

Tackling Invasive Non-Native Species in the UK Overseas Territories

GENERIC BIOSECURITY BILL, 2019

EXPLANATORY NOTES

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1.0 Background

1.1 Biosecurity is the control of the movement of plants and animals and their products in order to prevent the establishment and spread of invasive species or animal and plant pests and diseases that can harm human health and the agricultural economy of a country. It involves the control of agricultural and food imports and exports, the establishment of a quarantine regime for animals and plants and the control of the movement of animals and plants within the country.

1.2 In many British Overseas Territories (also called United Kingdom Overseas Territories), a review of the plant and animal quarantine laws is long overdue, given the international trend towards freedom of trade and the movement of goods and people. It is also desirable that the laws on biosecurity of the OTs be harmonised as far as possible. This project therefore aims to modernise and harmonise biosecurity legislation among OTs and bring it into line with relevant international obligations of the UK that apply to the OTs.

1.3 To achieve this aim, a ‘generic’ Bill has been drafted which, if enacted, would be capable of dealing with biosecurity threats, including invasive species, in each of the British Overseas Territories. It has been drafted by Mr John Wilson of the UK, who has extensive experience in drafting laws for island jurisdictions in the Commonwealth and for Overseas Territories. He also drafted a model or ‘harmonised’ Biosecurity Bill for the Secretariat of the

Pacific Community (as it now is) in 2004 – 2008. Mr Wilson was engaged by Public Administration International (PAI), UK, to undertake this drafting.

1.4 The SPC model Biosecurity Bill has been enacted substantially unchanged by 6 countries in the Pacific¹ and by Seychelles, and appears to achieve its main purpose, which is to facilitate trade in agricultural products and to protect the biodiversity of those countries. The model is effective to protect jurisdictions from invasive species, as well as from ‘home-grown’ pests and diseases.²

2.0 Scope of the Bill

2.1 The Bill if duly adapted and enacted would provide a legislative foundation for action to protect an OT from the introduction of invasive species and from animal and plant pests and diseases. It would replace existing laws of the OT governing animal and plant imports and quarantine. It would also enable the OT to comply with the UK’s obligations to ensure that animal and plant pests or diseases are not exported from the OT into neighbouring countries.

2.2 The Bill does not deal with environmental issues generally; it does not deal with CITES, Biosafety, Pesticides, Biodiversity or Environmental Management as such. It is not about Bioterrorism i.e. use of organic agents for killing, though it would catch illegal movement of e.g. anthrax spores. It does not deal with human health issues, which are governed internationally by the International Health Regulations of the WHO. It is not a trade promotion Bill as such, though it requires standards for biosecurity to be consistent with the GATT rules and the IPPC standards – see below.

3.0 Structure of the Bill

3.1 The draft generic Bill is in a form readily recognizable by legislators and administrators of the Overseas Territories. It begins with a Preliminary Part, which includes key definitions and sets out the biosecurity functions of the Government. There are then 8 Parts which provide powers to control the import and export and internal movement of agricultural produce and other articles that might be an invasive species or spread a pest or disease. The last 4 Parts deal with administrative and legal issues, including the repeal of existing laws, and will require more local decisions, as the local constitutional and legal arrangements will differ.

3.2 The Parts are given letters rather than numbers at this stage, so that they can be placed in any order, and clauses can be more easily added or removed or their sequence changed. The Part names and section headings are for local decision. Clauses are numbered in a sequence within each part, and the cross-references to other sections use the Part letters. Before the Bill is introduced, Parts and clauses will need to be numbered and cross-references numbered accordingly.

3.3 The Parts are:
Part [Pre] – Preliminary

¹ Fiji (Promulgation) 2008, Cook Islands 2008, Kiribati 2011, Solomon Islands 2013, Palau 2014, Tuvalu, 2017. See www.paclii.org for the respective texts.

² SPREP uses it against invasive species in Tuvalu (Yellow Crazy Ant). See the Pacific Biosecurity website www.pacificbiosecurity.org.

- Part [BBC] – Biosecurity Border Control
- Part [VA] – Vessels and Aircraft
- Part [BIP] – Biosecurity Import Procedures
- Part [BEP] – Biosecurity Export Procedures
- Part [BQ] – Biosecurity Quarantine
- Part [PBO] – Powers of Biosecurity Officers
- Part [BIC] – Biosecurity Internal Control
- Part [BE] – Biosecurity Emergencies
- Part [DB] – Director of Biosecurity
- Part [Adm] – Administration of the Ordinance (or Act)
- Part [OP] – Offences and Penalties
- Part [MP] – Miscellaneous Provisions.

3.4 Parts [BBC], [VA], [BIP] and [BEP] establish a regime to control the movement of invasive species and pests and the import and export of regulated articles generally. The powers of biosecurity officers are set out in Parts [BQ] and [PBO]. Parts [BIC] and [BE] provide powers to control incursions of invasive species and infestations of pests within a Territory.

3.5 Part [DB] contemplates that responsibility for implementing the Ordinance or Act will be given to a single public officer (e.g. Director of Biosecurity), but if preferred, it can be given to an existing Department of government, or to a separate agency or statutory body or authority. Parts [Adm], [OP] and [MP] contain miscellaneous and legal provisions, including enforcement procedures.

4.0 Legislative scheme

4.1 The Bill aims to protect OTs from the introduction or spread both of invasive species which would harm the environment and of pests and diseases which would harm trade in local agricultural produce. It does by linking the terms ‘invasive species’ and ‘pest’ and making them regulated articles the movement of which can be prohibited or restricted. It defines a pest as a species which causes disease, so the word ‘disease’ is not used separately.

4.2 The Bill also aims to implement international rules relating to biosecurity in relation to trade in agricultural produce. It does this by making biosecurity risk the key test for decision-making, and by referring to the WTO Agreement on the Application of Sanitary and Phytosanitary Measures (the ‘SPS Agreement’). It also refers to the standards set by the International Plant Protection Convention (IPPC) and the Organisation Internationale Epizoötique or World Organisation for Animal Health (OIE).

4.3 The Bill creates a category of goods known as ‘regulated articles’ (called ‘risk goods’ in some countries.) It enables the import and export of regulated articles to be prohibited or restricted. Restricted articles are subject to conditions, which are imposed by specifications issued by the biosecurity authority.

4.4 The Bill seeks to achieve transparency in the decision-making process and adopts principles of good governance, by including requirements for consultation and for appeals. It incorporates modern legislative language and techniques.

4.5 If enacted the Bill will:

- set out the biosecurity functions of the respective OT Government and imposes

obligations on it in relation to compliance with international obligations, reciprocity, mutual assistance etc.

- create a regime of import and export licences or permits, based on specifications for treatment of various species;
- control the arrival and departure of ships, aircraft and people;
- impose obligations on the masters of vessels respect of disposal of garbage, ships' stores and bilge water, with equivalent obligations on the captains of aircraft;
- enable designation of entry ports, holding areas etc. separate from the customs regime;
- provide powers to control internal outbreaks of invasive species and of regulated pests and diseases within the OT;
- set standards for determining the rules based on the precautionary principle;
- provide for its administration by a Director of Biosecurity (or similar) and biosecurity officers;
- provide for emergency powers and enforcement procedures.

4.6 As most of the OTs are small with limited resources in personnel and finances, the Bill aims to create a system that does not require a lot of subsidiary instruments. It creates a quasi-legislative instrument called a 'specification' which can be made easily by the Director (or equivalent). It will however require consultation and publication.

4.7 The main administrative feature is the provision for the designation of a Director of Biosecurity and biosecurity officers for the Territory. It is anticipated that these will be existing public officers in the relevant Ministry or Department. The Director's functions are set out in Part [DB]. The officers can be drawn from any branch of the public service, if duly trained, and the biosecurity points of entry etc. can be the same as for customs or immigration legislation.

4.8 The Bill will provide powers for the making of specifications in respect of treatment etc. for incoming and outgoing regulated articles. It does not cover the handling of containers, nor prescribe fees. These and some other minor matters will need to be dealt with by regulations – see clause [MP9].

4.9 The Bill in effect puts the existing quarantine operations manual or similar on a statutory footing, by enabling the Director to make specifications about treatment etc. of incoming and outgoing articles (clauses [BIP4] and [BEP4].) An operational manual will still be needed on day-to-day administrative functions. Note that specifications made by the Director under section [BIP4] or [BEP4] in respect of the import/export of regulated articles may be in the form of a 'white book' list and a 'black book' list; but no need to use those terms in the Bill.

4.10 Policy features of the Bill include:

- It enables the creation of a list of prohibited imports and exports and restricted imports and exports and creates offences in respect of them (clauses BBC1 and 2).
- It controls the arrival and departure of vessels and aircraft (Part [VA]).
- It requires control over ships' garbage, ballast and stores (clause [VA8]).
- It makes all incoming regulated articles liable to biosecurity inspection, to ascertain whether they require clearance (clause [BIP1]).
- It enables the Director to make specifications as to the requirements for biosecurity clearance (clauses [BIP4] and [BEP4]).
- It provides for making access agreements for new products (clause [BIP5]).

- It makes import permits or licences one of the possible control mechanisms (clauses [BIP7 and 8]).
- It enables the Director to control outgoing articles if necessary (clauses [BEP1 and 2]).
- It allows for the issue of sanitary and phytosanitary certificates (clause [BEP3]).
- It provides for the declaration and control of threat-free and infested areas (clauses [BIC5 and 7]).
- It enables control of movement between areas of the territory (clause [BIC8A]).
- It authorises the destruction of feral animals and birds (clause [BIC9]).
- It provides for a declaration of notifiable invasive species and pests (clause [BIC10]).
- It provides for the appointment of a Director and deputy and states their powers (clauses [DB1 and 2]).
- It sets out the powers of biosecurity officers generally (Part [PBO]).
- It prescribes suggested maximum penalties for some offences.
- It creates offences of releasing etc. invasive species (clauses [OP1 and 2]).
- It provides for a Fixed Penalty system to allow for short-term importers of articles (clause [OP8]).

4.11 Drafting features

- The Bill gives powers to the Governor or Governor in Council rather than a Minister.
- It uses ‘Legislative Council’ for the legislature.
- It uses ‘Department’ rather than ‘Directorate’ or ‘Ministry’.
- It uses ‘Director of Biosecurity’ rather than ‘Chief Biosecurity officer’, to allow a role for the veterinary service.
- It gives an advisory role to ‘technical section heads’ also.
- It does not contemplate a Department of Biosecurity as such, but keeps a role for the ‘Secretary’ (i.e. of a Department or Ministry.)
- It uses ‘specifications’ to include import standards and licence conditions.
- It uses ‘import licence’ rather than ‘import permit’.
- It requires fees and charges to be ‘prescribed’ i.e. by regulations under clause [MP9].
- It provides for forms to be ‘approved’ rather than ‘prescribed’ or ‘specified’.
- Penalties are placed at the end of the offence-creating provision (as probably provided by the Interpretation Ordinance.) The sums and periods will need to be decided locally.

4.12 The term ‘[Jurisdiction]’, shown in square brackets, will be the name of the respective OT. The term ‘Government’ is used to mean the government of the territory, as the definition clause will provide. (It is usually also in the Interpretation Act/Ordinance.)

The term ‘Ordinance’ is used throughout, but some jurisdictions now have Acts and the draft will need adapting accordingly.

5.0 Style of the Bill

5.1 The Bill is drafted in what is known as a ‘plain English style’, similar to that adopted by the UK and most other Commonwealth countries. It uses ‘must’ instead of ‘shall’ as the word creating an obligation and avoids traditional legal jargon. It is gender-neutral and is laid out in a way that should be easy to read and understand.

Section headings are in bold at the margin. They can be moved and italicized as required.

Penalties are stated at the end of the offence-creating section.

The formatting of the Bill is optional and will be a matter for the local drafting office.

6.0 Variables

6.1 The generic Bill is intended to be capable of being adapted to the circumstances of all the OTs. Given that most of the OTs have similar constitutional, legislative, judicial and administrative systems, this should not be difficult to achieve. The Bill is a ‘maximalist’ draft and provides all the powers needed to satisfy the biosecurity Legal Checklist that has been drawn up by DEFRA and forms part of the legislative package provided to OTs. Not all of the provisions will be needed or wanted in all OTs and local decisions will be required as to what to include in the Bill and subsidiary legislation.

6.2 There will need to be some nomenclature changes (name of territory, designation of legislature, titles of officials etc.). There will also need to be local policy decisions as to:

- Who will exercise the powers in the Bill i.e. a statutory body or a Director?
- How lists of prohibited and restricted invasive and pests will be made and published.
- How much public involvement to have in decision-making.
- What appeal process to have.
- How much internal control of movement is wanted between islands or areas.
- Whether to have a Fixed Penalty system (not a civil penalty system).

OTs will also need to consider some other substantive topics such as the use of import permits or licences, the level of fines and the repeal and consequential amendments clauses.

6.3 Other terms that will require consideration by each territory include:

- Monetary values, which might be in £ or \$, according to the local currency.
- Periods of time, age thresholds, etc.
- The ‘Governor’ or ‘Governor in Council’ will in some jurisdictions be a Minister (or possibly the Cabinet if a legislative power is involved.) It might also be the Director if executive powers are given to that officer.
- The ‘Department’ might be a Ministry in some jurisdictions; or the Government if that is the local preference.
- The ‘Director of Biosecurity’ will be the CEO of the relevant Department. (Some OTs might wish to establish, or might already have, a Biosecurity Department or similar, in which case the draft will need to reflect its role.
- OTs with Ministries might wish to give a role to the Secretary of the relevant Ministry, or to the Cabinet.
- The term ‘Magistrate’ might be ‘Justice of the Peace’ in some jurisdictions, or ‘judge’ if that is the local preference.
- The level of penalty, indicated by ‘xxxx’ and ‘yyyy’ in the draft, is a matter for local decision. It will be necessary to check the local Interpretation Ordinance/Act as to whether the penalty can be stated at the foot of a section, as in the draft.
- It might be desired to have a double penalty for offences by corporations, or for further offences; a fixed penalty system might also be wanted. It is for decision whether to list the penalties in a Schedule or state them after each provision that creates the offence.
- Fees and charges are shown as being prescribed i.e. by regulations, as it is usually desirable to have financial obligations created by legislation.
- Forms do not usually need regulations, but can be specified or even simply approved, as decided locally.
- Publication in the Government Gazette is a standard way of authenticating decisions made under primary legislation, but local conditions might make other methods of publication desirable also.

6.4 Clause [MP10] of the Bill would repeal a number of Ordinances or Acts and items of subsidiary legislation made under them. These would be laws dealing with the control of movement of animals and plants and their produce, and might include import controls under Customs legislation, control of agriculture generally and some environmental laws. Each OT will need to look at all relevant local laws and decide what to include in the clause. OTs will also need to consider what savings are needed, whether any transitional provisions are needed, and what consequential amendments to other Ordinances or Acts might be needed.

6.5 There are also a number of more minor issues that will need to be decided locally and the generic Bill indicates these by using a combination of square brackets and an oblique stroke, with a note alongside. An example is the level at which a biosecurity officer needs approval before destroying an article; see clause [PBO10(6)].

6.6 The Bill contemplates the existence of a National Disaster Committee/Advisory Committee to deal with natural disasters generally. If there is no such body, a body to deal with biosecurity emergencies might need to be established. The Bill also contemplates the existence of an Emergency Response Plan, which can respond to biosecurity emergencies; if wanted, such a body might need to be established for the purpose.

7.0 Definitions

7.1 The Interpretation clause (Pre2) defines terms used in the Ordinance that have a special meaning. Technical terms reflect modern biosecurity practice. Terms that are not used in the Ordinance but only in regulations should not be defined in the Ordinance, but in the regulations. Similarly, terms defined in the Ordinance do not need to be defined in the regulations. The technical definitions in the draft are based on those used in the IPPC Glossary so far as possible.

7.2 At **Annex 1** is an additional glossary of terms not defined in clause [Pre2] but that might be useful in explaining and administering the Ordinance.

8.0 Offences

8.1 The Bill expressly states when an offence is created and provides a penalty for each one (to be decided locally.) However, if the elements of an offence are the same as for an offence under clause [OP3] (obstruction of an officer, etc.) the offence will be under that section, as noted.

8.2 At **Annex 2** is a list of all the offences created by the Ordinance, which should be useful in deciding on maximum penalties, including for repeat offences, and for the Fixed Penalty system, if wanted. It could be added as a Schedule to the Bill, and amended by order.

8.3 The fines and periods of imprisonment will be the maxima for individuals. If the offence is committed by a body corporate, the maximum fine is a multiple for an individual and there is no imprisonment – see clause [OP7].

9.0 Forms and notices

9.1 The Bill requires a number of forms and notices to be approved by the Director. It is not necessary for them to be prescribed by regulations. The Bill also enables directions to be given, which should be in writing for evidentiary purposes. At **Annex 3** is a list of forms and notices might be needed as occasion arises.

10.0 Powers and functions generally

As with any complex legislation, the Ordinance will confer a wide range of powers on a variety of officials, and impose obligations on the public as well as on the Government. At **Annex 4** is a list of powers and functions that might be created by the ordinance. It is not to be taken as a complete list.

11.0 Orders etc. that will be needed

11.1 If an OT enacts the Bill, it will need some implementing machinery before a commencement date is appointed. The items probably needed include:

- commencement notice under [Pre1]
- declaring prohibited and restricted regulated articles under clause [BBC1]*
- designating points of entry and departure under clause [BBC3]*
- designating areas for holding ships, aircraft, containers etc. under clause [BBC4]*
- settling the form of declaration for ships and aircraft under clause [VA1]
- settling the form of master's certificate under clause [VA2]
- designating port quarantine areas under clause [VA3]*
- settling the form of passenger declaration under clause [VA9]
- settling the form of biosecurity clearance under clause [BIP2]
- issuing import specifications under clause [BIP4]*
- deciding the form of an import licence or permit under clause [BIP7] (if wanted)
- settling the form of sanitary and phytosanitary certificate under clause [BEP3]
- issuing export specifications under clause [BEP4]*
- designating biosecurity quarantine stations under clause [BQ2]*
- declaring any notifiable pests and diseases under clause [BIC10]*
- appointing an IPPC enquiry point under clause [Adm9]*
- prescribing the fees payable (clause [MP9])*
- drafting any other regulations needed.*

11.2 The items starred in the above list are those for which skeleton drafts are provided, separately from the draft generic Biosecurity Bill, for the assistance of OTs. They are:

- A. Designation Order for points of entry and departure and quarantine stations
- B. Import & Export Categories Order showing how the prohibited and restricted categories of animals and plants contemplated by [BBC1) might be drafted.
(The same list could be used as a basis for the Notifiable Invasive Species etc. Order.)
- C. Notifiable Invasive Species and Pests Order
- D. Fees and Charges Regulations (see para.12.1 below)
- E. General Regulations (see para. 12.2 below)
- F. Specifications of Import & Export Conditions (see para. 13.0 below.)

12.0 Regulations

12.1 As contemplated by clause [MP9], regulations might be needed to implement the Ordinance. The Bill does not include a 'polluter pays' principle as such, but contemplates that fees and charges will be prescribed for the services provided by the Government. See item D in the drafts provided.

12.2 Other regulations that might be needed include regulations to:

- prescribe the method of taking and analysing samples, recording the results and disposing of the samples;
- prescribe the manner of disposal of abandoned goods under section [MP2];

- regulate the procedure on appeals under section [MP4] (other than appeals to the Supreme Court);
- regulate the disposal of waste and second-hand clothing and bedding so as to minimize any biosecurity risk;
- provide for the placing and use of amnesty bins or other containers for regulated articles at points of entry;
- authorise and regulate the use of force and firearms by biosecurity officers;
- authorise and regulate the use of traps and pesticides by biosecurity officers;
- prescribe the international codes of practice that are to be observed in respect of biosecurity control;
- prescribe any other matter which the Ordinance requires to be prescribed or which is necessary for carrying out or giving effect to it.

See clause [MP9] of the Bill and item E in the drafts provided.

13.0 Specifications

13.1 The primary legislation will need to be supplemented by specifications (which are non-legislative) in relation to the treatment that is required for items that pose a biosecurity risk on entry or export (see clauses [BIP4] and [BEP4]). Section BQ3 calls for specifications in respect of the handling of regulated articles in a biosecurity quarantine station or in transit to or from a quarantine station.

13.2 Section [MP8] contemplates that specifications might also be appropriate in respect of:

- documents and forms, including those sent by electronic means;
- the procedures for applying for and issuing licences and other documents;
- the manner and language of markings on containers of incoming and outgoing regulated articles;
- the methods of handling, sealing, treating and disposing of containers of regulated articles;
- other matters provided for in or under the Ordinance.

Some of these can be covered by General Regulations if preferred (see item E in the drafts.) Note that the term ‘specification’ does not include every power to ‘specify’, as the word is used in several contexts.

13.3 Section [MP8] defines their status; they are not strictly legislative but must be entered in the biosecurity register and given due publicity. A specification is a new kind of quasi-legislative instrument; not as formal as a regulation made under [MP9], but not a mere notice or approval. A breach of a specification does not itself constitute an offence, but the contents of a specification will be relevant in a number of contexts.

13.4 The system of specifications is a key component of the legislative scheme. It simplifies the listing of requirements for treatment of incoming and outgoing articles and enables them to be changed speedily (subject to the requirements for consultation.) In some jurisdictions they are called ‘Import Health Standards’ and consideration can be given to using that term in the Ordinance.

14.0 Conclusion

14.1 As stated above, the generic Biosecurity Bill is a ‘maximalist’ draft and provides all possible needed powers and controls and protections for OTs. It will need to be adapted to the circumstances of each OT that adopts it, but it is hoped that it will achieve its intended

result and bring a degree of harmonisation to the laws about invasive species and agricultural pests in the OTs.

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ANNEXES

Annex 1: Glossary of terms not defined in clause [Pre2] (para.7.2 above)

- “biosecurity approved premises” means premises approved for the inspection, testing and treatment of regulated articles under section [Adm];
- “biosecurity access arrangements” means arrangements under section [BIP5(1)] for specifications in respect of new imports;
- “biosecurity certification requirement”, in relation to an article, means a requirement by a receiving country for a sanitary or phytosanitary certificate or a certificate of origin in respect of the article;
- “biosecurity clearance”, in respect of a regulated article or consignment, means biosecurity import clearance or biosecurity export clearance;
- “biosecurity clearance agent” means a person in the Jurisdiction appointed by an importer or exporter under section [BBC6] for the purposes of the Ordinance as the agent of the importer or exporter to supervise the biosecurity clearance of a conveyance, container, animal, plant, animal or plant product or any other goods;
- “biosecurity controlled area” means an infested biosecurity controlled area declared under section [BIC5] or a threat-free biosecurity controlled area declared under section [BIC7];
- “biosecurity declaration” in relation to an article or consignment means a written statement of the nature, quantity and origin of the article or consignment, and of other details relating to it required by or under the Ordinance;
- “biosecurity entry inspection” of an incoming article means inspection of it pursuant to section [BIP1];
- “biosecurity export clearance” of an article means permission under section [BEP6] for the article or consignment to be exported;
- “biosecurity export inspection” of an outgoing article means inspection of it pursuant to section [BEP1];
- “biosecurity goods holding area” means an area of land at or adjacent to a seaport or airport designated under section [BBC4(3)] for the biosecurity inspection of incoming or outgoing articles and consignments;
- “biosecurity holding area” means a biosecurity port holding area, a biosecurity goods holding area or a biosecurity postal holding area;
- “biosecurity import clearance inspection” of an incoming article means inspection of it pursuant to section [BIP2];
- “biosecurity import licence” means a biosecurity import licence issued under section [BIP7];
- “biosecurity import requirements” in relation to an article or consignment mean –
- (a) the conditions of a biosecurity import licence, if one is required;
 - (b) the requirements of any sanitary or phytosanitary certificate relating to the article or consignment;
 - (c) any other biosecurity measures specified under section [BIP4(1)(c)];
- “biosecurity inspection” of an incoming or outgoing conveyance, article or consignment

- means an inspection to ascertain whether the conveyance, article or consignment presents a biosecurity risk to the Jurisdiction or a receiving country and whether in other respects it conforms to the requirements of the Ordinance;
- “biosecurity landing clearance” means clearance for a vessel or aircraft to land cargo or passengers under section [VA2];
- “biosecurity point of departure” means a seaport or airport designated under section [BBC3(4)] for the exportation of regulated articles;
- “biosecurity point of entry” means a seaport or airport designated under section [BBC3(1)] for the importation of regulated articles;
- “biosecurity port quarantine” means quarantine of a vessel or aircraft in a biosecurity port quarantine area under section [VA3];
- “biosecurity port quarantine area” means an area designated under section [VA3(1)] for the biosecurity quarantine of vessels and aircraft;
- “biosecurity port quarantine clearance” means permission under section [VA6] for a vessel or aircraft to unload passengers and cargo after being in biosecurity port quarantine;
- “biosecurity postal holding area” means an area of a mail exchange designated under section [BBC4(5)] for the biosecurity inspection of incoming or outgoing postal items;

Annex 2: List of offences created by the Ordinance (para. 8.2 above)

(The description of the offences is for purposes of this list only.)

1. BBC1(2) Import prohibited regulated article
2. BBC1(4) Import restricted regulated article
3. BBC1(6) Export prohibited regulated article
4. BBC186) Export restricted regulated article
5. BBC3(2) Landing except at point of entry
6. BBC3(3) Import except at point of entry
7. BBC3(5) Depart except at point of departure
8. BBC3(6) Export except at point of departure
9. BBC5(3) Interference with holding area
10. BBC5(4) Remove from holding area
11. VA1(3) Fail to make arrival declaration
12. VA2(5) Fail to comply on arrival
13. VA2(6) Master fail to obtain landing clearance
14. VA2(7) Crew or passenger unlawful landing
15. VA4(3) Interference with port quarantine area
16. VA4(5) Removing a port quarantine notice
17. VA5(4) Fail to conform to port quarantine
18. VA7(2)(a) Fail to allow search of vessel/aircraft ; see OP4
19. VA7(2)(b) Fail comply with request etc.; see OP4
20. VA8(1) Master fail to secure animal or hatches
21. VA8(2) Master discharge garbage, etc
22. VA8(3) Master or captain fail to control waste
23. VA8(4) Master or captain release stores
24. VA8(5) [Creates offences 20 to 23]
25. VA8(7) Discharge ballast in sea
26. VA9(7)(a) Incoming passenger fail to declare
27. VA9(7)(b) Fail to submit incoming baggage for inspection
28. VA9(9) Fail to submit outgoing articles for inspection etc.; see OP4
29. BIP1(6) Fail to make incoming goods available; see OP4
30. BIP2(5) Fail to allow import clearance inspection, etc.

31.	BIP8(4)	Fail to surrender revoked licence
32.	BIP10(5)	Contravene transit waiver
33.	BIP10(9)	Fail allow inspection in transit; see OP4
34.	BEP1(3)	Fail to make declaration; see OP4
35.	BEP1(5)	Fail to make outgoing goods available; see OP4
35.	BEP2(2)	Export without clearance
36.	BQ1(3)	Refusal to move to quarantine; see OP4
37.	BQ4(3)	Interference with quarantine station
38.	BQ5(4)	Unlawful release from quarantine
39.	BQ6(2)	Removing a quarantine notice
40.	BQ7(2)	Unlawfully release animal etc.
41.	PBO2(6)	Fail to make premises available
42.	PBO4(4)	Fail to open container etc.; see OP4
43.	PBO6(3)	Refusal to provide samples
44.	PBO11A	Removal, etc of quarantine seal or identification mark
45.	PBO12(6)	Person refusing to answer etc.; see OP4
46.	BIC1(5)	Fail to cooperate with survey; see OP4
47.	BIC5(7)	Movement in infested controlled area
48.	BIC8A(4)	Breach of condition of movement licence
49.	BIC10(6)	Fail to notify occurrence
50.	BIC10(8)	Master or captain fail to notify
51.	BE3(3)	Breach of emergency directions
52.	DB2(7)(a)	Officer fail surrender ID
53.	DB2(7)(b)	Copy etc. officer's ID
54.	OP1	Owning, etc. prohibited imports (3 offences)
55.	OP2	Keeping, sale etc. of certain animals and plants (3 offences)
56.	OP3	Dereliction of duty by officer
57.	OP4	Obstruction etc. of an officer
58.	OP5(1)	Forgery etc. of a document
59.	OP6(2)	Producing a false document
60.	OP7(3)	Unlawful use of official stamp or seal

Annex 3: List of forms and notices that might be needed (Para. 9.1 above)

BBC6	Application for biosecurity agent
BBC6	Approval of biosecurity agent
VA1	Biosecurity arrival declaration for vessel/aircraft
VA2	Incoming vessel biosecurity certificate
VA2A	Bond for compliance
VA3	Order into port quarantine
VA4	Port quarantine notice
VA5	Conduct of vessels/aircraft in quarantine
VA6	Biosecurity landing clearance certificate
VA7	Directions to outgoing vessel/aircraft
VA8(1)	Directions as to animal on vessel/aircraft
VA8(3)	Directions as to garbage on vessel/aircraft
VA8(4)	Directions as to ships' stores
BIP1	Passenger arrival biosecurity declaration
BIP2	Entry release [certificate] of incoming goods
BIP2	Application for biosecurity import clearance
BIP3	Biosecurity import clearance [certificate]

BEP4	Notice of change of specifications
BIP5	Application for specifications
BIP6	Application for biosecurity import permit
BIP7	Form of import permit
BIP8	Notice of revocation of import permit
BIP9	Exemption of a regulated article
BIP10	Transit waiver
BEP1	Biosecurity export declaration
BEP1	Export release [certificate] of regulated articles
BEP2	Requirement for biosecurity export inspection
BEP3	Sanitary or Phytosanitary Certificate
BEP4	Notice of change of export specifications
BEP5	Application for biosecurity export clearance
BEP6	Biosecurity export clearance [certificate]
BQ1(1)	Order into biosecurity quarantine
BQ1(2)	Direction as to quarantine
BQ1(5)	Notice to owner
BQ5	Biosecurity quarantine release certificate
BQ6	Biosecurity quarantine station notice
PBO2	Receipt for thing seized
PBO4	Requirement to open container etc.
PBO5(1)	Detention order and specification
PBO5(5)	Notice to importer/exporter
PBO6(7)	Sample taking notice
PBO6(10)	Sample result notice
PBO7	Result of test notice
PBO8	Notice of treatment
PBO9	Reconsignment notice
PBO10	Destruction notice
PBO11	Notice of result of post mortem examination
BIC1	Order/Direction to owners for a survey
BIC2	Receipt for thing seized
BIC3(1)	Specification of place for detention of animal or plant
BIC3(5)	Order/Direction to remove animal or plant
BIC4	Destruction order
BIC12	Agreement with landowner, etc.
BE3	Requisition in emergency
DB2	Identification of a biosecurity officer
Adm7	Form of compliance agreement
Adm8	Application for approved premises
Adm10	Director's notice about status of pests and diseases
OP8	Fixed penalty notice
MP4	Form for an appeal

Annex 4: List of powers and functions contained in the Ordinance (Para.10.0 above)

<u>Clause</u>	<u>Function</u>	<u>Power</u>
Pre2(3)	Additional regulated articles	G in C may declare by order
BBC1(1)	Prohibited import regulated article	G in C may declare by order
BBC1(3)	Restricted import regulated article	Ditto

BBC1(5)	Prohibited export regulated article	Ditto
BBC1(7)	Restricted export regulated article	Ditto
BBC3(1)	Biosecurity points of entry	G in C may designate by order
BBC3(4)	Biosecurity points of departure	Ditto
BBC4(1)	Biosecurity port areas for vessels/aircraft	Ditto
BBC4(3)	Biosecurity goods holding areas	Ditto
BBC4(5)	Biosecurity postal holding area	Ditto
BBC6	Clearance agents	Importer appoints
VA1(2)	Electronic arrival declaration	Director may direct
VA2A(1)	Taking of a bond	Director approve form
VA3(1)	Port quarantine areas for vessels/aircraft	G in C may designate by order
VA3(7)	Vessel leave waters	Director may direct
VA4(4)	Notice of quarantine	Officer may affix
VA5(1)	Moving a vessel	Director may direct
VA(1)7	Departing vessel/aircraft	Officer may search etc.
VA8(8)	Sealing of holds	Officer may do it
BIP1	Incoming goods	Officer may inspect etc.
BIP4	Requirements for importation	Director may specify
BIP5	Access arrangements if no specification	Director may make
BIP7	Import licence	Director may issue
BIP8	Import licence	Director may revoke or vary
BIP9	Exemption from import licence	Director may grant
BIP10	Transit waiver	Officer may grant
BEP1	Outgoing goods	Officer may inspect etc.
BEP3	SPS certificate	Director may issue
BEP4	Requirements for exportation	Director may specify
BEP6	Biosecurity export clearance	Officer may grant it
BQ1	Biosecurity quarantine	Officer may order it
BQ2	Biosecurity quarantine stations	G in C may designate by order
BQ3	Conditions of quarantine	Director may specify
BQ4	Management of quarantine station	Director may direct
BQ5A	Return to quarantine	Officer may order it
BQ6	Quarantine notice	Officer may affix
Part [PBO]	Powers of officers generally	--
BIC1	Pest and disease survey	G in C may order
BIC2, 3, 4	Control of invasive species and pests	Entry, search & seizure powers
BIC5	Infested biocontrol area	G in C may declare by order
BIC6	Regulation of infested area	Director to direct
BIC7	Threat-free areas	G in C may declare by order
BIC8	Regulation of threat-free area	Director to direct
BIC8A(1)	Control of movement between areas	G in C may prohibit movement; Director may issue a licence
BIC9	Feral animals	Director may order destruction
BIC10	Notifiable invasive species and pests	G in C may declare by order
BIC11	Beneficial organisms	G in C may authorise release
BE1	Biosecurity emergency area	G in C may declare by order
BE2 and 3	Emergency response	Director may requisition etc.
BE4	Emergency regulations	G in C may make
DB1	Director of Biosecurity and Deputy	G in C to appoint/designate
DB2	Biosecurity officers	Ditto

DB 3 and 4	Director, Council Committee, etc.	Various functions
DB5	Delegation of powers	Director may delegate
DB6	Biosecurity register	Director must keep
[Adm1	Finance	Governor may request additional]
[Adm2	Local authority/Advisory body	May advise, survey etc.]
[OR	Advisory Committee	Governor may appoint]
Adm1	Outsourcing	Director may appoint consultants etc.
Adm3 [and 3A]	Facilities at ports/airports	Owner must provide
Adm4	Compliance agreements	Director may enter into
Adm5	Landowners/administrators	Director may make agreements
Adm6	Approved premises	Director may approve
Adm7	International cooperation	Governor may designate enquiry point
Adm8	International notification	Governor may issue
OP8(2)	Fixed penalties	Director specify offences not covered
OP8(9)	Ditto	Director specify how and where to pay
MP3(3)	Compensation	Director determine amount
MP8	Specifications generally	Director may issue
MP9	Regulations	G in C may make
