be made available for inspection and copying by members of the public during office hours on payment of the prescribed fee.

(2) Subject to any other Act, the biosecurity register and other records kept under section 23 shall 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.

moved to the place specified by the Director under section 93(1),

and if the animal, animal product, plant or plant product is moved under paragraph (b), its owner or custodian shall 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 93(1), shall be borne by the Government, and its owner shall be 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.

95. Section 83 shall apply, with such modifications or adaptations as are necessary, to places specified by the Director under section 93(1) for the detention of animals, animal products, plants or plant products, as they apply to biosecurity quarantine stations.

Management
of places of
detention

96.(1) Where a biosecurity officer examining an animal pursuant to section 93(3)(b) suspects that the animal is diseased and considers a post mortem examination is 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 shall be provided in writing to

(2) The owner or custodian of an animal, animal product, plant, or plant product detained pursuant to subsection (1), shall 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 35, with such modifications and adaptations to that section as are necessary;
- (b) the conduct of a post mortem examination in accordance with section 96.

(4) Where 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.

94.(1) Where an animal, animal product, plant or plant product is to be detained under section 93, a biosecurity officer may—

- (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 93(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

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

(4) The biosecurity register and other records kept under section 23 may be in electronic format, provided the information is readily retrievable and is protected against unintended loss and unauthorised alteration.

(5) The Agency, on the advice of the Director, may, by order, determine the period for which entries in the biosecurity register and other records under section 23 shall be kept, consistent with any other written law relating to public records.

25.(1) The Minister may appoint—

- (a) a person who is technically competent in the field of plant health, as Chief Plant Protection Officer;
- (b) a person who is technically competent in the field of animal health, as Chief Veterinary Officer,

Chief Plant Protection Officer and Chief Veterinary Officer

and every such appointment shall be published in the *Gazette*.

(2) The Chief Plant Protection Officer and Chief Veterinary Officer shall—

- (a) perform the functions assigned to them by this Act and by the Agency;
- (b) perform duties of a technical nature in their respective fields of competence; and
- (c) advise the Agency, National Biosecurity Committee, the Director and any other person as required by this Act on matters of a technical nature in their respective fields of competence.

Part III - BIOSECURITY OFFICERS, POWERS, FUNCTIONS

Designation of biosecurity officers

26.(1) The Minister may in writing, designate one or more suitably qualified public officers or employees of the Agency to be biosecurity officers for the purposes of this Act.

(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) Where a public officer from a Ministry other than the Ministry for which the Minister is responsible is designated to be a biosecurity officer, the Minister shall consult the relevant Ministry.

Functions of biosecurity officers

27.(1) A biosecurity officer shall perform such functions, not inconsistent with this Act, as are assigned to the officer by the Agency.

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

(3) The Agency 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.

Identification of biosecurity officers

28.(1) The Director shall provide with every biosecurity officer a suitable form of identification as such officer.

(2) Where the designation of a person as a biosecurity officer is terminated, that person shall immediately surrender the identification to the Director.

the Magistrate may issue a warrant authorising the officer to enter and search the dwelling house for the regulated 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) shall —

- (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.

93.(1) Where 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 —

- (a) 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; and
- (b) specify the manner in which the animal, animal product, plant or plant product is to be detained and confined.

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

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

92.(1) Where 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;
- (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) Where 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 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,

(3) A person who —

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

commits an offence.

29. The Agency shall 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

30.(1) The powers of a biosecurity officer shall be 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 shall be exercised only for the purpose of ascertaining the existence of a biosecurity risk and eliminating the risk or reducing it to an acceptable extent.

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

(4) Where a power to enter and search any land, premises, building or area, to search a conveyance or container or to inspect or test any regulated article is exercised, the biosecurity officer, may request the assistance of the person in control of the land, premises, building, area, conveyance, container or regulated article.

(5) 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.

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

(7) Where a biosecurity officer 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, the biosecurity officer shall, if practicable, consult the person or authority responsible for that activity under that law.

(8) The powers conferred on biosecurity officers by this Act shall 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 Agency given under section 27(3); and
- (d) the provisions of—

18th April 1961

- (i) the Vienna Convention on Diplomatic Relations relating to the premises of a diplomatic mission, diplomatic bags and the personal baggage of diplomatic agents;

24th April 1963

- (ii) the Vienna Convention on Consular Relations relating to consular premises, archives and documents.

- (a) in the case of a survey under section 89(a), in the area to be surveyed; or
- (b) in the case of a survey under section 89(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 89—

- (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.

91. The Agency may, in compliance with international agreements, provide for the publication and transmission of the results of a survey under section 89 to other interested governments and organisations.

Publication
and
transmission
of survey
results

PART VIII - BIOSECURITY INTERNAL CONTROL

Order to
conduct pest
and disease
surveys

89. The Agency may, on the advice of the National Biosecurity Committee, by order, direct a survey to be conducted of —

- (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.

Powers in
relation to
pest and
disease
surveys

90.(1) A biosecurity officer may, for the purposes of a survey conducted under section 89 (a), in the area to be surveyed, or for the purposes of a survey conducted under section 89(b), in any area where the pest or disease is found —

- (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 biosecurity officer may, direct the owner or person who has custody or control of an animal or plant —

31.(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 regulated 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;
- (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.

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

(2) Where a Magistrate is satisfied on affidavit 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 regulated 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 regulated articles shall, 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) shall —

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

- (a) any treatment required as a condition of importation of the regulated article must have been applied; and

- (b) all quarantine fees must have been paid.

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

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

88.(1) A person shall not release or cause to be released from a biosecurity quarantine station, biosecurity port quarantine area, or biosecurity holding area or let go at large in Seychelles any animal, plant or organism which is subject to biosecurity control under this Act.

No plant or animal to be at large

(2) In cases where a person contravenes subsection (1)—

- (a) the animal, plant or organism may be recaptured and confined and if necessary destroyed in accordance with section 39 and Part VIII;
- (b) that person commits an offence and, in addition to the prescribed penalty, shall be liable to pay the costs of recapturing, confining or destroying the animal, plant or organism; and
- (c) that person shall not be entitled to any compensation for loss of or damage to the animal, plant or organism occasioned by its being recaptured, confined or destroyed.

(2) Where a regulated article is ordered into biosecurity quarantine under this section, the importer shall be given written notice stating the reasons for the order.

Moving of regulated articles to biosecurity quarantine station

86.(1) Where a regulated article is ordered into biosecurity quarantine under section 85, a biosecurity officer may —

- (a) in writing, direct the importer to move the regulated 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 regulated article to be moved to a biosecurity quarantine station.

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

(3) The cost of moving a regulated article to biosecurity quarantine shall be borne by the importer of the article.

(4) Where a regulated article ordered into biosecurity quarantine is moved under subsection (1)(b), the importer shall be given written notice stating the location of the regulated article.

Release from biosecurity quarantine

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

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

- (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.

32.(1) A biosecurity officer may —

- (a) call for and inspect any document in an incoming or outgoing vessels and aircraft as provided in sections 46 and 54 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) shall be exercised in respect of personal letters, only if the officer reasonably suspects that the letter contains or relates to a biosecurity threat.

Inspection
of
regulated
articles

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

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

(3) 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.

(4) Where an importer or exporter refuses to comply with a request under subsection (3) —

- (a) that 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; and
- (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.

(5) Where a biosecurity officer conducts 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.

(6) Inspection of regulated articles in transit shall be governed by section 79(2).

(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.

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

Biosecurity
quarantine
notices

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

85.(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 regulated article is one the importation of which is prohibited under section 58(3) (a);
- (b) quarantine is a biosecurity import requirement for the regulated article; or
- (c) during biosecurity entry inspection under section 75 or biosecurity import clearance inspection under section 76 the regulated article is found or suspected to be, infested, infected or contaminated.

- (c) to perform tests, provide treatment and apply other biosecurity measures as required by or under this Act.

(2) The biosecurity quarantine station shall be under the control of the Director.

Conditions of
biosecurity
quarantine

82.(1) The Agency may specify —

- (a) the manner as to the safe handling, examination, treatment, destruction or other disposal of regulated 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 shall remain in a biosecurity quarantine station.

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

(3) The cost of keeping a regulated article in biosecurity quarantine station shall be borne by the importer of the regulated article.

Management
of biosecurity
quarantine
stations

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

(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, shall not enter the station without the written permission of the Director or of the person in charge of the station.

34.(1) Where an incoming regulated article requires biosecurity measures before biosecurity import clearance is granted, a biosecurity officer may detain the regulated article, and any conveyance, container or baggage in which the regulated article is carried, for taking such measures.

Detention of
regulated
articles

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

(3) Detention of the regulated article under this section shall be in a biosecurity holding area, biosecurity quarantine station or biosecurity approved premises specified by a biosecurity officer.

(4) Where a regulated article is to be detained under this section, a biosecurity officer may —

- (a) direct the importer or exporter of the regulated article to move the regulated 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 regulated article to be moved to the place specified by the officer under subsection (3).

(5) Where a regulated article is detained under this section, a biosecurity officer shall 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 a regulated article under subsection (4), and its detention in a place specified by a biosecurity officer under subsection (3), shall be borne by the importer or exporter as the case may be.

(7) The charges for detention of a regulated article under this section shall be as prescribed.

Taking of
samples

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

(2) Where 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 regulated article where the taking of such sample is necessary for the issue of a sanitary or phytosanitary certificate.

(5) Where 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 biosecurity officer shall not issue the sanitary or phytosanitary certificate.

79.(1) Regulated articles in transit including those which accompany a crew member or passenger in transit shall be liable to biosecurity control.

Regulated
articles and
passengers in
transit

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

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

PART VII - BIOSECURITY QUARANTINE

80.(1) The Minister may make regulations designating any land, public or private as a quarantine station for animals, animal products, plant or plant product.

Designation
of biosecurity
quarantine
stations

(2) Before making regulations under this section, the Minister shall obtain the advice of the Director and consult the relevant ministries, departments, agencies or authorities, or statutory bodies or authorities.

(3) Where any private land is designated as quarantine station, the Agency shall consult the owner of the land and pay compensation as agreed by the owner and the Agency and in case of disagreement, as determined by the court.

81.(1) The Director shall 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 unauthorised persons from entering the station or removing items from the station; and

regulated article or consignment is found or is suspected to be, infested, infected or contaminated.

(5) Biosecurity import clearance may be refused for an incoming regulated article or consignment of regulated articles the importation of which is prohibited pursuant to section 58(3)(a).

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

Revocation
of
biosecurity
import
permit

78.(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 regulated article or consignment of regulated articles to which the permit relates, so requires.

(2) Biosecurity import clearance shall be refused for a regulated 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) shall 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.

(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) Where a biosecurity officer exercising powers under subsections (1), (2), (4) or (5), shall 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 subsections (1), (2), (4) or (5) shall be notified in writing of the findings in respect of the samples as soon as reasonably practicable.

(9) The procedure for taking and analysing samples, recording the results and disposing of the samples shall be as prescribed.

(10) The charges for taking and analysing of samples under this section shall be as prescribed.

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

Testing of
regulated
articles

(2) Following the test of a regulated article under subsection (1), and on payment of the prescribed fee, if any, the regulated article shall be —

- (a) granted biosecurity import clearance and released to the importer; or
- (b) treated in accordance with section 37, reconsigned in accordance with section 38 or destroyed in accordance with section 39.

(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 regulated article under subsection (3), and on payment of the prescribed fee, if any, the biosecurity officer may either issue or refuse the sanitary or phytosanitary certificate.

(5) Section 34(3) to (6) shall apply to regulated articles detained for testing under this section.

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

(7) The charges for testing of a regulated article under this section shall be as prescribed.

Treatment of
regulated
articles

37.(1) An incoming regulated article which requires treatment in order to meet the biosecurity import conditions shall be treated before biosecurity import clearance is granted.

(2) An incoming regulated 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 regulated 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 38 or destroyed under section 39.

(3) Section 34(3) to (6) shall apply to regulated articles detained for treatment under this section.

(4) A regulated article treated to the satisfaction of a biosecurity officer, shall, on payment of the cost of the

(c) if any other biosecurity measures are specified under section 70(1)(c), that they have been applied to or in respect of the regulated article or consignment.

(2) Where a biosecurity officer is satisfied —

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

the biosecurity officer shall grant biosecurity import clearance for the regulated article or consignment.

(3) Where 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 regulated article or consignment; or
- (b) require additional biosecurity measures to be applied to it, even if the regulated article or consignment meets the biosecurity import conditions in relation to it.

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

- (a) quarantine is a biosecurity import requirement for the regulated article or consignment; or
- (b) during biosecurity entry inspection or biosecurity import clearance inspection, the

respectively, to enable the officer to determine whether biosecurity import clearance should be granted;

- (d) submit the regulated article or consignment to biosecurity measures to be applied, if it require such measures.

(4) Where 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 regulated article or consignment, and may order the regulated article or consignment to be reconsigned or destroyed.

(5) The cost of taking a regulated article or consignment of regulated articles to and keeping it at a biosecurity goods holding area, shall be borne by the importer.

(6) This section shall not apply to passengers or crew members, but section 55 and 56 shall apply to such persons.

77.(1) Before granting biosecurity import clearance of a regulated article or consignment of regulated articles, a biosecurity officer shall be satisfied that—

- (a) if a biosecurity import permit is required, that it has been obtained in respect of the regulated article or consignment and the conditions of the permit complied with;
- (b) if a sanitary or phytosanitary certificate is required, that certificate has been issued by the country of export or re-export and any requirement of the certificate complied with;

treatment which shall be borne by the importer, be granted biosecurity import clearance and released to the importer.

(5) Where an importer fails to treat a regulated article which requires treatment under this section, within a reasonable time, the biosecurity officer may require the regulated article to be destroyed in accordance with section 39.

(6) Where a regulated article requires treatment under this section and if—

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

the regulated article shall be—

- (i) reconsigned; or
- (ii) if section 38(4) applies or the importer so chooses, destroyed.

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

(8) In cases where an outgoing regulated article requires treatment as a requirement of importation into the importing country, the regulated article shall be treated at the expense of the exporter before biosecurity export clearance is granted.

(9) Treatment of a regulated article —

- (a) shall be the minimum required to remove or adequately reduce the biosecurity risk presented by the regulated 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.

(10) The charges for treatment of a regulated article under this section shall be as prescribed.

Reconsignment
of regulated
articles

38.(1) An incoming regulated article —

- (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 58(3)(a),

shall, subject to subsection (4), at the option and cost of the importer of the regulated article, be reconsigned under this section or destroyed under section 39.

(2) Section 34(3) to (6) shall apply to regulated articles detained for reconsignment under this section.

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

(4) In cases where the biosecurity officer considers that the biosecurity risk posed by reconsignment is unacceptable or the reconsignment is not effected within the time specified in subsection (3), the regulated article shall be destroyed.

- (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 regulated article or consignment;
- (d) state the nature and quantity of the regulated article or consignment;
- (e) be accompanied by any sanitary or phytosanitary certificate issued by the country of origin in relation to the regulated article or consignment;
- (f) be accompanied by any biosecurity import permit relating to the regulated article or consignment;
- (g) be accompanied by documentation relating to any biosecurity measures specified under section 70(1)(c) in relation to the regulated article or consignment.

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

- (a) open the container or enable the officer to do so, if the regulated article or consignment is in a container;
- (b) allow the officer to inspect the regulated article or consignment in accordance with section 33;
- (c) allow the officer to take samples and conduct tests in accordance with sections 35 and 36

- (a) that the article is or the consignment includes a regulated article, the regulated article or consignment shall 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 33 shall apply to an inspection under this section.

(5) Subject to section 133, 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 shall be conclusive for the purposes of this Act.

(6) This section shall not apply to baggage accompanying passengers or crew members, but sections 55 and 56 shall apply to such baggage.

Biosecurity
import
clearance of
incoming
regulated
articles

76.(1) Every incoming regulated article or consignment of regulated articles —

- (a) shall be liable to biosecurity import clearance inspection by a biosecurity officer; and
- (b) shall for that purpose be taken to or retained in a biosecurity goods holding area.

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

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

39.(1) A regulated article required or authorised to be destroyed under this Act shall be destroyed in accordance with this section.

Destruction
of
regulated
articles

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

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

the regulated article shall be —

- (i) reconsigned; or
- (ii) if section 38(4) applies or the importer so chooses, destroyed.

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

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

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

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

(7) The charges for destruction of a regulated article under this section shall be as prescribed.

Powers in
relation to
people

40.(1) Where a biosecurity officer 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, the biosecurity officer may detain and question that person.

(2) In cases where 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 biosecurity officer may cause the person and the person's baggage to be searched.

(3) A search of a person under this section shall be carried out by two 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.

(3) A request for exemption under this section shall 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) A regulated article or class or consignment of regulated articles exempted from biosecurity import conditions or the requirement for an import permit under this section are not exempted from the requirement for biosecurity import clearance.

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

Biosecurity
entry
inspection
of incoming
articles

(2) Where 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) Where 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 —

respect of which the request is made is prohibited under section 58(3)(a), develop biosecurity import conditions in respect of the regulated article in accordance with section 70(2), (3) and (4).

Application
for access to
Seychelles
market

73.(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 responsible for Foreign Affairs or for Trade.

(2) Sections 72(2) and (3) shall apply to an application under subsection (1).

Exemption
from
biosecurity
import
conditions

74.(1) The Director may, on the advice of the Chief Veterinary Officer or Chief Plant Protection Officer, as appropriate 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 —

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

(2) An exemption under subsection (1) —

- (a) may specify the conditions on which the regulated article, or class or consignment of regulated articles is exempted and the exemption ceases to apply if the conditions are not met; and
- (b) applies only to a single importation.

(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.

41.(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 shall, as far as practicable, coordinate their functions with those 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 shall 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 his or her notice;
- (b) officers of the customs, public health, immigration and postal services shall —
 - (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 77 or biosecurity export clearance in accordance with section 122;

- (ii) hand over to a biosecurity officer any regulated article referred to in subparagraph (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 shall 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 the biosecurity officer.

PART IV - VESSELS AND AIRCRAFT

42. The Agency may, in consultation with the authorities responsible for the movement of vessels and aircraft in Seychelles by notice published in the gazette, 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.

43.(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, shall not enter such area without the written permission of the Director or the person in charge of the area.

Designation
of biosecurity
port
quarantine
area for
vessels and
aircraft

Management
of biosecurity
port
quarantine
area for
vessels and
aircraft

respect of an regulated article at any time before biosecurity import clearance is granted in respect of that regulated article, if there is change in the biosecurity risk presented by the regulated article.

(2) Notice of a change in the biosecurity import conditions in respect of an regulated article under subsection (1) shall be given to intending importers as soon as practicable.

(3) Section 70 shall apply to a change of biosecurity import conditions made under this section.

72.(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 shall 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 regulated article.

Development
of new
biosecurity
import
conditions

(2) A request under subsection (1) shall —

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

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

(3) Where a request under subsection (2) is received and the fee, if any, prescribed is paid, the Director shall as soon as practicable, unless the importation of the regulated article in

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

(5) Biosecurity import conditions made under this section shall 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 74 —

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

commits an offence.

71.(1) The Director shall, after obtaining the advice of the Chief Veterinary Officer or Chief Plant Protection Officer as appropriate and the National Biosecurity Committee, change the biosecurity import conditions made under section 70 in

Change of
biosecurity
import
conditions

- (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 Agency may issue written instructions to the person in charge of a biosecurity port quarantine area for the management of the area.

44.(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 quarantine and any other information specified by the Agency relating to the area, vessel or aircraft.

Biosecurity
port
quarantine
notices

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

45.(1) The master of every vessel or captain of every aircraft destined for Seychelles or its agent, shall 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 facilitate biosecurity landing clearance of the vessel or aircraft.

(2) A declaration under subsection (1) —

- (a) shall, subject to subsection (3), 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.

- (b) as to whether a sanitary or phytosanitary certificate from the authority responsible for biosecurity in the country of origin is required for a regulated article, and if so the matters that must be certified;
 - (c) as to what biosecurity measures, if any, shall be applied to the regulated 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 regulated article;
 - (c) shall be limited to those reasonably necessary to reduce or eliminate the biosecurity risk to Seychelles presented by the regulated article.

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

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

(4) A biosecurity import risk analysis under subsection (3)(a) —

- (c) if the importation of the regulated article is prohibited under section 58(3)(a), refuse the application.

(2) Where an application for permission to import a regulated article is granted under subsection (1)(a), the Director shall state this fact on the form referred to in section 68(2)(a) in which the application is made and attach to that form any conditions subject to which the permit is granted, 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 regulated article or to a consignment of regulated articles;
- (c) be different for different types of regulated articles and relate to different countries of origin.

(4) A general permit relates 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 relates to a single regulated article or to a consignment of regulated articles and may specify an expiry date.

Biosecurity
import
conditions

70.(1) The Director may specify biosecurity import conditions in respect of incoming regulated articles —

- (a) as to whether a biosecurity import permit shall be obtained for the regulated article and if so the conditions to be attached to the permit;

46.(1) The master of every incoming vessel or captain of every incoming aircraft shall —

Biosecurity
landing
clearance

- (a) take the vessel or aircraft directly to a biosecurity port holding area as directed by a biosecurity officer;
- (b) permit a biosecurity officer to board and search the vessel or aircraft in accordance with section 31(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 Agency, certifying that regulated article on board the vessel or aircraft shall be dealt with in accordance with this Act.

(2) After inspecting relevant documents and conducting 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 Agency, and according to prescribed procedures, 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 shall remain subject to biosecurity import clearance under section 77 and crew members and passengers of the vessel or aircraft remain subject to biosecurity entry clearance under section 56.

(5) Biosecurity landing clearance may be refused if a biosecurity officer orders a vessel or aircraft into port quarantine pursuant to section 47(1).

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

- (a) contravenes the 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 without getting biosecurity landing clearance, except with the permission of a biosecurity officer, commits an offence.

47.(1) Where a biosecurity officer reasonably suspects that an incoming vessel or aircraft is —

- (a) infected or infested with a regulated pest or disease; or

Biosecurity
port
quarantine of
vessels and
aircraft

- (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; 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 shall 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 shall be notified in writing, with brief reasons for the refusal.

(5) Subsection (1) shall not apply to beneficial organisms, the importation of which shall be in accordance with prescribed procedures developed in consultation with the Ministry responsible for environment.

69.(1) Where an application for a biosecurity import permit is made to the Director, in respect of a regulated article, the Director shall —

- (a) if biosecurity import conditions have been specified under section 70 in relation to the regulated article, on payment of the prescribed fee if any, as soon as practicable, grant the application;
- (b) if biosecurity import conditions have not been specified under section 70 in relation to the regulated article, take the actions specified in section 70;

Decision on
application
for
biosecurity
import
permit

(3) Where 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 shall 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) shall 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

Application
for
biosecurity
import
permit

68.(1) Subject to subsection (5), a person seeking to import any animal, animal product, plant, plant product or other regulated article shall make an application for a biosecurity import permit in respect of that animal, animal product, plant, plant product or other regulated article.

(2) An application for a biosecurity import permit shall—

- (a) be made to the Director in the prescribed form;
- (b) be made before the regulated article, 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.

(3) An application for a biosecurity import permit shall—

- (b) carrying any regulated article which might pose a biosecurity threat to Seychelles,

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

(2) The biosecurity officer shall give a written notice in the form specified by the Agency 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.

48.(1) Where a vessel or aircraft is ordered into biosecurity port quarantine under section 47, a biosecurity officer may—

- (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.

(2) Where the vessel or aircraft is moved under subsection (1)(b), the biosecurity officer shall give a written notice in the form specified by the Agency 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.

49.(1) The biosecurity officer may give written directions in the form specified by the Agency to the master of a vessel or captain of an aircraft in biosecurity port quarantine—

- (a) as to the movement of the vessel or aircraft, while it is in quarantine;

Moving of
vessels and
aircraft to
biosecurity
port
quarantine
area

Conduct of
vessels and
aircraft in
biosecurity
port
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 may 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.

Costs of
treatment or
other
measures

50. 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 shall be borne by the owner or charterer of the vessel or aircraft.

Biosecurity
port
quarantine
clearance of
vessels and
aircraft

51.(1) Where the biosecurity officer is satisfied that —

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

the 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 Agency, to ensure compliance with any requirements imposed by this Act in respect of the vessel, aircraft or cargo.

(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 regulated article in accordance with this Act,

commits an offence.

67.(1) In cases where a person proposes to import or export a regulated article through a seaport or airport in Seychelles, may be not be able to present when biosecurity inspection in respect of that article takes place, he or she shall —

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 such appointment before the agent performs any agency functions.

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

Designation
of biosecurity
postal
holding area

64.(1) The Agency may, on the advice of the Director and in consultation with authorities responsible for the movement of postal items in Seychelles, by notice published in the Gazette 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.

(2) Only regulated articles 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).

Facilities at
biosecurity
holding areas

65. The Director shall ensure that every biosecurity holding area is provided with such buildings and facilities as are reasonably needed—

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

Management
of biosecurity
holding areas

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

(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 shall 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.

(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 46.

52. Where 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

53.(1) The master of every incoming vessel shall, while the vessel is in Seychelles—

- (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 in the manner 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.

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

(2) The master of every incoming vessel shall 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 applicable written law.

(3) The master of every incoming vessel and captain of every incoming aircraft shall, 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 shall 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 shall take all reasonable steps to ensure that the vessel complies with any deratting 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 shall 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);

(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 agency commits an offence.

62. The Agency may, on the advice of the Director and in consultation with authorities responsible for the movement of vessels and aircraft in Seychelles, by notice published in the Gazette, 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.

63.(1) The Agency may, on the advice of the Director and in consultation with the authorities responsible for the movement of vessels and aircraft in Seychelles, by notice published in the Gazette, 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 regulated 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) Where any land other than land in the ownership of the Government is designated as a biosecurity holding area, the Agency shall consult the owner of the land and pay compensation as agreed by the Agency and the owner and in case of disagreement, as determined by a court, for the use of the land as a biosecurity holding area.

- (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, 62, 63 and 64;
- (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 that the Agency reasonably requests in writing, as being needed for the performance of biosecurity functions at the point of entry or departure.

(2) Where the operator of a biosecurity point of entry or departure fails to provide facilities as required by subsection (1)(a) to (h), such facilities may be provided by the Agency and the cost of providing such facilities shall be a debt owing by the operator to the Government.

- (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.

54.(1) Where 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 31(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 in the manner 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
- (b) fails to comply with a request or direction given under subsection (1)(b),(c), (d) or (e),

commits an offence.

Passenger
arrival
biosecurity
declaration

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

(2) The passenger arrival biosecurity declaration shall be in the form specified or approved by the Agency 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 may not 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.

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.

(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.

61.(1) The operator of every biosecurity point of entry or departure in Seychelles shall, 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 Agency —

Facilities at
biosecurity
points of
entry or
departure

- (b) a regulated article referred to in subsection (3)(b) in respect of which biosecurity import conditions have been specified, without meeting such conditions, biosecurity import clearance shall be refused for the regulated article.

Designation of
Biosecurity
points of entry
and departure

59.(1) The Minister may make regulations designating the sea ports, airports and mail exchange as biosecurity points of entry at which regulated article may enter Seychelles and as biosecurity point of departure at which regulated article may leave Seychelles.

(2) Before making regulations under this section the Minister shall obtain the advice of the Agency and consult 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.

60.(1) Subject to subsection (3) —

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

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

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

56.(1) Where a passenger arrival biosecurity declaration is made under section 55, a biosecurity officer may, if required —

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 regulated 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 40 shall apply to the questioning, detention and searching of persons and baggage under this section.

57.(1) Every passenger or crew member departing from Seychelles shall —

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 40 shall apply to the questioning, detention and searching of persons and baggage under this section.

PART V - BIOSECURITY BORDER CONTROL

Importation
of regulated
articles

58.(1) The Agency 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) The Agency shall, before exercising powers under subsection (1) obtain—

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

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

- (a) would present an unacceptable biosecurity risk to Seychelles, the Agency may by order, prohibit the importation of that regulated article;
- (b) would not present an unacceptable biosecurity risk to Seychelles, importation of that regulated article may be permitted subject to biosecurity import conditions specified under section 70.

(4) In making an order prohibiting the importation of a regulated article under subsection (3)(a), the Agency —

- (a) shall 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 a regulated article —

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

(6) In cases where a person imports or attempts to import—

- (a) a regulated article the importation of which is prohibited under subsection (3)(a) —
 - (i) that person commits an offence; and
 - (ii) biosecurity import clearance shall be refused for the regulated article;