

**Tackling Invasive Non-Native Species in the UK Overseas Territories**

**GENERIC BIOSECURITY BILL, revised 2020  
SIMPLIFIED VERSION**

**TEXT OF THE GENERIC BILL**

**DRAFTING NOTES (for guidance only)**

**General** (see also the separate Explanatory Note)

- The draft is a ‘generic’ draft for use by British Overseas Territories (also known as UK Overseas Territories.)
- It is a ‘maximalist’ draft, providing all possible needed powers and controls and protections and will need to be adapted by each OT, as noted below.
- The draft uses letters for Parts and clauses. The letters can remain until the Bill is finalised, when it will need to be numbered, as will cross-references and notes.
- The Part names and section headings are for local decision.
- Penalties etc. are expressed in £xxx. They will need to be specified and expressed in local currency.
- The term ‘Ordinance’ is used in this draft, but in some OTs the correct term is ‘Act’.

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***[JURISDICTION]***

**BIOSECURITY BILL [20xx]**

(Bill No. of 20xx)

**A BILL**

FOR

AN Ordinance to control the entry into, introduction or establishment within [Jurisdiction] of invasive species, pests and diseases of animals and plants and their products, and to make ancillary and related provisions.

[Commencement: 20xx]

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This will be the name of the Overseas Territory

The Long Title sets out the scope and general purpose of the Ordinance if enacted. It amounts to a statement of the Purpose of the Ordinance and can be significant when amendments come to be made.

This, if needed, will be inserted before the Ordinance is Gazetted

**ENACTED** by the Governor of *[Jurisdiction]* with the advice and consent of the [Legislative Council] of *[Jurisdiction]*.

## **PART [Pre] - PRELIMINARY**

### **Short title and commencement**

**Pre1.** (1) This Ordinance may be cited as the Biosecurity Ordinance [20xx].

(2) This Ordinance comes into operation on [.....] OR [a day or days appointed by the Governor by notice in the *Gazette*].

(3) The [Governor] may appoint different days for the coming into force of different provisions.

This will use the local formula for the enacting clause

## **PART [Pre] – PRELIMINARY**

### **Pre1: Short title and commencement**

Subclause (1) is the short title, by which the Ordinance will be known. Other titles are possible, but the Ordinance will need to be readily found in an alphabetical index of laws. It is also desirable to use a similar title in all OTs if possible.

Some jurisdictions will enact it as an Ordinance, rather than an Act, and the text will need to be changed accordingly.

Local decision needed as to commencement date or dates.

Subclause (2) is a common commencement provision among OTs, though the timing will be a matter for each OT. The power might be given to the Governor in Council by order, or similar.

For a complex Ordinance like this, where administrative implementation will be needed, a commencement date needs to be appointed rather than it coming into force on assent or Gazettal.

The legislature can specify the date or fix a day by which the Ordinance should come into force.

## Interpretation

**Pre2.** (1) In this Ordinance, unless the context otherwise requires, the terms listed in Schedule 1 have the meanings given to them in that Schedule.

- (2) In this Ordinance, the term “regulated article” means –
- (a) any animal or animal product;
  - (b) any plant or plant product or material;
  - (c) any living organism, whether modified or not;
  - (d) soil, sand gravel and aggregate;
  - (e) any genetic material;
  - (f) human remains;
  - (g) any host material;
  - (h) any clothing, machinery or other article that contains or has adhering to it anything mentioned in paragraph (a), (b), (c) or (d);
  - (j) garbage;
  - (k) any other article, substance, goods or thing declared by order under subsection (3) to be a regulated article for the purposes of this Ordinance.

(3) The Governor in Council, on the advice of the Director, may by order declare any article, substance, goods or thing to be a regulated article for the purposes of this Ordinance.

(4) For purposes of this Ordinance, “[Jurisdiction]” includes the waters of [Jurisdiction] as defined in Schedule 1.

## Application of the Ordinance

Different dates can be appointed for different provisions, but the Preliminary and some of the Miscellaneous provisions will be needed from the start. Subclause (3) is needed if the power to split up the provisions is wanted, unless the Interpretation Ordinance so provides.

## Pre2: Interpretation

Can include definitions here if preferred. See the notes to Schedule 1.

Subclause (2) defines ‘regulated article’ by means of a list. (Called ‘risk goods’ in some jurisdictions). It would include toiletries and any non-vegan food produce. Note that ‘animal’ does not include human remains, but they are included in ‘regulated goods’. Non-native species, pests and diseases would be included in (a), (b) or (c); see the definition of ‘organism’ in Schedule 1.

Subclause (3) gives the Governor in Council power to declare additional regulated articles by order. This is to allow for changes in biosecurity risks in future. The waters of the territory can include the EEZ if there is one

**Pre3.** (1) This Ordinance applies to every person in [Jurisdiction], irrespective of the person's nationality or citizenship.

(2) This Ordinance applies to all conveyances, containers and goods while they are in [Jurisdiction], including vessels owned or operated by the government of a foreign country.

(3) This Ordinance applies to all premises in [Jurisdiction], including premises owned or occupied by the government of a foreign country.

(4) This Ordinance applies to persons, conveyances, containers and goods outside [Jurisdiction] to the extent needed for its effective enforcement.

#### **Ordinance binds the Crown**

**Pre4.** This Ordinance binds the Crown, including every Government department and statutory authority and every person in the employment of the Government, but nothing in this Ordinance renders the Crown liable to prosecution for an offence under this Ordinance.

#### **Biosecurity functions of the Government**

**Pre5.** (1) The biosecurity functions of the Government are to –

- (a) protect [Jurisdiction] against the entry of non-native species and of pests and diseases adversely affecting the economy, human health and the environment;
- (b) prevent the establishment and spread of non-native species and of pests and diseases and the release of organisms that might adversely affect the economy, human health and the environment;

#### **Pre3: Application of the Ordinance**

This says that the legislation applies to everyone in the Territory and on a ship or aircraft in the Territory.

Foreign government vessels and aircraft and passengers and premises and goods will be subject to the legislation. This is important as biosecurity threats can arise on military and foreign property and installations. An MOU or similar might be needed in respect of searching of military vessels and installations.

See also clause [Adm7] in relation to international co-operation, which could result in extraterritorial powers to inspect warehouses etc. overseas.

#### **Pre4: Ordinance binds the Crown**

This says the Ordinance binds the Crown, i.e. the Government, as well as the Crown in right of the UK. Normally an Ordinance does not bind the Crown or Government unless expressed to do so (or the Interpretation Ordinance so provides.) It is appropriate for environmental and health laws to apply to the Government.

#### **Pre5: Biosecurity functions of the Government**

This is a statement of the biosecurity functions of the Government of the Territory, and includes references to invasive species. It is in effect an extended definition of biosecurity and should guide all who operate under the Ordinance. An alternative approach is for these functions to be set out as functions of the Director (or other authority) in clause [Adm23].



- (c) eradicate, contain or control the movement of non-native species and of pests and diseases that are already present in [Jurisdiction];
- (d) contain the spread of non-native species and of pests and diseases by preventing incursions into new areas, and eradicating any species that are found outside a defined area;
- (e) carry out surveillance and monitoring of non-native species and of pests and diseases in [Jurisdiction] and assess their status;
- (f) facilitate the safe importation of animals and plants and their products, and related equipment and technology;
- (g) facilitate international cooperation to prevent the spread of non-native species and of pests and diseases affecting plants, animals, human beings and the environment.

(2) The Government must seek to implement in [Jurisdiction] the international obligations of or applied to [Jurisdiction] in respect of biosecurity and biodiversity.

(3) If a full biosecurity risk assessment is not possible in any situation requiring an assessment of a biosecurity risk or threat, the precautionary principle may be applied.

(4) Action to contain a biosecurity threat must be taken as speedily as practicable, having regard to any requirement for technical advice or consultation contemplated by this Ordinance.

(5) The functions of the Director or of a biosecurity officer in issuing documents or granting clearance may be performed by a person or authority outside [Jurisdiction] authorised by the Government to perform that function.

(6) Biosecurity inspection and treatment of conveyances, containers, baggage and regulated articles may be performed on behalf of the Government by a person or authority outside [Jurisdiction].

Subclause (5) enables biosecurity clearance etc. to be granted outside the territory, and subclause (6) enables testing and treatment to be outsourced.

### **Relationship to other written laws**

**Pre6.** (1) This Ordinance is in addition to and does not derogate from any other written law that applies to [Jurisdiction]. In particular, but without limiting this rule, this Ordinance does not displace any such law relating to –

- (a) immigration;
- (b) customs;
- (c) human health on board vessels and aircraft in [Jurisdiction];
- (d) the obligations of masters and owners of vessels in the waters of [Jurisdiction];
- (e) animal health;
- (f) trade in endangered species;
- (g) protection of wildlife;
- (h) food safety;
- (i) environmental protection,

but public officers administering any of those laws must consult the Director whenever a biosecurity risk is detected or anticipated.

(2) The issue of a permit or permit under any written law relating to the subjects mentioned in subsection (1) does not displace the requirement under this Ordinance for biosecurity import clearance of imported regulated articles or for biosecurity export clearance of exported regulated articles, including as appropriate the issuing of permits and other documents.

(3) This Ordinance does not remove or abridge any power or authority that a police officer or customs officer would have had if this Ordinance had not been enacted.

(4) This Ordinance does not displace any provision of an Order in Council applying to [Jurisdiction] and relating to the movement of ships in its territorial waters.

### **Pre6: Relationship to other written laws**

This sets out the relationship of this law to other legislation in the jurisdiction, including applied English laws (hence the term ‘written laws’.)

It makes it clear that importers and others still need to comply with rules relating to customs, dangerous goods, pesticides, CITES etc. but that biosecurity must be taken into account in administering other laws.

Specific statutes could be mentioned if wanted.

The term ‘written law’ is used to include UK orders in Council applying to the Territory.

(5) To the extent of any inconsistency between this Ordinance and any other written law, every other written law must so far as possible be construed so as to fulfill the purpose of this Ordinance.

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## **PART [BBC] – BIOSECURITY BORDER CONTROL**

### **Control of entry and departure**

**BBC1.** (1) The master of an incoming vessel or captain of an incoming aircraft who intends to land any crew member, passenger, conveyance or goods in [Jurisdiction] must first obtain, in accordance with this Ordinance biosecurity landing clearance for the vessel or aircraft.

(2) A master of a vessel or captain of an aircraft who contravenes subsection (1) commits an offence.

Penalty: A fine of [£50,000] or imprisonment for [12] months, or both.

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

Penalty: A fine of [£5,000] or imprisonment for [6] months, or both.

(4) A crew member or passenger who lands from an incoming vessel or aircraft before receiving biosecurity entry clearance, except with the permission of a biosecurity officer, commits an offence.

Penalty: A fine of [£5,000] or imprisonment for [6] months, or both.

Subclause (4) makes it clear that Territorial Sea Orders made by the Privy Council still apply in respect of ships in the waters of the territory.

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## **PART [BBC] – BIOSECURITY BORDER CONTROL**

This Part and Parts [BIP] and [BQ] set out the principles for biosecurity border control. Part [BIC] then deals with internal controls.

### **BBC1: Control of entry and departure**

This is the key provision for control of movement into and out of the Territory. It prohibits the landing of any vessel or aircraft without biosecurity landing clearance; the entry of a passenger or crew member without biosecurity entry clearance; the importing of regulated goods without biosecurity import clearance; and the exporting of regulated goods without biosecurity export clearance.

The word ‘land’ has a wide meaning (see Schedule 1) and can include a vessel that lets people go e.g. scuba-diving without coming to shore. It can also cover the taking of coral and sponges anywhere in the waters of the territory.

The clause does not require the designation of points of entry and departure, but leaves these to customs or immigration or shipping rules.

For landing clearance, see clause [CVA2(3)].

(5) A person who intends to import a regulated article or consignment of regulated articles must first obtain, in accordance with this Ordinance, biosecurity import clearance for the article or consignment.

For entry clearance, see clause [CVA7].  
For import clearance, see clause [BIP1].  
For export clearance, see clause [BEP1].

(6) A person who imports or attempts to import a regulated article or consignment of regulated articles without biosecurity import clearance for the article or consignment commits an offence.

Penalty: A fine of [£5,000] or imprisonment for [6] months, or both.

(7) A person who intends to export a regulated article or consignment of regulated articles must first, if so required by this Ordinance, obtain biosecurity export clearance for the article or consignment.

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

Penalty: A fine of [£5,000] or imprisonment for [6] months, or both.

### **Prohibited and restricted imports and exports**

**BBC2.** (1) The Governor in Council, on the advice of the Director, may by order declare the categories of regulated articles the importation of which is prohibited for all purposes (the ‘prohibited imports’ list).

(2) A person who knowingly imports, or attempts to import, a regulated article the importation of which is prohibited under subsection (1) commits an offence.

Penalty: A fine of [£5,000] or imprisonment for [6] months, or both.

(3) The Governor in Council, on the advice of the Director, may by order declare the categories of regulated articles the importation of which is permitted subject to conditions specified by the Director under section [BIP4] (the ‘restricted imports’ list).

### **BBC2: Prohibited and restricted imports and exports**

This enables the Governor in Council to create a ‘black list’ of invasive species and pests and diseases, by declaring by Order:

- Regulated articles that cannot be imported at all (Prohibited imports)
- Regulated articles that can only be imported on certain conditions (Restricted imports)

(4) A person who knowingly imports, or attempts to import, a regulated article the importation of which is restricted under subsection (3) in breach of the specified conditions of its import commits an offence.

Penalty: A fine of [£5,000] or imprisonment for [6] months or both.

(5) The Governor in Council, on the advice of the Director, may by order declare the categories of regulated articles the exportation of which is prohibited for all purposes (the ‘prohibited exports’ list).

(6) A person who knowingly exports, or attempts to export, a regulated article the exportation of which is prohibited under subsection (5) commits an offence.

Penalty: A fine of [£5,000] or imprisonment for [6] months, or both.

(7) The Governor in Council, on the advice of the Director, may by order declare the categories of regulated articles the exportation of which is permitted subject to conditions specified by the Director under section [BEP4] (the ‘restricted exports’ list).

(8) A person who knowingly exports, or attempts to export, a regulated article the exportation of which is restricted under subsection (7) in breach of the specified conditions of its export commits an offence.

Penalty: A fine of [£5,000] or imprisonment for [6] months or both.

### **Requirements for making orders**

**BBC3.** (1) Before advising the Governor in Council under section [BBC2], the Director must make a biosecurity risk assessment in respect of the regulated article or category.

(2) An order under section [BBC2] may make different provision for different cases and, in particular, for different –

- (a) types of regulated articles;
- (b) circumstances or purposes;

- Regulated articles that cannot be exported at all (Prohibited exports)
- Regulated articles that can only be exported subject to certain conditions (Restricted exports).

The clause creates offences of knowingly importing or exporting prohibited or restricted regulated articles. There is no compensation if a regulated article is confiscated because it becomes prohibited, as the importer/exporter should ascertain the position before shipping it.

See clauses [OP1 and 2] for offences of possessing, releasing etc. prohibited items.

### **BBC3: Requirements for making orders**

This requires a biosecurity risk assessment to be made before orders are made under section [BBC2].

- (c) times of the year; and
  - (d) areas or places.
- (3) An order under section [BBC2] in respect of a regulated article –
- (a) may be made at any time before biosecurity import clearance is granted in respect of an item;
  - (b) may, subject to a biosecurity risk assessment, be revoked or varied if an application to import the relevant article is made at any time.

#### **Prohibited countries of origin**

**BBC4.** (1) The Governor in Council may, in an order under section [BBC2(1)], include regulated articles or categories of regulated articles from –

- (a) all countries or areas of origin; or
  - (b) one or more particular countries or areas of origin,
- if the importation would present an unacceptable biosecurity risk to [Jurisdiction].

- (2) In making a decision under this clause, the Governor in Council must –
- (a) have regard to the international obligations applying to [Jurisdiction] in respect of biosecurity and of trade in regulated articles;
  - (b) not discriminate in an arbitrary and unjustifiable manner between countries where the same conditions prevail.

#### **Biosecurity postal holding area**

**BBC5.** (1) The mail exchange at [chief town of the Territory] is a biosecurity postal holding area where, subject to subsection (2), incoming or outgoing postal items may be held for biosecurity inspection pending biosecurity clearance or other disposition under this Ordinance.

*OK?*

- (2) Subsection (1) only applies to regulated articles that at the time of entry or departure are in a mail bag or other container that conforms to the requirements of the postal legislation of [Jurisdiction].

#### **BBC4: Prohibited countries of origin**

This enables the Governor in Council when declaring prohibited imports under section [BBC2] to list them by reference to their country of origin. It amounts to a list of ‘suspect’ countries, but must not be capricious or arbitrary.

#### **BBC5: Biosecurity postal holding area**

Mail exchanges are included because mailbags often go direct to the sorting office where biosecurity inspection should take place for seeds etc. contained in the mail.

(3) Regulated articles that arrive in or depart from [Jurisdiction] by courier, or are delivered to households or businesses by courier, are not postal items and are subject to the provisions of this Ordinance regarding regulated articles.

### **Biosecurity clearance agents**

**BBC6.** (1) A person who proposes to import or export regulated articles and who will not be present when biosecurity inspection is to take place must –

- (a) appoint a person resident in [Jurisdiction] as a biosecurity clearance agent for the purposes of this Ordinance; and
- (b) notify the Director of the appointment before the agent performs any agency functions.

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

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## **PART [CVA] – CONTROL OF VESSELS AND AIRCRAFT**

### **Biosecurity vessel or aircraft arrival declaration**

**CVA1.** (1) In order to obtain biosecurity landing clearance for a vessel or for an aircraft respectively, the master or captain must [, if so required by the Director in any particular case,] –

- (a) make to the Director a biosecurity vessel or aircraft arrival declaration; and

### **BBC6: Biosecurity clearance agents**

Biosecurity clearance agents, similar to customs agents, could be useful in some Territories. If wanted, this clause makes the necessary provision.

The agent can also be a customs agent. The agent is responsible for documentation etc. and is liable as importer or exporter.

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## **PART [CVA] – CONTROL OF VESSELS AND AIRCRAFT**

This Part sets out the biosecurity rules for incoming and outgoing vessels and aircraft, in addition to any other rules about immigration, health, customs, etc. It is intended to be consistent with IMO rules about the movement of vessels and ICAO rules about the movement of aircraft.

(b) if so requested, permit an inspection and search of the vessel or aircraft.  
*All cases?*

(2) A biosecurity vessel or aircraft arrival declaration, if required, must state the matters listed in Schedule 2.

- (3) A biosecurity vessel or aircraft arrival declaration –
- (a) in the case of a vessel - must be made before landing in [Jurisdiction];
  - (b) in the case of an aircraft - must be made not less than [15 minutes] before the estimated time of arrival;
  - (c) may be made by electronic means, in accordance with any written requirements of the Director;
  - (d) may be made through a biosecurity clearance agent;
  - (e) may be made in conjunction with or as part of a declaration made for customs or other border control purposes.

(4) A master or captain who, either directly or through a biosecurity clearance agent, fails to make a biosecurity arrival declaration when required to do so commits an offence and will be refused landing clearance.  
Penalty: A fine of [£50,000] or imprisonment for [12] months or both.

(5) Subject to subsection (6), if the Director is aware of the presence of a vessel or aircraft in [Jurisdiction] but does not impose a requirement under subsection (1) on the vessel or aircraft, biosecurity landing clearance is deemed to have been granted for it.

(6) The Director may require biosecurity measures to be taken in respect of a vessel or aircraft before it obtains biosecurity landing clearance, including disinfestation or disinfection of the vessel or aircraft and cargo [and showing of a video film to passengers].

### **Biosecurity vessel or aircraft inspection**

In OTs where there are no aircraft this Part needs adapting, as do all references to ‘captain’

### **CVA1: Biosecurity vessel or aircraft arrival declaration**

This gives the Director of Biosecurity power to ask for a biosecurity arrival declaration from masters of ships and captains of aircraft coming to the Territory. It can be made electronically, or by an agent, and combined with a customs or health declaration. The contents of the declaration are set out in Schedule 2.

A local decision is needed as to when the declaration should be made.

The reference to a biosecurity agent should be deleted if there is none.

Under subclause (5) the biosecurity measures might involve disinfection by aerosol or similar.



**CVA2.(1)** The master of an incoming vessel or captain of an incoming aircraft must, if so required –

- (a) permit a biosecurity officer to board and search the vessel or aircraft and inspect or cause to be inspected any area of the vessel or aircraft, (including in the case of a vessel the hull and propellers);
- (b) apply or cause to be applied to the vessel or aircraft any treatment that the Director requires in writing;
- (c) provide to a biosecurity officer the log, cargo manifest, bill of lading, stores list, passenger list, crew list and any other document that is in and relates to the vessel or aircraft and that the officer reasonably requests for the purposes of this Ordinance.

(2) The master of an incoming vessel or captain of an incoming aircraft respectively who fails to comply with a provision of subsection (1) when required to do so will be refused landing clearance for the vessel or aircraft.

(3) If, after searching an incoming vessel or aircraft and inspecting its documents as provided by subsection (1), a biosecurity officer is satisfied that it –

- (a) does not have on board any prohibited import or any prohibited or restricted non-native species;
- (b) is not infected or infested with a prohibited or restricted pest or disease; and
- (c) does not have on board any regulated article that might pose a biosecurity threat to [Jurisdiction],

the officer must, subject to section [CVA3], grant biosecurity landing clearance to the vessel or aircraft.

### **Biosecurity port quarantine of vessels and aircraft**

**CVA3.** (1) If, after searching an incoming vessel or aircraft under section [CVA2], or for any other reason, a biosecurity officer reasonably suspects that the vessel or aircraft –

- (a) has on board any prohibited import or any prohibited or restricted non-native species;

### **CVA2: Biosecurity vessel or aircraft inspection**

This gives a discretion whether to inspect an arriving ship or aircraft before granting biosecurity landing clearance.

The documents that can be asked for would not include e.g. technical specifications of the vessel etc.

If necessary, the ship or aircraft can be ordered into a biosecurity port quarantine, as below.

- (b) is infected or infested with a prohibited or restricted pest or disease; or
  - (c) has on board any regulated article that might pose a biosecurity threat to [Jurisdiction],
- the officer may declare the vessel or aircraft to be in biosecurity port quarantine.

- (2) The Director may give written directions to the master of a vessel or captain of an aircraft in biosecurity port quarantine as to –
- (a) the movement of the vessel or aircraft while it is in quarantine;
  - (b) the movement of passengers, crew and cargo while the vessel or aircraft is in quarantine;
  - (c) any treatment or other biosecurity measure that must be applied to the vessel or aircraft.

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

- (4) A master or captain respectively 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 (2) commits an offence.

Penalty: A fine of [£50,000] or imprisonment for [12] months, or both.

#### **Biosecurity port quarantine clearance of vessels and aircraft**

**CVA4.(1)** Biosecurity landing clearance for an incoming vessel or aircraft in biosecurity port quarantine must be refused until any requirement of biosecurity port quarantine has been completed.

- (2) If satisfied that –
- (a) a vessel or aircraft in biosecurity port quarantine, including its cargo, does not have on board any prohibited import or any prohibited or restricted non-native species and is free from prohibited or restricted pests and diseases; and

#### **CVA3: Biosecurity port quarantine of vessels and aircraft**

This enables a biosecurity officer to place an arriving ship or aircraft in biosecurity port quarantine in certain circumstances. The Director can give written directions as to the movement of a vessel or aircraft in quarantine.

The area does not need to be defined by order.

The taking of a bond could be made a condition of release from quarantine.

#### **CVA4: Biosecurity port quarantine clearance of vessels and aircraft**

A vessel or aircraft in biosecurity port quarantine must obtain biosecurity port quarantine clearance before landing passengers or cargo. The clause does not use

(b) any potential biosecurity risk from ship's stores and other regulated articles on the vessel or aircraft is suitably contained, a biosecurity officer must, subject to subsection (4), grant biosecurity port quarantine clearance for the vessel or aircraft to land crew members, passengers and goods.

(3) Biosecurity port quarantine clearance of a vessel or aircraft has the same effect as biosecurity landing clearance.

(4) If the Director reasonably believes that a vessel or aircraft, whether or not in biosecurity port quarantine, poses a serious biosecurity threat to [Jurisdiction] which cannot adequately be dealt with by appropriate biosecurity measures, the Director may in writing direct the vessel or aircraft to leave [Jurisdiction].

(5) No compensation is payable for any loss or destruction or consequential loss caused by a vessel or aircraft being detained in quarantine, or as a result of a direction to leave [Jurisdiction], unless negligence or malice is proved.

#### **Outgoing vessels and aircraft**

**CVA5.** (1) If a biosecurity officer has reason to believe that there is on board an outgoing vessel or aircraft any prohibited export, or any regulated article that requires biosecurity export clearance pursuant to section [BEP1] and that has not been cleared, the officer may –

- (a) board and search the vessel or aircraft;
- (b) request the master or captain to produce for inspection the cargo manifest, bill of lading, stores list, passenger list, crew list and any other document that is on or in and relates to the vessel or aircraft and that the officer reasonably requires for the purposes of this Ordinance;
- (c) direct the master or captain not to move the vessel or aircraft unless permitted by the officer, and then only as directed by the officer;
- (d) direct the vessel or aircraft to be subjected to any treatment or other biosecurity measure that is prescribed or specified;

the term 'pratique' or 'permission to land' as used in some quarantine legislation, but the effect is the same.

#### **CVA5: Outgoing vessels and aircraft**

This relates to outgoing vessels and aircraft and has similar provisions about biosecurity inspection etc. to protect destination countries. Masters and captains of outgoing vessels and aircraft must cooperate with a biosecurity officer who has reason to suspect there might be on board uncleared regulated articles that require clearance.

(e) give to the master any other lawful direction that is reasonably required to protect the destination country from a biosecurity threat posed by the vessel.

(2) A master or captain who –

(a) refuses to permit a search pursuant to subsection (1)(a); or

(b) fails to comply with a request or direction given under subsection (1)(b) to (e),

commits an offence.

Penalty: A fine of [£50,000] or imprisonment for [12] months, or both.

### **Environmental obligations of masters and captains**

**CVA6.(1)** The master of every incoming vessel and captain of every incoming aircraft respectively who fails to take all reasonable steps to –

(a) prevent any live animal on board the vessel from landing unless permitted by an appropriately qualified biosecurity officer, and then only as directed by the officer;

(b) ensure that no ships' stores are removed from the vessel while it is in [Jurisdiction], except under and in accordance with the directions of a biosecurity officer.

(2) The master of every incoming vessel who fails to take all reasonable steps to ensure that no –

(a) waste containing any animal, plant, animal product or plant product; or

(b) bilge water, sewage or foul wastewater,

is discharged from the vessel into the waters of [Jurisdiction] commits an offence.

Penalty: A fine of [£50,000] or imprisonment for [12] months, or both.

(3) A person who discharges ballast from a vessel into the waters of [Jurisdiction] commits an offence.

Penalty: A fine of [£5,000] or imprisonment for [6] months.

### **CVA6: Environmental obligations of masters and captains**

This imposes on masters and captains of all vessels and aircraft that come into the Territory obligations with regard to securing the vessel to prevent environmental damage as well as biosecurity risks. There are limitations on the discharge of garbage and ballast water from vessels within the Territory waters. These provisions are in line with various international pollution conventions.

The term 'waste' is defined in Schedule 1.

- (4) The obligations in subsections (2) and (3) are in addition to and do not limit the obligations of the masters of vessels under –
- (a) the International Convention for the Prevention of Pollution from Ships, 1973 as modified (‘MARPOL’);
  - (b) the International Convention for the Control and Management of Ships’ Ballast Water and Sediments, 2004;
  - (c) any other written law,
- in respect of discharges from a vessel into the waters of [Jurisdiction].

### **Passengers and crew members**

**CVA7.(1)** In order to obtain biosecurity entry clearance, a passenger or crew member must make to a biosecurity officer a passenger arrival biosecurity declaration.

- (2) The passenger arrival biosecurity declaration must be in a form approved by the Director and contain all required particulars relating to the person and any baggage that accompanies the person.
- (3) The passenger arrival declaration form must include any –
- (a) article of clothing worn on the body;
  - (b) article attached or connected to the body or clothing; or
  - (c) suitcase or other container of personal baggage,
- which consists of or includes a regulated article listed on the form.
- (4) A single declaration under subsection (2) may be made by a person in respect of the person and the person’s spouse and any member of the family aged [16 years] or less travelling on the same vessel or aircraft.
- (5) When a declaration is tendered under this clause, a biosecurity officer may –
- (a) question the passenger or crew member;
  - (b) inspect the baggage to which it relates;
  - (c) if necessary, question a spouse or family member included on the

### **CVA7: Passengers and crew members**

This sets out the procedure for incoming passengers and crew members. They must make a passenger declaration and submit their baggage to inspection. The passenger declaration is not the same as an import declaration as it covers all baggage, not just regulated articles.

The particulars will be as required by the Director in the approved form. Regulated articles in personal baggage will require biosecurity import clearance like any other cargo.

A local decision is needed as to the age of family members who can be included on the same form.

declaration.

If the officer does not take any of those steps, the passenger or crew member is deemed to have biosecurity entry clearance.

(6) After taking the steps in subsection (5), a biosecurity officer may either grant biosecurity entry clearance of the persons and baggage to which the declaration relates, or –

- (a) detain the passenger or crew member for further questioning and search; and
- (b) detain the baggage and other articles in the possession of the passenger or crew member for further inspection and application of other biosecurity measures as the officer considers appropriate.

(7) A passenger or crew member who fails to –

- (a) make a declaration as required by subsection (1); and
  - (b) submit baggage for inspection when so directed under subsection (5),
- will be refused biosecurity entry clearance.

(8) Every passenger or crew member departing from [Jurisdiction] must, if so requested by a biosecurity officer –

- (a) submit for inspection by the officer any regulated article on the person or in the person's baggage; and
- (b) permit the officer to search the person's baggage.

(9) If a biosecurity officer has reason to believe that the baggage of a person departing from [Jurisdiction] includes a regulated article that is a prohibited export, or that might pose a biosecurity risk to a receiving country, the officer may –

- (a) confiscate the article; or
- (b) direct that the article be subjected to any treatment or other biosecurity measure that is necessary to reduce the risk to an acceptable level.

(10) A departing passenger or crew member who fails to comply with subsection (8) or a direction under subsection (9) commits an offence.

Penalty: A fine of [£5,000] or imprisonment for [6] months, or both.

(11) The powers of a biosecurity officer under this clause are in addition to the powers in [paragraph 12 of Schedule 3].

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## **PART [BIP] – BIOSECURITY IMPORT PROCEDURES**

### **Biosecurity import clearance**

**BIP1.** (1) Incoming goods that have been landed may be held in any place (a “biosecurity monitoring zone”) designated by the Director for biosecurity inspection pending biosecurity entry clearance or other disposition under this Ordinance.

(2) It is an offence for a person other than a biosecurity officer to move or handle goods held in a biosecurity monitoring zone for biosecurity inspection, except for the purpose of biosecurity measures being applied to the goods in accordance with this Ordinance, or with the permission of a biosecurity officer.  
Penalty: A fine of [£5,000] or imprisonment for [6] months, or both.

(3) In order to obtain biosecurity import clearance for any goods, the importer must [, if so required by a biosecurity officer in any particular case,] complete a biosecurity import declaration and submit the goods for biosecurity goods inspection.

(4) This clause does not apply in respect of baggage accompanying passengers or crew members, but section [CVA7] applies to such baggage.

(5) Shipping containers of articles presented for biosecurity entry clearance must be plainly and correctly marked to indicate the country of origin, the name and

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## **PART [BIP] – BIOSECURITY IMPORT PROCEDURES**

This Part establishes a régime for the control of incoming goods once they have been landed from a vessel or aircraft.

### **BIP1: Biosecurity import clearance**

Under this, all incoming goods can be held at a place designated by the Director. It needs to be somewhere where inspection can take place to see if the goods are regulated and if so whether biosecurity measures should be applied.

All imports must be clearly marked as required by subclause (5)

address of the shipper and the name and address of the consignee and the contents of the containers.

(6) Animals presented for biosecurity entry clearance must be identified in their scientific name by genus and species.

### **Biosecurity import procedures**

**BIP2.** (1) If a biosecurity import declaration is required under section [BIP1(3)], it must be in a form approved by the Director, stating –

- (a) the nature of the goods and whether they include a regulated article;
- (b) the country or area of origin of the goods.

(2) If the goods include a regulated article, and if a biosecurity officer so requires, the biosecurity import declaration must also attach any –

- (a) biosecurity documentation issued by the country or area of origin in relation to the goods;
- (b) biosecurity import permit issued under this Ordinance in relation to the goods.

(3) An importer who –

- (a) fails to make a biosecurity import declaration when required to do so by a biosecurity officer; or
  - (b) makes a false biosecurity import declaration,
- will be refused biosecurity import clearance for the goods.

(4) The importer of goods must, if a biosecurity officer so requests –

- (a) if the goods are in a container - open the container or enable the officer to do so;
- (b) allow the officer to inspect the goods;
- (c) allow the officer to take samples and conduct tests to enable the officer to determine whether biosecurity import clearance is required;
- (d) if any of the goods require biosecurity measures to be applied to them –

### **BIP2: Biosecurity import procedures**

Importers can be required to complete a form showing whether there are any regulated articles in the goods.

This creates a document trail to aid in identifying such articles.

They can be required to make goods available for inspection, but there is a discretion whether to ask for a declaration and whether to inspect incoming goods.



submit them to such measures.

- (5) If the importer fails to comply with any of the requirements of subsection (4), a biosecurity officer may refuse to grant biosecurity entry clearance for the article or consignment and may order the article or consignment to be reconsigned or destroyed.
- (6) The cost of taking goods to a biosecurity monitoring zone where they can be inspected, and of keeping them there, is to be borne by the importer, and no compensation is payable for any loss or destruction or consequential loss caused as a result of the taking or keeping, unless negligence or malice is proved.
- (7) If, after inspecting incoming goods, a biosecurity officer is satisfied that they –
- (a) are or include a regulated article – section [BIP3] applies;
  - (b) are not and do not include a regulated article – the goods must be granted biosecurity import clearance.
- (8) If incoming goods are not inspected under subsection (4), a biosecurity officer is deemed to be satisfied that they are not and do not include a regulated article, and the goods must be granted biosecurity import clearance.

### **Grant and refusal of biosecurity import clearance**

**BIP3.** (1) If, after inspecting incoming goods that include a regulated article a biosecurity officer is satisfied that the article –

- (a) is not and does not include a prohibited import; and
  - (b) complies with any biosecurity import specifications in relation to it,
- the officer must, subject to subsection (3), grant biosecurity landing clearance.

(2) If the biosecurity risk presented by an incoming regulated article or consignment of regulated articles so requires, a biosecurity officer may refuse to grant biosecurity import clearance for the article or consignment, or may require

### **BIP3: Grant and refusal of biosecurity import clearance**

This sets out the matters on which a biosecurity officer must be satisfied before biosecurity import clearance can be granted. The requirements (based on

additional biosecurity measures to be applied to it, even if the article or consignment complies with the biosecurity import specifications in relation to it.

- (3) Biosecurity import clearance may be made conditional on the article performing biosecurity quarantine if –
- (a) quarantine is a biosecurity import specification for the article; or
  - (b) during biosecurity goods inspection the article is found to be, or is suspected to be, infected, infested or contaminated.
- (4) A biosecurity officer may cause any incoming article or consignment in respect of which biosecurity import clearance is refused to be reconsigned or destroyed, but the importer must be given reasonable time to make arrangements for reconsignment of the article or consignment before it is destroyed.
- (5) Any arrangements made under subsection (4) –
- (a) are at the importer’s expense; and
  - (b) must be such as do not, in the opinion of a biosecurity officer, increase the biosecurity risk from the article or consignment.
- (6) No compensation is payable in respect of a refusal in good faith to grant biosecurity import clearance under this clause.

### **Biosecurity import requirements**

**BIP4.** (1) The Director may specify in respect of any regulated articles that are not prohibited imports the conditions they must meet if biosecurity import clearance is to be granted, including the documents that must accompany the articles, any fee payable, and any biosecurity measures that must be applied to them before or on their arrival in [Jurisdiction].

- (2) Specifications under subsection (1) –
- (a) may be different for different types and quantities of regulated article;
  - (b) may be by reference to the country or area of origin of the article;

specifications made under [BIP4]) may include a sanitary or phytosanitary certificate issued by the country of origin, or treatment of a regulated article on arrival.

### **BIP4: Biosecurity import requirements**

This clause is a key provision in the legislative scheme. It enables the Director to specify the requirements for importing various classes of regulated articles. The requirements can be for a sanitary or phytosanitary

- (c) must only be those reasonably necessary to reduce or eliminate the biosecurity risk to [Jurisdiction] presented by the article;
  - (d) may be in the form and use the wording of import health standards;
  - (e) may make provision for multiple entries of species.
- (3) Before issuing a specification under subsection (1), the Director must –
- (a) make a biosecurity risk assessment;
  - (b) have regard to the requirements of international standards relating to biosecurity matters;
  - (c) have regard to the resources available in [Jurisdiction] for biosecurity control.
- (4) The biosecurity risk assessment needed for making a specification under this clause may be performed by any qualified person (other than the importer) at the request of the Director.
- (5) Specifications in respect of an article may be changed at any time before biosecurity import clearance is obtained in respect of the article if the biosecurity risk presented by the article or consignment changes.
- (6) Notice of a change in an import specification in respect of an article should be given to intending importers as soon as practicable but no liability arises from a failure to do so.
- (7) Subsection (3) applies to the changing of a specification as it applies to the making of a specification.
- (8) Specifications made under this clause, and any change in a specification, must be –
- (a) published in the biosecurity register and at the office of the Director; and
  - (b) made available to the public for inspection or purchase.

certificate from the exporting country, for an import permit (or permit), for biosecurity measures to be imposed, or for all three.

Specifications can be in the form of import health standards, or similar.

Under subclause (3), the specifications must be based on international standards, but the

Director may apply the precautionary principle under section [Pre5(4)].

Specifications may be by reference to the type of article or to the country of origin. As defined in Schedule 1, ‘country or area of origin’ includes a re-exporting country.

The payment of a fee could be a condition attached to import clearance.

Clause [MP8] governs the publication, etc. of specifications. They do not need to be Gazetted, but should be published in the biosecurity register, and will be admissible in evidence under section [MP6].

If there are no specifications relating to the import of a regulated article, the intending importer must apply for a biosecurity import permit under section [BIP5] before importing the article.

Subclause (9) enables quarantine to be performed overseas.

(9) The Director may specify as a condition of entry into [Jurisdiction] a period of quarantine at an approved quarantine facility located outside [Jurisdiction] where plants or animals are screened for invasive species, pests and diseases prior to entry into [Jurisdiction].

(10) A person proposing to import a regulated article of a type that is not the subject of a biosecurity import specification must apply for a biosecurity import permit in respect of the article.

### **Biosecurity import permits**

**BIP5.** (1) If a biosecurity import permit for a regulated article or consignment of regulated articles is specified as a requirement under section [BIP4(1)], or is required by section [BIP4(10)], an application for a permit must be made to the Director, in a form approved by the Director, before the article or consignment leaves the country or area of origin.

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

- (a) include evidence of the country or area of origin of the article or consignment;
- (b) state the nature and amount of the article or consignment;
- (c) state the expected date of arrival in [Jurisdiction]; and
- (d) give any other information the Director reasonably requires in order to make a biosecurity risk assessment.

(3) If satisfied of the matters set out in subsections (1) and (2), and that the proposed importation would not pose an unacceptable biosecurity risk, the Director must as soon as practicable issue a biosecurity import permit.

(4) A biosecurity permit may relate to an individual article, or to one or more consignments, and may apply to a period of time.

### **BIP5: Biosecurity import permits**

This clause can be omitted if there is no plan to have a permit regime for any imports of regulated articles. It provides that if an import permit is required for an article, the importer must apply for a permit before the goods leave the exporting country and sets out what the application should include. The form will be approved by the Director and does not need to be prescribed or specified.

The payment of a fee could be a condition attached to a permit.

(5) A biosecurity import permit must set out the conditions on which it is issued and failure to comply with them will render the permit invalid.

(6) A biosecurity import permit may be revoked or varied if the biosecurity risk associated with the proposed import changes.

### **Exemption from biosecurity import requirements**

**BIP6.** (1) The Director may in writing exempt any regulated article or class of regulated articles from any or all of the biosecurity import requirements that would otherwise apply to the article or class of articles.

(2) An exemption under subsection (1) applies only to a single importation.

(3) An exemption under subsection (1) may specify the conditions on which the article or, class of articles is exempt. If the conditions are not met the exemption ceases to apply.

(4) The Director may only grant an exemption under subsection (1) if satisfied that the biosecurity risk to [Jurisdiction] is not increased as a result.

(5) A request for exemption under this clause must be accompanied by relevant documents and made in writing to the Director, in sufficient time to allow the Director to give due consideration to the request.

(6) Articles exempted from biosecurity import requirement under this clause are not exempt from the requirement for biosecurity import clearance.

(7) Official importations of regulated articles by the Government are subject to any biosecurity import conditions imposed under section [BIP4], but any fee payable may be waived in respect of a regulated article to be imported or introduced into [Jurisdiction] for the purpose of –

(a) research or experiment to improve the quality of plants or animals in

### **BIP6: Exemption from biosecurity import requirements**

This gives the Director power to exempt regulated articles from complying with specifications or from needing an import permit. The exemption must be in writing and based on technical advice.

This allows for certain categories of regulated articles to be exempted from the requirement for an import permit (and thus the fee) e.g. items for scientific research or for schools. They would still be subject to biosecurity control, however, and conditions can be imposed on their import.

- [Jurisdiction] and the products to be derived from them; or
- (b) any botanical or zoological garden or display approved by the Governor in Council.

### **Articles and passengers in transit**

**BIP7.** (1) Regulated articles that are landed in [Jurisdiction] but that are not intended for importation –

- (a) are liable to biosecurity import control, and require biosecurity import clearance;
- (b) must be clearly identified as such, with the country of origin stated on the accompanying documentation.

(2) The Director may waive the requirement for biosecurity import clearance that would otherwise apply to articles in transit, if satisfied that the biosecurity risk to [Jurisdiction] is not increased as a result.

(3) A person who deals with articles to which this clause applies other than by way of transit commits an offence.

Penalty: A fine of [£5,000] or imprisonment for [6] months, or both.

(4) A biosecurity officer may at any time inspect an article in transit if the officer reasonably suspects the article might pose a biosecurity risk to [Jurisdiction] or a receiving country.

(5) This clause does not apply in respect of baggage accompanying passengers or crew members, but section [CVA7] applies to such baggage.

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## **PART [BEP] – BIOSECURITY EXPORT PROCEDURES**

### **BIP7: Articles and passengers in transit**

This clause enables the requirement for a permit to be waived, if there is no biosecurity threat to the Territory. This would apply to goods going from one port or airport to another. Such goods are however still subject to biosecurity control.

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**Biosecurity export clearance**

**BEP1.** (1) An article intended for export to a receiving country that needs to –

- (a) be accompanied by biosecurity documentation for importation into that country; or
- (b) have biosecurity measures applied to it under section [BEP4] before being exported to that country,

must have biosecurity export clearance for export to that country.

(2) Goods intended for export must, if a biosecurity officer so requires, be submitted for inspection by a biosecurity officer to enable the officer to ascertain whether they are regulated articles and if so, whether they require biosecurity export clearance.

(3) If goods are submitted under subsection (2) for inspection, a biosecurity officer may require the exporter to complete in respect of the goods a biosecurity export declaration stating –

- (a) the nature and quantity of the goods;
- (b) the intended destination country;
- (c) whether they are regulated articles or include a regulated article.

(4) An exporter of goods who –

- (a) fails to submit goods for inspection when required to do so under subsection (2);
  - (b) fails to make a biosecurity export declaration when required to do so under subsection (3); or
  - (c) makes a false biosecurity export declaration,
- commits an offence.

Penalty: A fine of [£5,000] or imprisonment for [6] months, or both.

(5) Before granting biosecurity export clearance in respect of any goods, a biosecurity officer must be satisfied that –

**PART [BEP] – BIOSECURITY EXPORT PROCEDURES**

This sets out the controls over regulated articles intended for export.

**BEP1: Biosecurity export clearance**

All outgoing goods (other than passenger baggage) can be inspected, at the discretion of the biosecurity officer, to ascertain whether they are regulated articles and whether they need biosecurity export clearance. They need this if the intended receiving country requires the goods to be accompanied by a sanitary or phytosanitary certificate or if biosecurity export measures need to be applied.

Under subclause (3), if export clearance is needed, the exporter can be required to complete a declaration, similar to the form in [BIP1].

The payment of a fee could be a condition attached to export clearance.

- (a) the biosecurity documentation requirements of the receiving country have been complied with; and
- (b) any biosecurity measures specified under section [BEP4] in respect of a regulated article have been applied.

(6) This section and section [BEP2] do not apply in respect of baggage accompanying passengers or crew members, but section [CVA7] applies to such baggage.

### **Biosecurity export inspection**

**BEP2.** (1) A biosecurity officer may inspect any outgoing regulated article or consignment of regulated articles in order –

- (a) to ascertain whether it is a prohibited export, or is or includes an article that requires biosecurity export clearance;
- (b) if it requires biosecurity export clearance - to decide whether to grant such clearance.

(2) An exporter of goods who fails to make the goods available for biosecurity export inspection when so requested by a biosecurity officer under subsection (1) commits an offence.

Penalty: A fine of [£5,000] or imprisonment for [6] months, or both.

- (3) If, after inspecting an outgoing article or consignment under subsection (1), a biosecurity officer is satisfied that the article or consignment –
  - (a) is or includes a prohibited export - the officer may order it to be reconsigned or destroyed;
  - (b) does not require biosecurity export clearance – the officer must release the article or consignment;
  - (c) requires biosecurity export clearance – the following provisions of this Part apply to it.

### **BEP2. Biosecurity export inspection**

Outgoing regulated articles can be inspected to see if they are prohibited, or need export clearance (as provided in clause [BEP1].)

Biosecurity export clearance will be refused for prohibited exports or if the needed documentation is not attached.

Under subclause (6), clearance will be refused for prohibited exports.



(4) If an outgoing article or consignment is not inspected under subsection (1), a biosecurity officer is deemed to be satisfied that it is not or does not include a prohibited export or an article that requires biosecurity export clearance, and the officer must release the article or consignment.

(5) If an outgoing article that requires biosecurity export clearance is found to be or to contain a species that is regarded as an invasive non-native species in the receiving country, or to be infected, infested or contaminated by a pest or disease that is regulated in the receiving country, biosecurity clearance will be refused in respect of it .

(6) An article that is found to be a prohibited export will be refused biosecurity export clearance.

### **Biosecurity export documentation**

**BEP3.** (1) An exporter of regulated articles who wishes to obtain biosecurity documentation in order to comply with the biosecurity requirements of the receiving country must –

- (a) apply to the Director in writing;
- (b) submit the article for biosecurity inspection or other biosecurity measures as required by the receiving country.

(2) Upon receipt of an application under subsection (1), the Director must –

- (a) ascertain the biosecurity documentation requirements of the receiving country;
- (b) perform biosecurity inspection and apply biosecurity measures to the article as required by the receiving country;
- (c) if satisfied that the biosecurity documentation requirements of the receiving country have been met, issue the appropriate documentation fee.

### **BEP3. Biosecurity export documentation**

This says how export documentation, if needed, can be obtained.

(3) The issue of biosecurity documentation does not release the exporter from compliance with any biosecurity import requirements of the destination country to which the regulated articles are consigned.

#### **Biosecurity export specifications**

**BEP4.** (1) The Director may specify in respect of outgoing animals or plants, or their products, any biosecurity measures, in addition to biosecurity requirements of the receiving country, that must be applied to the animal, plant or product before export.

- (2) Specifications under subsection (1) must conform to –
- (a) any international agreement to which [Jurisdiction] and the receiving country are party in respect of the movement of animals or plants or their products;
  - (b) any bilateral agreement in that respect with the receiving country made pursuant to section [Adm7].

(3) Specifications under subsection (1) may 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 or animal product or plant or plant product.

(4) If a person seeking to export an article or consignment fails to comply with any of the requirements of this clause, a biosecurity officer may refuse to grant biosecurity export clearance for the article or consignment.

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#### **PART [BQ] – BIOSECURITY QUARANTINE**

#### **BEP4. Biosecurity export documentation**

This enables the Director to specify the requirements for exporting regulated articles, whether or not a certificate is required by the receiving country. This is to ensure that articles do not leave the Territory if they present a biosecurity threat to other countries.

It supplements the power to declare restricted exports under clause [BBC2(5)].

The requirement must be in line with any international obligations of the Territory or of any bilateral agreement with a receiving country.

Section [MP8] will apply as to publication, etc. and section [MP6] as to evidence.

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#### **PART [BQ] – BIOSECURITY QUARANTINE**

### **Biosecurity quarantine of goods**

**BQ1.** (1) The Director may in writing designate any land in [Jurisdiction] as a biosecurity quarantine station for animals, animal products, plants, plant products, conveyances, containers or other goods for the purposes of this Ordinance.

- (2) A biosecurity officer may order into biosecurity quarantine any incoming regulated article if –
- (a) the article is a prohibited import and must therefore be reconsigned or destroyed;
  - (b) biosecurity quarantine is specified as an import requirement for the article; or
  - (c) during biosecurity entry inspection or biosecurity import clearance inspection the article is found to be, or is suspected to be, infected, infested or contaminated.
- (3) A biosecurity officer may order into quarantine any regulated article that in the opinion of the officer presents a biosecurity threat to [Jurisdiction] that cannot be reduced or removed by appropriate biosecurity measures.
- (4) If an article is ordered into biosecurity quarantine under this clause, a biosecurity officer may –
- (a) direct the importer to remove the article to the biosecurity quarantine station;
  - (b) if necessary (because the owner or custodian refuses to obey the direction, or because of the nature of the biosecurity risk) arrange for the article to be removed to the biosecurity quarantine station.

This relates to post-entry quarantine (as distinct from biosecurity port quarantine) and enables animals, plants or other regulated articles to be detained in biosecurity quarantine for observation or treatment. The provisions are similar to those for quarantine for human health purposes, and relate to articles that are infected, etc. They do not apply to invasive species, which will be reconsigned or destroyed. The provisions relate to individual articles, containers or consignments.

### **BQ1: Biosecurity quarantine of goods**

This enables the Director to designate any land as a biosecurity quarantine station, and empowers a biosecurity officer to order any incoming regulated article into biosecurity quarantine if quarantine is a requirement or justified.

(5) An owner or custodian who refuses to remove an article to biosecurity quarantine as directed under this clause commits an offence.

Penalty: A fine of [£5,000] or imprisonment for [6] months, or both.

(6) If an article is quarantined under this clause, the owner or custodian must, if reasonably practicable, be notified of the reasons for the quarantine and, if it was removed under subsection (4)(b), the location of the article.

### **Conditions of biosecurity quarantine**

**BQ2.** (1) To the extent of available resources, the Director must ensure that the biosecurity quarantine station is provided with any buildings and facilities reasonably needed to –

- (a) hold articles in biosecurity quarantine;
  - (b) prevent unauthorised persons from entering the station or removing items from the station;
  - (c) enable a biosecurity officer to perform tests, provide treatment and apply other biosecurity measures as required by or under this Ordinance.
- (2) The Director may issue directions as to –
- (a) the period for which different types of articles must remain in biosecurity quarantine;
  - (b) the examination, treatment, disposal or destruction of articles while in biosecurity quarantine or in transit to or from the biosecurity quarantine station;
  - (c) the management of the station, including, but not limited to, the security of the station, the persons who may be admitted to it, and notices to be displayed at it.
- (3) A person who –
- (a) enters the biosecurity quarantine station without permission of a biosecurity officer; or
  - (b) damages, interferes with or in any way reduces the effectiveness of measures

### **BQ2. Conditions of biosecurity quarantine**

This enables the Director to issue directions as to the examination, treatment, disposal or destruction of articles while in biosecurity quarantine or in transit to or from a quarantine station.

taken to secure the biosecurity quarantine station, or any article in the station,  
 commits an offence.

Penalty: A fine of [£5,000] or imprisonment for [6] months, or both.

(4) The cost of removal of an article to biosecurity quarantine and keeping of the article in quarantine is to be borne by the owner or custodian of the article, and no compensation is payable for any loss or destruction or consequential loss caused as a result of an article being removed to and kept in quarantine, unless negligence or malice is proved.

### **Release from and return to biosecurity quarantine**

**BQ3.** (1) An article in biosecurity quarantine must not be released from quarantine until a biosecurity officer is satisfied that the article no longer presents a biosecurity threat to [Jurisdiction], or until the article is reconsigned or destroyed as provided by this Ordinance.

(2) Before an article can be released from biosecurity quarantine –  
 (a) any treatment required as a condition of importation of the article must have been applied; and  
 (b) any quarantine fees must have been paid.

(3) When an article is released from biosecurity quarantine, the owner or custodian of it must, unless the article is destroyed, remove the article from the biosecurity quarantine station as soon as reasonably practical.

(4) A person who releases an animal or removes an article from the biosecurity quarantine station before it is released or otherwise disposed of under this Part commits an offence.

Penalty: A fine of [£5,000] or imprisonment for [6] months, or both.

(5) A biosecurity officer may –

### **BQ3. Release from and return to biosecurity quarantine**

Plants or animals in biosecurity quarantine must not be allowed at large without authority.

This clause sets out the circumstances in which quarantined goods can be released or, if necessary, returned to biosecurity quarantine. They must not be released except on the authority of a biosecurity officer.

The taking of a bond or payment of a fee could be made a condition of release from quarantine.

- (a) examine any article that has been released from biosecurity quarantine; and
- (b) if of the opinion that the article still presents a biosecurity threat to [Jurisdiction], order the article back into biosecurity quarantine.

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## **PART [BIC] – BIOSECURITY INTERNAL CONTROL**

### **Biosecurity status surveys**

**BIC1.** (1) The Governor in Council, on the advice of the Director, may by order direct that a survey of any area of [Jurisdiction] be conducted to ascertain the status of prohibited or restricted non-native species, pests and diseases in the area and the biosecurity risk of moving animals, plants, humans or organisms into, out of, or through the area.

- (2) A direction under this clause –
  - (a) must be published as required by section [MP7(1)];
  - (b) does not take effect until published in the Gazette.
- (3) For the purposes of a survey under this clause, a biosecurity officer may, in the area of the survey –
  - (a) inspect premises and equipment;
  - (b) take photographs and films and make drawings;
  - (c) inspect animals and plants and their products;
  - (d) question persons;

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## **PART [BIC] – BIOSECURITY INTERNAL CONTROL**

This Part sets out the powers of the Director and biosecurity officers to control incursions of invasive species and infestations by pests and diseases within the Territory. The powers are in addition to the general ones given by Schedule 3.

The Part also provides for areas to be declared biosecurity controlled zones, with restrictions imposed over the movement into and out of such zones.

### **BIC1: Biosecurity status surveys**

This enables the Governor in Council to order a survey of any area of the Territory to be conducted to ascertain the status of invasive species and pests and diseases in the area and the biosecurity risk of moving animals, plants, humans or organisms into, out of, or through the area.

Powers are given to biosecurity officers and the Director to require people to facilitate the taking of a survey, including making animals and plants available. The results can be sent to other governments.

- (e) collect specimens and perform tests relating to animals, plants, animal and plant products, land, water and the environment.
- (4) For the purposes of a survey under this clause, the Director may direct the owners of animals or plants in the area of the survey, or persons who have custody or control of them, to make them available for inspection at places designated by the Director.
- (5) A person who, in the course of a survey under this clause refuses or fails to –
- (a) permit a biosecurity officer to enter property, collect specimens or perform tests as reasonably required;
  - (b) answer to the best of the person’s knowledge and ability oral or written questions reasonably put to the person by a biosecurity officer; or
  - (c) make animals or plants in the ownership, custody or control of the person available as required under subsection (4),
- commits an offence.  
Penalty: A fine of [£5,000] or imprisonment for [6] months, or both.
- (6) The Director may provide for the publication and transmission of survey results to other interested governments and organisations in compliance with relevant international agreements.

### **Infested biosecurity controlled zones**

**BIC2.** (1) If an animal or plant on land or premises in any area of [Jurisdiction] is found to be infested by a prohibited or restricted non-native species, or by a pest or disease, the Governor in Council, on the advice of the Director, may by order declare the land or premises to be an infested biosecurity controlled zone in respect of that species, pest or disease.

- (2) A declaration under this clause –
- (a) must be published as required by section [MP7(1)];
  - (b) comes into effect when published in the Gazette;

Conducting a survey is always open to the Government, but it is useful to remind the Government of the need, and to create an obligation to cooperate with the survey. Inputs from local organisations might be appropriate in this context.

### **BIC2: Infested biosecurity controlled zones**

This enables the Governor in Council to declare an infested controlled zone (or area, in some

(c) lasts until amended or revoked by the Governor in Council on the advice of the Director.

Jurisdictions.) Such a zone would also need special controls, to contain the infestation.

(3) In advising the Governor in Council under this clause, the Director may apply the precautionary principle, as provided by section [Pre5(3)].

(4) In an infested biosecurity controlled zone, a biosecurity officer may enter upon any land at any time in order to ascertain the status of a prohibited or restricted non-native species, pest or disease.

(5) In an infested biosecurity controlled zone, pending the issuing of directions under section [BIC3], no animal or animal product, or plant or plant product, fodder, fitting or other thing as specified in the declaration, may be moved out of, into or within the zone except with the permission of a biosecurity officer and in accordance with any conditions reasonably imposed by the officer.

(6) A person who contravenes subsection (5) commits an offence.  
Penalty: A fine of [£5,000] or imprisonment for [6] months, or both.

### **Regulation of infested biosecurity controlled zone**

**BIC3.** (1) In an infested biosecurity controlled zone, the Director may issue written directions for –

- (a) the disposal of a non-native species;
- (b) the treatment or disposal of diseased animals and plants;
- (c) the destocking, cleaning, disinfecting or other treatment of land, premises and conveyances;
- (d) the inspection and treatment of regulated articles in or entering or leaving the zone;
- (e) any other biosecurity measures the Director considers necessary to control the infestation, including the imposition of biosecurity quarantine.

### **BIC3: Regulation of infested biosecurity controlled zone**

This enables the Director to issue directions to protect an infested zone. The powers are similar to those in the UK used to respond to ‘foot-and-mouth disease’. The



(2) In respect of an infested biosecurity controlled zone, the Director may issue written directions governing –

- (a) the movement of animals or plants or their products or other regulated articles into, out of or within the zone;
- (b) the movement of humans and conveyances into, out of or within the zone;
- (c) any other activity that the Director considers needs to be controlled to prevent the spread of an incursion or infestation into and out of the zone.

(3) A person who contravenes a direction issued under subsection (1) or (2) commits an offence.

Penalty: A fine of [£5,000] or imprisonment for [6] months, or both.

(4) Section [BIC2(4)] ceases to have effect upon the issuing of directions under this clause.

(5) The cost of treatment or destruction under this clause is to be borne by the Government, and the owner is entitled to compensation (but not consequential loss) for destruction of an article under this clause.

### **Threat-free biosecurity controlled zones**

**BIC4.** (1) The Governor in Council, on the advice of the Director, may designate any area of [Jurisdiction] to be a threat-free biosecurity controlled zone in respect of a specified non-native species, pest or disease.

(2) A threat-free biosecurity controlled zone is one where the specified non-native species, pest or disease does not occur, so far as is known, and where incursions of that species, pest or disease should be prevented.

(3) A designation under this clause –

- (a) must be published as required by section [MP7(1)];
- (b) comes into effect when published in the Gazette;
- (c) lasts until amended or revoked by the Governor in Council on the advice of

power is given to the Director because of the probable urgency, but could be given to the Governor in Council. The directions can regulate the treatment or disposal of diseased animals and plants; the destocking, cleaning, disinfecting or other treatment of land, premises and conveyances; the inspection and treatment of regulated articles in or entering or leaving the area; the movement of animals or plants or their products or other regulated articles into, out of or within the area; and the movement of humans and conveyances into, out of or within the area.

### **BIC4: Threat-free biosecurity controlled zones**

This enables the Governor in Council to declare any area of the Territory to be a threat-free biosecurity controlled zone in respect of a specified non-native species, pest or disease.

the Director.

**Regulation of threat-free biosecurity controlled zone**

**BIC5.** (1) In respect of a threat-free biosecurity controlled zone the Director may issue written directions to –

- (a) control the movement of regulated articles, humans and conveyances into, out of, and within the zone;
- (b) direct the inspection and treatment of regulated articles in or entering or leaving the zone;
- (c) establish surveillance procedures for the specified non-native species, pest or disease in the zone.

(2) Directions issued under subsection (1) must only be made for the purposes of preventing incursions of the specified non-native species, pest or disease into the biosecurity controlled zone.

(3) A person who contravenes a direction issued under subsection (1) commits an offence.

Penalty: A fine of [£5,000] or imprisonment for [6] months, or both.

(4) The Director may by administrative means institute other measures to keep the biosecurity controlled zone free of the specified non-native species, pest or disease.

**Control of movement between areas of [Jurisdiction]**

**BIC6.**(1) The Governor in Council, on the advice of the Director, may by order prohibit the movement of specified animals or plants or their products into specified areas of [Jurisdiction] from outside those areas, or from one of those areas into another, except with a permit from the Director.

(2) A prohibition under subsection (1) may only be imposed –

- (a) to reduce a known biosecurity threat to the specified area or areas posed by

**BIC5: Regulation of threat-free biosecurity controlled zone**

This enables the Director to issue necessary directions to protect a threat-free zone. The comments under clause [BIC3] above apply here also.

Other measures might also be required, but do not need legislating for if within the normal administrative powers of the Government.

- the specified animal or plant or product;
- (b) if the powers in Schedule 3 and this Part are inadequate or inappropriate to reduce the biosecurity threat.
- (3) In advising the Governor in Council under this clause, the Director may apply the precautionary principle, as provided by section [Pre5(3)].
- (4) A prohibition under subsection (1) –
- (a) must be published as required by section [MP7(1)];
- (b) comes into effect when published in the Gazette;
- (c) lasts until amended or revoked by the Governor in Council on the advice of the Director.
- (5) A person who contravenes the conditions of a permit granted under subsection (1) commits an offence.  
Penalty: A fine of [£5,000] or imprisonment for [6] months, or both.

#### **Declaration of a biosecurity emergency zone**

**BIC7. (1)** If the Governor in Council, on the advice of the Director, informs the Governor that a biosecurity emergency has arisen in the whole or any part of [Jurisdiction], the Governor in Council may by order declare a biosecurity emergency zone in respect of the whole of or that part of [Jurisdiction].

- (2) A declaration under subsection (1) –
- (a) must be published as required by section [MP7(1)];
- (b) comes into effect when published at the office of the Director and on any radio or television station that broadcasts in [Jurisdiction].
- (3) A declaration under subsection (1) must be revoked once the emergency is ended.

#### **BIC6: Control of movement between areas of [Jurisdiction]**

This enables the Governor in Council to control the movement of animals and plants and their products within the Territory. This might be particularly useful in the case of an island archipelago but could also be useful where there are distinct areas of the country that can be cordoned off. It supplements the power to declare biosecurity controlled zones under clauses [BIC2 and 5].

Under a permit scheme conditions could be imposed on the movement of vessels and aircraft and land vehicles.

#### **BIC7: Declaration of a biosecurity emergency zone**

This enables the Governor in Council by order to declare a biosecurity emergency zone and make regulations to control a biosecurity emergency, if the powers in previous sections are inadequate.

(4) The Governor in Council, on the advice of the Director, may at any time make regulations (“Biosecurity Emergency Regulations”) which supplement the powers given to the Director and biosecurity officers by other provisions of this Ordinance.

(5) Biosecurity Emergency Regulations may create offences for breaches of them and prescribe maximum penalties not exceeding a fine of [£50,000] for an individual or [£250,000] for a corporate body.

*Local decision*

(6) Biosecurity Emergency Regulations come into force on the day on which a biosecurity emergency declaration takes effect under subsection (1) and lapse upon the revocation of the declaration under that section. They come into force again if a further declaration is made under subsection (1).

(7) In respect of action taken under Biosecurity Emergency Regulations –  
 (a) the cost of treatment or destruction of any article is to be borne by the Government;

(b) compensation (but not for consequential loss) is payable to the owner of any land, premises, conveyance or article that is used, lost, destroyed or damaged.

(8) In this clause, “biosecurity emergency” means the incursion or suspected incursion of a prohibited or restricted non-native species into an area of [Jurisdiction], the infestation or suspected infestation by a prohibited or restricted pest or disease in any area of [Jurisdiction], or the existence of some other biosecurity threat, which requires urgent action, whether by eradication, containment or other response, and for which the powers under this Ordinance are not otherwise adequate.

(9) In advising the Governor in Council under this clause, the Director may apply the precautionary principle, as provided by section [Pre5(3)].

The regulations would be triggered automatically by a declaration of a biosecurity emergency and would only remain in force for as long as the emergency lasts. The relationship between this power and the existing prerogative Emergency Powers in the Territory will need to be considered.

As the powers are quite draconian, it might be desirable for the legislature to decide on their continuation for more than a limited period. The precise mechanism will depend on local circumstances and preferences, however.

As most jurisdictions have existing national disaster management legislation, it is desirable to have liaison between those dealing with a biosecurity emergency and other types of emergency. If there is a National Disaster Committee or similar, it can be given a liaison role in this clause.

In subclause (5) the penalty limits are for local decision, but should be higher than for other offences.

### **Temporary emergency powers**

**BIC8.** (1) If, in the opinion of the Governor [in Council], on the advice of the Director, there is on any conveyance, container or premises in any area of [Jurisdiction] a biosecurity threat which requires an immediate response, the Governor [in Council] may authorise the Director for up to [72] hours to exercise any of the powers in section [BIC3(1) and (2)] as if that area had been declared an infested biosecurity controlled zone under section [BIC2] in respect of that threat, and offences committed under any of those subsections are punishable accordingly.

#### *Local decision*

(2) If the biosecurity threat remains after the period of [72] hours mentioned in subsection (1) has expired, the powers in section [BIC2] or [BIC7] must be used as appropriate.

### **Destruction of feral animals**

**BIC9.** (1) If the Director has reason to suspect that a wild or feral animal is carrying a prohibited or restricted non-native species, pest or disease, the Director may, in order to prevent the species, pest or disease from being established or spreading in [Jurisdiction], cause the animal to be destroyed.

(2) The Director may cause a wild or feral animal to be destroyed, whether or not it is carrying a prohibited or restricted non-native species, pest or disease, if the Director considers that it poses a threat to the health or safety of other animals or to humans, or is likely adversely to impact on native flora and habitats.

(3) The carcass of an animal destroyed under subsection (1) or (2) must be disposed of in a manner that will not create the risk of the spread of any prohibited or restricted non-native species, pest or disease.

### **Notifiable species, pests and diseases**

### **BIC8: Temporary emergency powers**

This clause provides temporary powers to deal with a biosecurity emergency which requires a quicker response than is possible under sections [BIC2 and 3] but for which the full emergency powers in section [BIC7] are not appropriate.

The time-limit for this power will need to be decided locally.

### **BIC9: Destruction of feral animals**

This clause enables wild animals to be destroyed if they pose a biosecurity threat.

As feral animals are not owned, it is arguable that no legislative authority is needed to destroy them, but this

**BIC10.(1)** The Governor in Council, on the advice of the Director, may declare the non-native species, pests and diseases that are notifiable for purposes of this Ordinance.

- (2) A declaration under this clause –
- (a) must be published as required by section [MP7(1)];
  - (b) comes into effect when published in the Gazette;
  - (c) lasts until amended or revoked by the Governor in Council on the advice of the Director.

(3) A person who knows of or suspects the occurrence of a notifiable non-native species or pest or disease in [Jurisdiction], or on board a vessel or aircraft in [Jurisdiction], must, unless the person reasonably believes that the Director has already been notified of the occurrence, as soon as reasonably practicable notify the Director of the occurrence in person at the office of the Division, or by any other means which is reasonably available to that person.

(4) A person who fails to comply with subsection (3) commits an offence.  
Penalty: A fine of [£5,000] or imprisonment for [6] months, or both.

(5) The master of a vessel or captain of an aircraft in [Jurisdiction] who knows of or suspects the occurrence of a notifiable species, pest or disease on board the vessel or aircraft must –

- (a) as soon as reasonably practicable notify the Director as required by subsection (3); and
- (b) take any action in relation to the vessel or aircraft that is directed by a biosecurity officer.

(6) A master or captain who fails to comply with subsection (5)(a) or (b) commits an offence.  
Penalty: A fine of [£50,000] or imprisonment for [12] months, or both.

section makes the position clear. It would apply to birds in view of the definition of ‘animal’ in Schedule 1.

**BIC10: Notifiable invasive species and pests**

This enables the Governor in Council to declare which invasive species, pests and diseases are notifiable as posing a biosecurity risk (as defined in Schedule 1.) They will not necessarily be the same as those listed by an order under section [BBC2] (prohibited and restricted invasive species, pests and diseases.)

All persons in the Territory, and the masters of vessels and captains of aircraft, must report an occurrence of such species, pests and diseases.

Subclause (3) requires the manner of reporting (to an office, police station etc.) to be included in the order.

(7) The Director must record in the biosecurity register all occurrences that are notified under this clause.

**Beneficial organisms and biocontrol agents**

**BIC11.(1)** The Governor in Council, on the advice of the Director, may authorise the release of a beneficial organism or biocontrol agent if it is necessary or appropriate for the control or eradication of a particular non-native species, pest or disease in [Jurisdiction].

(2) Before advising the Governor in Council under subsection (1) the Director must make a biosecurity risk assessment as to the probable effects of the release.

(3) An authorisation under subsection (1) must state –

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

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

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

(5) In this clause, “beneficial organism” and “biocontrol agent” mean a natural enemy, antagonist or competitor of a non-native species or of a pest or disease, and any other self-replicating biotic entity used for the control of non-native species, pests and diseases.

**BIC11: Beneficial organisms and biocontrol agents**

This enables the Governor in Council to authorise the release of biological control agents in order to control or eradicate pests.

This is a comparatively novel legislative provision but is in line with modern thinking on pest control.

Subclause (7) requires the Director to keep a record of occurrences of notifiable species and pests.

**Biosecurity officers**

**Adm1.** (1) The Governor may in writing designate one or more suitably qualified public officers as biosecurity officers for the purposes of this Ordinance.

- (2) (a) A biosecurity officer must perform such duties, not inconsistent with this Ordinance, as are assigned to the officer by the Director.
- (b) The Director may limit the functions to be performed by a biosecurity officer to those within the officer's technical sphere of competence.
- (3) The Director must provide every biosecurity officer with a suitable form of identification as such officer.
- (4) A person who –
- (a) upon the termination of his or her appointment as a biosecurity officer fails to surrender up any identification issued under subsection (3) within a period specified in writing by the Director; or

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**PART [ADM] - ADMINISTRATION OF THE ORDINANCE**

This Part sets out some ancillary administrative provisions needed to allow the Ordinance to function effectively. It assumes there will be a Director of Biosecurity (or similar) appointed to administer the Ordinance. It can be an existing public officer.

An alternative is for the powers and duties of the Director to be given to an existing Government department.

Another alternative is for a new statutory body to be created.

Whatever method is chosen, this Part sets out the general powers and duties of the office, in addition to specific powers and duties mentioned throughout the Ordinance.

**Adm1: Biosecurity officers**

Whether biosecurity officers are appointed or designated from among existing public servants is a matter for local decision. They could be customs officers or police officers etc. The Director will be a



- (b) copies or alters a form of identification issued under subsection (6) without the written authority of the Director, commits an offence.

Penalty: A fine of [£2,500] or imprisonment for [3] months, or both

- (5) A person who is to perform duties as a biosecurity officer under this Ordinance must be given suitable training in biosecurity control measures and in the provisions of this Ordinance before embarking on those duties.

### **Functions of the Director**

**Adm2.** (1) The Director must –

- (a) perform the functions assigned to the Director by or under this Ordinance;
- (b) advise the Governor and the Governor in Council on matters relating to animal and plant quarantine and biosecurity and liaise with other public officers as appropriate;
- (c) report to the Governor [and the Island Council] as required [by either of Them] from time to time;
- (d) to the extent practicable, publicise the requirements of this Ordinance and increase public awareness of the importance of biosecurity;
- (e) perform any other functions relating to this Ordinance that the Governor [or the Island Council] by directions in writing confers on the Director from time to time.

(2) The Director may –

- (a) devise a biosecurity emergency response plan to deal with an incursion of a prohibited or restricted non-native species, pest or disease in [Jurisdiction] and keep the plan under review;
- (b) issue in writing a manual of instructions for biosecurity officers, in electronic or hard format or both;
- (c) without liability, issue guidance to potential importers and exporters of regulated articles as to the application of this Ordinance.

biosecurity officer *ex officio* (see the definition in Schedule 1.)

### **Adm2: Functions of the Director**

This clause sets out the functions of the Director generally and in relation to the Governor (and Secretary and/or Council Committee, if any).

The words in squared brackets allow for the possibility that there might be another body with supervisory functions, e.g. a Council Committee or similar.

Subclause (2) gives the Director powers to issue directions and guidance. If the Director is a generalist, the technical inputs would need to come from technical

(3) Before exercising a power under this Ordinance that will or might affect matters within the responsibility of another public officer, (including but not limited to human health, natural resources, environment, tourism, postal services, shipping, aviation, transport and trade) the Director must consult that officer, but failure to do so does not invalidate the exercise of the power.

### **Powers of biosecurity officers**

**Adm3.** (1) In addition to the other powers conferred on a biosecurity officer by or under this Ordinance, a biosecurity officer may exercise any of the powers set out in Schedule 3, in the manner set out in that Schedule.

(2) The powers conferred by or under this Ordinance on biosecurity officers must be exercised only to achieve the biosecurity functions of the Government.

(3) A biosecurity officer may use only such force as is reasonably necessary when exercising a power under this Ordinance. If necessary, the officer should obtain the assistance of a police officer to effect an arrest or enter premises.

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

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

(6) The powers conferred on biosecurity officers by or under this Ordinance must be exercised subject to –

- (a) any regulations made under this Ordinance in respect of those powers;
- (b) any biosecurity specifications made in respect of regulated articles;

experts e.g. livestock officers. In any event he or she should consult, as contemplated by subclause (3)

### **Adm3: Powers of biosecurity officers**

Powers are conferred on biosecurity officers throughout the Bill and are amplified and added to in Schedule 3. s This clause sets out some general rules as to exercise of the powers of biosecurity officers, which are set out in Schedule 3.

The powers are to be used only to ascertain whether there is a biosecurity risk presented by a conveyance, container or item and to eliminate or reduce the risk to an acceptable extent.

A biosecurity officer may use only reasonably necessary force and should obtain the assistance of a police officer to effect an arrest or enter premises, and if practical, request the assistance of the person in

- (c) any written instructions given under section [Adm2].

### **Biosecurity register and records**

**Adm4.** (1) The Director must maintain a biosecurity register and other records needed for the administration of this Ordinance and the performance of the biosecurity functions of the Government.

(2) Without limiting the matters to be recorded in the biosecurity register, details of the matters listed in Schedule 4 must be included.

(3) The biosecurity register must also include details of –

- (a) specifications for regulated articles made under sections [BIP4] and [BEP4], including the biosecurity measures appropriate to each type of regulated article;
- (b) any written directions issued by the Director under this Ordinance.

(4) The Director must maintain appropriate records relating to the biosecurity functions of the Government, including, but not limited to –

- (a) financial and resource management records;
- (b) personnel records of biosecurity officers;
- (c) operational statistics relating to the biosecurity functions of the Government;
- (d) source material for ascertaining the biosecurity requirements of potential receiving countries;
- (e) the requirements of countries for which biosecurity export clearance has been granted.

### **Status of biosecurity register and records**

**Adm5.** (1) The biosecurity register kept pursuant to section [Adm4], except for information reasonably withheld as being confidential or restricted, must be made available for inspection and copying by members of the public during office hours at the office of the Director.

control of the premises, conveyance, container or article.

No warrant is needed but the officer should produce his or her identification.

### **Adm4: Biosecurity register and records**

This clause requires the Director to keep extensive registers of all biosecurity decisions and activities.

The keeping of registers and other records is a normal part of good administration and it is useful to have a checklist in the Ordinance. It also gives meaning to the right of access to records which is part of good governance.

Subclauses (2) and (3) list the public matters to be registered and subclause (4) lists the administrative matters, which are not public.

(2) 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.

(3) The biosecurity register and other records kept under section [Adm4] may be in electronic format, provided the information is readily retrievable and is protected against unintended loss and unauthorised alteration.

(4) Entries in the biosecurity register and other records kept under section [Adm4] must be kept for a period and in a manner consistent with any written law relating to public records.

#### **Financial default**

**Adm6.** (1) Fines, fees and charges payable under this Ordinance are to be paid into the Consolidated Fund and dealt with in accordance with the Finance and Audit Ordinance.

- (2) If a fee or charge payable under this Ordinance is not paid, then if –
- (a) the Director for which the fee or charge is payable has not been provided - it may be withheld until the fee is paid;
  - (b) the Director has been provided - the fee or charge may be recovered as a debt owing to the Government;
  - (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.

#### **International cooperation**

**Adm7.** (1) The Governor may [, after consultation with the Executive Council, and on the advice of the Director,] enter into bilateral or multilateral agreements with countries and international organisations for effective international control in biosecurity matters.  
*Governor in Council?*

#### **Adm5: Status of biosecurity register and records**

Under this clause, entries in a register will be admissible as evidence in court. The conditions specified for the biosecurity clearance of any article thus become admissible in evidence by being recorded in a register.

Subclause (2) raises the question of where the original document should be kept.

Subclause (3) should be matched up with any local legislation on electronic publication.

#### **Adm6: Financial default**

The original generic Biosecurity Bill included provisions about the financing of biosecurity operations, with the option of having a dedicated fund, supplementary appropriations, etc. These matters can be dealt with administratively but this clause states some basic rules about finance of service.

- (2) The Director may, pursuant to such agreements –
- (a) exchange information with other countries and international organisations;
  - (b) contribute to the development of international sanitary and phytosanitary standards.
- (3) Agreements under subsection (1) may include agreements on procedures for implementing this Ordinance, but not so as to vary the effect of any of its provisions except as provided by this Ordinance.
- (4) The Governor/Governor in Council must use his or her best endeavours to implement in [Jurisdiction] international standards and requirements relating to biosecurity, and to that end should –
- (a) designate one or more officers in the Government as the enquiry point and notification authority for purposes of the IPPC and the OIE;
  - (b) seek to ensure that notification and reporting requirements of the IPPC, the OIE and any other international agreement relating to biosecurity that applies to [Jurisdiction] are met in a timely manner.

### **Notifications**

- Adm7.** (1) The Director may at any time issue a notice –
- (a) stating that a specified invasive non-native species or a specified pest or disease is known to exist in [Jurisdiction];
  - (b) stating that, to the best of the Government’s knowledge, a specified invasive non-native species or a specified pest or disease does not exist in [Jurisdiction];
  - (c) specifying the classification, name or identity by which any animal, animal product, plant, plant product, pest or disease is known in [Jurisdiction].
- (2) A notice issued under subsection (1) is, for the purposes of this Ordinance, conclusive until revoked or amended under that subsection and is admissible in any court or other proceedings as evidence of the matters stated in it.

### **Adm7: International cooperation**

This clause provides for cooperation with the international community in international activities in the field of biosecurity. It enables the Governor to enter into bilateral or multilateral agreements on biosecurity matters and as to how the Ordinance will work.

It also requires the Governor to appoint an enquiry point and notification authority as required by the IPPC and the OIE, and to ensure that other international reporting requirements are met. The appointment, if by office, could be done by regulations under section [MP9].

### **Adm7: Notifications**

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**PART [OP] – OFFENCES AND PENALTIES**
**Owning, etc. prohibited imports**

**OP1.** (1) A person who without lawful excuse owns or is in possession of a prohibited import commits an offence.

Penalty: A fine of [£10,000] or imprisonment for [9] months, or both.

(2) A person who without lawful excuse owns or is in possession of a restricted import that has not received biosecurity import clearance commits an offence.

Penalty: A fine of [£10,000] or imprisonment for [9] months, or both.

(3) A person who releases or allows to escape into the wild any animal the importation of which is prohibited under section [BBC2(1)] commits an offence.

Penalty: A fine of [£10,000] or imprisonment for [9] months, or both.

(4) A person who plants or otherwise causes to grow in the wild any plant the importation of which is prohibited under section [BBC2(1)] commits an offence.

Penalty: A fine of [£10,000] or imprisonment for [9] months, or both.

(5) Subject to subsection (6), it is a defence to a charge of committing an offence under subsection (1), (2), (3) or (4) to prove that the accused took all reasonable steps and exercised all due diligence to avoid committing the offence.

This clause recognises that all countries are concerned about invasive species and pests and diseases in other countries which might affect trade or the environment, and need to be kept informed. The clause enables the Director to issue international advisory notices about the status of invasive species and pests in the Territory.

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**PART [OP] – OFFENCES AND PENALTIES**

Many offences are created throughout the Bill, and a maximum penalty is suggested for each one. This Part specifies some general offences and makes some general rules about penalties.

Note that attempts and incitement and other ancillary offences are not mentioned but are left to the common law or local criminal law.

The penalties suggested are maxima and are for local decision.

**OP1: Owning, etc. prohibited imports**

This creates offences of owning, releasing, planting etc. prohibited or restricted imports (As distinct from being the importer.) It is supplementary to the offences in section [BBC2]. There is a defence that the accused took all reasonable steps and exercised all due diligence to avoid committing the offence. This and clause [OP2]

(6) If the defence provided by subsection (5) involves an allegation that the commission of the offence was due to the act or default of another person ('B'), the person charged ('A') is not, without leave of the court, entitled to rely on the defence unless, at least 7 days before the hearing, A has served on the prosecutor a notice giving any information identifying or assisting in the identification of B that was then in A's possession.

### **Keeping, sale etc. of certain species**

**OP2.** (1) A person who –

- (a) keeps or breeds an animal of a species to which this clause applies; or
- (b) grows or propagates a plant of a species to which this clause applies, commits an offence.

Penalty: A fine of [£10,000] or imprisonment for [9] months, or both.

(2) A person who sells, offers or exposes for sale, or has in possession or transports for the purposes of sale –

- (a) an animal or plant to which this clause applies; or
- (b) anything from which such an animal or plant can be reproduced or propagated,

commits an offence.

Penalty: A fine of [£10,000] or imprisonment for [9] months, or both.

(3) A person who publishes or causes to be published any advertisement likely to be understood as conveying that the person buys or sells, or intends to buy or sell –

- (a) an animal or plant to which this clause applies; or
- (b) anything from which such an animal or plant can be reproduced or propagated,

commits an offence.

Penalty: A fine of [£10,000] or imprisonment for [9] months, or both.

are based on the UK Wildlife & Countryside Act, 1981 as amended.

### **OP2: Keeping, sale etc. of certain species**

This prohibits the sale, propagation or breeding from any animal or plant that is a prohibited import under section [BBC2(1)] or that is a restricted import under section [BBC2(3)] and does not meet the conditions. The defence under section [OP1] is available for this offence also.

Subclause (2) is based on section 14 etc. of the UK Wildlife & Countryside Ordinance, 1981 as amended by the Natural Environment & Rural Communities

- (4) This clause applies to a live animal or to a plant which is –
- (a) a prohibited import; or
  - (b) a restricted import that has not received biosecurity import clearance; or
  - (c) of a description prescribed for the purposes of this clause by order of the Governor in Council on the advice of the Director.

(5) An order under subsection (4)(b) may be made in relation to a particular area or a particular time of the year.

(6) Subsections (5) and (6) of section [OP1] (*Defence of due diligence etc.*) apply to an offence under this clause as they apply to an offence under that section.

#### **Dereliction of duty by officers**

**OP3.** A biosecurity officer who -

- (a) fails without reasonable excuse to perform any of his or her duties under this Ordinance;
- (b) disposes of a regulated article or other item under the control of the officer other than in accordance with this Ordinance;
- (c) discloses information of a confidential or commercial nature which has come into the officer's possession while performing functions under this Ordinance, except for purposes of this Ordinance;
- (d) in the course of performing his or her duties molests or intimidates unlawfully assaults any person;
- (e) in connection with his or her duties solicits or accepts a 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,

commits an offence.

Penalty: A fine of [£5,000] or imprisonment for [6] months, or both.

#### **Obstruction, false information, etc.**

**OP4.** A person who –

Ordinance, 2006. It prohibits the release of any animal or plant that is a prohibited import under section [BBC2(1)] or that is a restricted import under section [BBC2(3)] and does not meet the conditions.

#### **OP3: Dereliction of duty by officers**

This offence might already be in the criminal law of the Territory but it is included here as those administering the Ordinance might find it convenient to have all the offences in one place. There will need to be consistency of penalty with similar offences.



- (a) willfully fails to comply with a lawful request made or direction given by a biosecurity officer or any other person under this Ordinance;
  - (b) knowingly obstructs a biosecurity officer in the performance of his or her functions under this Ordinance;
  - (c) assaults, or threatens to assault a biosecurity officer or any other person performing functions under this Ordinance;
  - (d) bribes a biosecurity officer or any other person in relation to the performance of functions under this Ordinance;
  - (e) makes a false or incomplete statement, whether orally or in writing, in relation to any matter under this Ordinance, intending to mislead a biosecurity officer or any other person in the performance of functions under this Ordinance;
  - (f) for purposes of this Ordinance knowingly or recklessly –
    - (i) makes a false or misleading biosecurity declaration; or
    - (ii) issues any false or misleading certificate; or
  - (g) knowingly or recklessly gives false or misleading information to a biosecurity officer or any other person while the officer or person is performing functions under this Ordinance,
- commits an offence.  
Penalty: A fine of [£5,000] or imprisonment for [6] months, or both.

Some aspects of the offences might also be in a Public Service Code or similar.

**OP4: Obstruction, false information, etc.**  
Same comment as under clause [OP3].

#### **Fraudulent use of official documents**

- OP5.** (1) A person to whom a permit or other document is issued under this Ordinance who –
- (a) forges or unlawfully alters the document; or
  - (b) allows any other person to use or attempt to use the document for any purpose of this Ordinance,
- commits an offence.  
Penalty: A fine of [£5,000] or imprisonment for [6] months, or both.

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

Penalty: A fine of [£5,000] or imprisonment for [6] months, or both.

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

Penalty: A fine of [£5,000] or imprisonment for [6] months, or both.

### **Offences by corporate bodies**

**OP6.** (1) A corporate body that commits an offence is liable to a maximum fine of 5 times the maximum fine for the same offence if committed by an individual, as prescribed by the respective section.

(2) If a corporate body commits an offence against this Ordinance, 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 that –

- (a) the offence was committed without his or her consent or connivance; and
- (b) 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 corporate body and to all the circumstances.

### **Forfeiture**

**OP7.** (1) A court convicting a person of an offence under this Ordinance or the regulations may, in addition to any other penalty imposed, order that any article used in committing the offence, or, if the article has been sold, the proceeds of the sale, be confiscated.

(2) If an article or proceeds are confiscated under subsection (1) –

- (a) the article or proceeds are forfeited to the Government;
- (b) a forfeited article may be sold and the proceeds of sale paid into the

### **OP5: Fraudulent use of official documents**

Again, this clause creates an offence similar to forgery etc. which might already be covered in the local law.

However, it is useful to have a self-contained code of offences which will come under the purview of the biosecurity Director.

### **OP9: Offences by corporate bodies**

This clause provides for increased penalties on corporations; a multiplier of 5 is suggested, but the actual figure is for local decision, if wanted.

The clause also clarifies a point about criminal liability of directors etc. that sometimes causes difficulty in enforcement. It means that although corporations are not liable to imprisonment, individuals may be.

- Consolidated Fund; or
- (c) if the article poses a biosecurity threat it must be destroyed as directed by the Director.
- (3) For the purposes of subsection (1), “article used in committing the offence” –
- (a) includes the package or container in which the goods are contained, but does not include passengers’ baggage unless it has been constructed or adapted for the purpose of carrying prohibited or restricted articles;
- (b) includes equipment, a conveyance and any other movable thing owned by the offender which was used directly in the commission of the offence, but does not include land or buildings and fixtures on land.
- (4) In deciding whether to order confiscation of any article or proceeds under this clause, a court must have regard to the principle of proportionality.

#### **Fixed penalty system**

**OP8.** (1) If satisfied that a person has committed an offence under this Ordinance or the regulations (other than an offence mentioned in subsection (2)), the Director may, as an alternative to prosecuting the person –

- (a) order the person to pay a fixed penalty as described in this clause; and
- (b) order any goods liable to confiscation in connection with the offence to be forfeited to the Government or, if they pose a biosecurity threat, to be destroyed in accordance with paragraph 9 of Schedule 3.

(2) The fixed penalty option is not available in respect of offences for which the maximum penalty exceeds a fine of [£5,000] or imprisonment for [6 months], and they must be prosecuted in a court.

(3) The fixed penalty referred to in subsection (1) is [one-twentieth] of the maximum financial penalty prescribed for the offence, having regard to section [OP6(2)] if the accused is a corporate body.

#### **OP7: Forfeiture**

This clause provides for forfeiture of items connected with the commission of offences. The precise terminology for this clause will need to be settled locally, as will the question whether real property is to be liable to forfeiture (not covered by ‘article’ as used in the draft.)

#### **OP8: Fixed penalty system**

- (4) Before imposing a fixed penalty order on a person for an offence, the Director must notify the person in writing, giving particulars of the offence, the maximum penalty that a court could impose, the fixed penalty that is proposed, and any item that will be confiscated.
- (5) If a person on whom a notice is served under subsection (4) -
- (a) within the time specified in the notice, and in writing, admits the offence, requests the Director to deal with it under this clause and consents to the confiscation of the item (if appropriate) - the Director may impose a fixed penalty order on the person;
  - (b) does not respond as in paragraph (a) within the time specified in the notice – the Director may prosecute the offence.
- (6) A fixed penalty order must –
- (a) be in writing and specify the offence which the person has committed, the fixed penalty that is imposed, the place where it is to be paid and the date by which it is to be paid;
  - (b) specify any item that is to be forfeited or destroyed.
- (7) A person against whom an order is made under this clause is not liable to any further criminal proceedings in respect of the offence and if in custody must be discharged.
- (8) If a fixed penalty payable under this clause, or any part of it, is not paid by the date specified in the order, the sum payable becomes a debt owing to the Government and the Director may request the Chief Immigration Officer to place a stop order on the person leaving [Jurisdiction] until the sum is paid; and either –
- (a) send a copy of the order to a court of competent jurisdiction, which may enforce payment of the sum outstanding as if it were a fine imposed by the court, including imposing costs and ordering confiscation as appropriate; or
  - (b) prosecute the offence.

Many of the offences in the Bill are administrative in nature – failure to have documents etc. Others might be committed by people who are about to leave the Territory. For both these reasons, it is appropriate to consider having a Fixed Penalty system for offences that do not attract a high maximum penalty, to be decided locally.

Subclause (8) provides for the imposition of a ‘stop order’ to prevent someone leaving the territory without paying a FP.

Subclause (9) contemplates the Director directing the place and time and manner of payment of a FP, but they could be prescribed by regulations.

(9) The place or places, time and manner for payment of a fixed penalty are as directed by the Director.

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## **PART [MP] - MISCELLANEOUS PROVISIONS**

### **Jurisdiction**

**MP1.** (1) Notwithstanding any limit on its jurisdiction in any other written law, the Magistrate's Court is competent upon a conviction for an offence under this Ordinance to impose any penalty or to make any order provided for in or under this Ordinance.

(2) A prosecution under this Ordinance does not preclude the bringing of a civil action for damage caused by the importation, exportation, release, sale, breeding or other activity involving an animal or plant or an animal or plant product.

### **Abandoned goods**

**MP2.** (1) An article may be treated as abandoned and disposed of under this clause if -

- (a) any fee or charge payable by a person under this Ordinance or the regulations in respect of the article is not paid within [3 months] of the notice of the fee or charge being served on the person;
- (b) the article is in a biosecurity holding area and is not removed from the area within [14 days/a time specified in the notice] after biosecurity entry clearance has been granted in respect of it; or
- (c) the article is in biosecurity quarantine and is not removed from a biosecurity quarantine station or biosecurity approved premises within [14 days/a time specified in the notice] after the end of the quarantine period in respect of it.

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## **PART [MP] – MISCELLANEOUS PROVISIONS**

This Part contains a number of miscellaneous provisions for implementing the Ordinance. Some of the provisions might already be in the local law.

### **MP1: Jurisdiction**

This clause extends the jurisdiction of the Magistrates Court to deal with offences under the Ordinance and makes it clear that civil proceedings can also be brought e.g. by someone who suffers harm from an illegal import.

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

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

### **Compensation**

**MP3.** (1) Except as otherwise provided by or under this Ordinance, no compensation is payable for loss of or damage to any item as a result of any search, inspection, examination, sampling, testing, detention, treatment, quarantine or other biosecurity measure taken under this Ordinance or the regulations, unless negligence or malice on the part of the person taking the measure is proved.

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

(3) If this Ordinance provides for payment of compensation in any circumstances, the compensation must be –

- (a) claimed by an application in writing to the Director;
- (b) if not agreed, determined by the Director in accordance with the market value of the item plus reasonable consequential loss;
- (c) paid out of the funds of the Government.

(4) An appeal against a determination under subsection (3) lies to the Supreme Court.

### **Appeals from decisions**

This clause might need adapting for local court jurisdiction rules. It might even be considered desirable to make some offences indictable.

### **MP2: Abandoned goods**

This clause says how abandoned goods will be dealt with, if the local law does not already make provision. Local decisions will be needed on the appropriate time before an article is treated as abandoned; also local terminology for disposal of proceeds etc.

Unless regulations are made, the Director can decide the manner of disposal.

### **MP3: Compensation**

This says how compensation, if provided for, will be calculated.

In general, compensation is not payable for the forfeiture or destruction of goods imported or exported in breach of the requirements. Compensation is however payable if property is destroyed for internal

**MP4.** (1) A person aggrieved by a decision of a biosecurity officer under this Ordinance may within [24 hours] appeal to the Director.

(2) A person aggrieved by a decision of the Director under subsection (1) may within [7 days] appeal in writing to the Governor in Council/Permanent Secretary.

*Local decisions*

(3) The lodging of an appeal in respect of an article does not prevent biosecurity measures being taken in respect of the article to reduce or eliminate the biosecurity risk posed by the article.

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

(5) If an appeal involves a technical issue, the person hearing the appeal must obtain appropriate technical advice.

(6) An appeal against a decision of the Governor in Council/Permanent Secretary under this clause lies to the Supreme Court.

**Limitation of liability**

**MP5.** (1) Neither the Governor, the Director, a biosecurity officer nor any other public officer is personally liable for action taken under this Ordinance in good faith and without negligence.

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

**Evidence and language**

**MP6.** (1) In any proceedings under this Ordinance –

control purposes under clause [BIC3(5)] or for emergency purposes under clause [BIC7(7)], or if negligence or malice by a biosecurity officer is proved. The mechanism provided might need to be supplemented by regulations under [MP9].

**MP4: Appeals from decisions**

This clause provides for administrative appeals from decisions of biosecurity officers. The system needs to deal with on-the-spot appeals by passengers at an airport as well as more major issues raised by commercial importers. The hierarchy of appeals, and the time-limits, are a matter for local policy but the scheme outlined here would work in legislative terms.

An alternative scheme would be to have an appeals tribunal for the more major decisions, so as to remove technical issues from the Governor (or Governor in Council.) (There might already be a general administrative appeals system in the Territory.) No wording should be used which might oust the jurisdiction of the courts on a judicial review.

- (a) a document purporting to have been issued by the Governor, the Director, a biosecurity officer or any other public officer for the purposes of this Ordinance is presumed, until the contrary is proved, to have been duly executed or signed by that person;
  - (b) a copy of or extract from any such document and certified by a biosecurity officer to be true and correct is, unless the contrary is proved –
    - (i) presumed to be a true and correct copy or extract;
    - (ii) on its production in court *prima facie* proof of any matter contained in it.
- (2) In any proceedings under this Ordinance –
- (a) a certificate, in a form approved by the Director, of the results of any test conducted on an article by the person who conducted the test may be tendered in evidence and is *prima facie* evidence of the facts stated in it;
  - (b) a certificate of analysis of a sample of any article or thing may be tendered in evidence and is *prima facie* evidence of the facts stated in it if the procedure prescribed in relation to the sample has been substantially followed.
- (3) Section [Adm5] governs the evidential status of the biosecurity register and records kept under this Ordinance.
- (4) Documents submitted for purposes of this Ordinance must be in English or be accompanied by a certified translation into English.

### **Publication of orders and notices**

**MP7.** (1) Regulations and legislative orders made under this Ordinance must be published –

- (a) in the Gazette;
- (b) at the office of the Director and on the Government website, if any;
- (c) on any radio or television station that broadcasts in [Jurisdiction];
- (d) in any newspaper that circulates in [Jurisdiction];

### **MP5: Limitation of liability**

This provides that public officers taking action under the Ordinance in good faith are not liable for things done under the Ordinance except as stated.

The corollary is that negligent or malicious acts would incur liability, which would normally be at common law. The limitation of liability does not apply to persons who are not public officers.

### **MP6: Evidence and language**

This sets out the evidentiary status of certificates and other documents created or used under the Ordinance. The provisions are similar to those usually found in legislation relating to e.g. pesticides and pharmaceuticals. It is for consideration whether the rules relating to documents certified by public officers should apply to other persons who perform functions under the Ordinance e.g. consultants or analysts.



and made available to the public for inspection or purchase.

- (2) Regulations and legislative orders made under this Ordinance do not take effect until published in the Gazette, unless otherwise provided.
- (3) Unless otherwise provided, subsections (1) and (2) do not apply to specifications made or directions issued under this Ordinance, but they must be –
- (a) published in the biosecurity register and at the office of the Director;
  - (b) included in any manual of instructions given to biosecurity officers pursuant to section [Adm2]; and
  - (c) made available to the public for inspection or purchase.
- (4) Unless otherwise provided, any notice or other communication required by this Ordinance to be given in writing may be given electronically by –
- (a) a person to the Director;
  - (b) the Director to a person, if the person has an electronic address for receipt of such notices.
- (5) The Director may give instructions and directions to biosecurity officers by electronic means.
- (6) A printed copy of an electronic record of a notice, instruction or direction given or received by electronic means is *prima facie* evidence of the notice if the record purports to have been made at the time of sending or receipt.

### Specifications

- MP8.** (1) The Director may in writing specify –
- (a) the manner and language of markings on containers of incoming and outgoing regulated articles;
  - (b) the methods of handling, sealing, treating and disposing of containers of regulated articles;
  - (c) all other matters that may or must be specified in writing by the Director, as

### **MP7: Publication of orders and notices**

This clause states the rules about publication of regulations and orders made under the Ordinance; they should be given wide publicity in the areas affected by them and must also be published in the Gazette. The rule about Gazettal is the usual one for legislative instruments, but it is useful to have it restated here. Newspapers etc. are mentioned because Gazettal is only a formal step for evidentiary purposes and does not in practice inform the public.

Subclause (4) enables notices and instructions to be promulgated by e-mail or website, as well as the more traditional methods. There might be similar provisions in other local legislation that can be used instead.

provided for in or under this Ordinance.

- (2) If a matter is prescribed by regulations or an order, the regulations or order take precedence over a specification on the same matter.
- (3) Specifications must be entered in the biosecurity register maintained under section [Adm4] and do not take effect until so entered.
- (4) Section [Adm5] governs the evidential status of a specification contained in the biosecurity register.

### **Regulations**

**MP9.** (1) The Governor in Council may make regulations not inconsistent with this Ordinance for the effective implementation of this Ordinance and the performance of the biosecurity functions of the Government.

- (2) Without limiting subsection (1), regulations made under section (1) may –
  - (a) prescribe fees and charges for the biosecurity Directors provided by the Government;
  - (b) prescribe where, when and how a fixed penalty is to be paid as provided by section [OP8];
  - (c) regulate the disposal of waste and second-hand clothing and bedding so as to minimise any biosecurity risk;
  - (d) authorise and regulate the use of force and firearms by biosecurity officers;
  - (e) authorise and regulate the use of traps and pesticides by biosecurity officers;
  - (f) prescribe any other matter which this Ordinance requires to be prescribed or which is necessary for carrying out or giving effect to this Ordinance.
- (3) Section [Pre5(3)] applies to the making of regulations under this clause.

### **MP8: Specifications**

Specifications can be issued by the Director under clauses [BIP4] and [BEP4] and various other provisions. (The term does not include everything that is ‘specified, but only if ‘in writing by the Director – see the definition in Schedule 1.) This clause defines their status; they are not strictly legislative but must be entered in the biosecurity register and given due publicity.

### **MP9: Regulations**

This clause enables the Governor in Council to make regulations to supplement other provisions of the Ordinance. The usual procedures will need to be

(4) Regulations made under this clause may create offences for breaches of them and prescribe maximum penalties not exceeding a fine of [£xxx] for an individual or [£yyy] for a corporate body.

### **Authorised laboratories and analysts**

**MP10.** (1) The Governor in Council, on the advice of the Director, may by notice specify one or more laboratories, in [Jurisdiction] or elsewhere, as an authorised laboratory for the purposes of this Ordinance.

(2) A person who has any actual or reasonably perceived interest in a matter or other action to be taken by the Director, whether such interest is direct or indirect, must not act as a biosecurity officer to inspect an authorised laboratory.

(3) A person as mentioned in subsection (2) who becomes aware that he or she has such an interest, must notify the Director in writing within 3 days of becoming so aware, and the Director must immediately assign another biosecurity officer.

(4) The Governor in Council, on the advice of the Director, may by notice specify one or more appropriately qualified persons as authorised analysts to analyse samples for the purposes of this Ordinance.

(5) A person duly employed in an authorised laboratory as an analyst is deemed to be an authorised analyst for the purposes of this clause.

(6) A laboratory that is not a Government laboratory, and an analyst who is not a public officer, may charge their usual fees for Directors provided under this Ordinance.

### **International transport facilities**

**MP11.** (1) The owner or operator of an international transportation facility must, if required in writing by the Director, provide and maintain adequate areas, offices, laboratories and other facilities, including buildings, accommodation, equipment,

followed, such as consulting ExCo, laying before the legislature etc.

The regulations should prescribe fees and charges for biosecurity services, unless this is done by way of conditions, as mentioned in these Notes. They could prescribe forms, though this draft provides for forms to be ‘approved’ by the Director.

The list in subclause (2) does not need to cover things that the Ordinance says are to be prescribed, but only additional ones needed to give the Ordinance full effect. Some items might need to be listed so that existing regulations can continue in force, under the rule about repeals (see below.)

In subclause (4), the figure yyy should be 5 times xxx as in section [OP6].

### **MP10: Authorised laboratories and analysts**

This provision was in the original generic Biosecurity Bill draft and has been retained as a such a provision appears in the model draft Bills of the Organization of Eastern Caribbean States (OECS) and of CARICOM, to which some OTs belong.

In all OTs, there will need to be some provision on the topic, by another law or by regulations, if not in this Ordinance.

furnishings and fixtures, for inspection or for any other purpose related to the administration of this Ordinance.

- (2) The Director may—
  - (a) require the making of any improvements it considers necessary to any area, office, laboratory or other facility to meet the obligation in subsection (1);
  - (b) post, on or about the area, office, laboratory or other facility for as long as is required, a notice to this effect.
  
- (3) If the owner or operator of a facility fails to comply with a requirement under subsection (2)(a), the Director may cause the construction or repairs to be carried out, whereupon the owner or operator becomes liable for all reasonable costs incurred as a debt due to the Crown.
  
- (4) The Governor in Council may make regulations for the operation of any international transportation facility, including the provision of food, water and ventilation and protection during loading and unloading necessary for different categories of plants.
  
- (5) In this clause, “international transportation facility” means—
  - (a) an airport that receives any aircraft operating on an international flight;
  - (b) a port that receives any ship sailing on an international voyage; or
  - (c) a warehouse or other facility that receives any international air or water traffic.

#### **Audit and trace-back system**

**MP12.** (1) The Director must establish a system for the audit of plants and animals and trace-back of plant and animal products.

- (2) The system must enable the Director to –
  - (a) trace outbreaks of pests and diseases and incursions of invasive species;
  - (b) recall plant-based or animal-based food if necessary;

#### **MP11: International transport facilities**

This is also included because it appears in the OECS and CARICOM model Bills dealing with biosecurity. If private operators of quarantine stations etc. are appointed, they will need to be governed by some such rules. There will also need to be administrative rules about the provision of space for biosecurity inspection etc. at ports and airports.

- (c) follow the movement of a plant or animal through all stages of the production chain.
- (3) The Governor in Council may make regulations—
  - (a) providing for the establishment and functioning of a plant and animal identification and tracing system; and
  - (b) regulating the packaging and labelling of plant and animal products for trace back to the country of origin.
- (4) A system established under this clause must be published in accordance with section [MP7].

#### **Duty to assist and co-operate**

**MP13.** (1) All customs, port, airport, airline, postal, shipping, police, health and environmental authorities must assist biosecurity officers in the performance of their functions under this Ordinance by providing such facilities and assistance as the Director may reasonably request from time to time.

(2) The Director must collaborate with all relevant ministries and departments, including the authorities responsible for food safety, environmental health and environmental management, and must establish mechanisms for cooperation in this regard.

- (3) Before making a decision on any matter involving technical expertise, the Director must, either generally or for a particular case, obtain the advice of –
  - (a) in respect of plants and plant products - the Chief Plant Protection Officer;
  - (b) in respect of animals and animal products - the Chief Veterinary Officer.

#### **Repeals and savings**

**MP14.** (1) The following Ordinances (“the repealed laws”) are repealed to the extent stated in the following table:

<u>Ordinance</u>	<u>Extent of repeal</u>
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#### **MP12: Audit and trace-back system**

This is also included because it appears in the OECS and CARICOM model Bills dealing with biosecurity.

#### **MP13: Duty to assist and co-operate**

This is a general statement about the need for co-operation and consultation which appeared in the

- (2) Any subsidiary legislation or other instrument made or issued under any of the repealed laws that could be made or issued under this Ordinance (leaving aside any requirement for advice) continues in force as if made under this Ordinance until amended, replaced or repealed under this Ordinance, unless and to the extent that –
- (a) the matter is provided for in this Ordinance; or
  - (b) the subsidiary legislation is inconsistent with the provisions of this Ordinance or any other written law that applies to [Jurisdiction].
- (3) Without limiting the effect of subsection (2), the following import conditions continue to have effect as if issued as specifications under section [BIC4] of this Ordinance:

#### **Consequential amendments**

**MP15.** (1) A reference in another Ordinance to any of the repealed laws is, to the extent possible, to be read as a reference to this Ordinance or an equivalent instrument made under it.

original generic draft. It might be considered unnecessary but is a useful reminder of the way in which biosecurity legislation will operate in the OTs.

#### **MP14: Repeals and savings**

This clause provides for the repeal of existing laws governing the import and export of animals and plants and their produce (though not drugs and pharmaceuticals) and the movement of animals and plants in the Territory.

There may also be candidates for part repeal, such as the Quarantine Ordinances, if they relate to animal and plant quarantine as well as human health.

The saving of subsidiary legislation saves the existing regulations made under the repealed Ordinances but only so far as they are consistent with this Ordinance. (This might already be in the Interpretation Ordinance.)

It would be better to make new regulations to come into force at the same time as this Ordinance, if possible (e.g. handling of containers.)

Existing regulations which set out the requirements for treatment of imported animals and plants should be replaced by specifications under [BIP4] or [BEP4].

(2) A reference in another Ordinance to an officer exercising functions under a repealed law is, to the extent possible, to be read as a reference to a biosecurity officer exercising equivalent functions under this Ordinance.

### **Transitional provisions**

#### **MP16.**

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### **Amendment of Schedules**

**MP17.** (1) The Governor in Council may by Order amend etc.

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## **SCHEDULE 1**

*(Section [Pre2])*

### **DEFINED TERMS**

In this Ordinance, unless the context otherwise requires –

“agent” means a biosecurity clearance agent, if one is appointed under section [BBC6];

“animal” means any mammal (other than a human), bird, amphibian, fish, reptile,

Regulations governing internal controls can lapse if they are covered by Part [BIC].

The savings include delegations of functions, but do not include the appointment of officers. These should be done (or re-done) at an early stage for certainty.

Local policy decisions are needed as to the repeals and consequential amendments needed.

The repeals and consequential amendments can be set out in a Schedule if preferred.

### **MP15: Consequential amendments**

The general statements in this clause will apply in all cases. Specific textual amendments might also be appropriate, and can be set out in a Schedule if preferred.

### **MP16: Transitional provisions**

This clause, if needed, will make provisions for a smooth transition from the existing regime to a new one. They will relate to systems or bodies that will disappear once the Ordinance is in place (as distinct from savings which keep them alive.) Power to make regulations to assist this may be useful.

### **MP17: Amendment of Schedules**

invertebrate, mollusc or other member of the animal kingdom, whether alive or dead, and includes the egg, embryo, ova or semen and any organic animal tissue from which another animal could be produced, and the 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 and other foodstuffs derived from an animal;
- (b) the dung, urine, faeces, saliva, bone or blood of an animal, or any article or substance derived from the dung, urine, faeces, saliva, bone or blood of an animal;
- (c) the secretions of any animal;
- (d) the hide, skin, hair, feathers, shell, horns or hoof of an animal;
- (e) any product or biological preparation derived from any animal tissue or animal secretion;

“area” may include an island and a fixed oil rig;

“article” means a single unit of any goods;

“authorised” means duly authorised by the Governor, the Governor in Council, the Director, a biosecurity officer or another public officer for the purposes of this Ordinance;

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

“biosecurity” means the process of managing the risks posed by organisms to the economy, environment and human health through exclusion (the prevention of initial introduction of a species), mitigation, adaptation, control, and eradication;

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

“biosecurity controlled zone” means an infested biosecurity controlled zone or a threat-free biosecurity controlled zone designated under Part [BIC];

If there is to be a Schedule of Penalties there will need to be a clause giving the Governor in Council power to amend it by order. This device is generally avoided as a ‘Henry VIII’ clause but is established in precedent for matters such as penalties.

The power could extend to the other Schedules suggested in this generic draft Bill, but should be used sparingly for matters of substance such as definitions.

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### **Schedule 1 – Defined terms**

As contemplated by clause [Pre2], This sets out a number of definitions.

Terms that are defined in the local Interpretation Ordinance e.g. ‘Government’, ‘[Jurisdiction]’ and ‘Ordinance’ do not need defining in this Ordinance (unless it is desired to do so for clarity.)

Other terms such as ‘vessel’ might also be defined already.

Note in particular the definitions of ‘biosecurity risk’ and ‘biosecurity threat’.

The term ‘area’ includes an island. The Ordinance will apply to oil rigs: if fixed, they are included in ‘area’ and if towed, they can be included in ‘conveyance’.

The term ‘container’ covers a wide range of items, from a large bulk container as used on ships and aircraft to a suitcase and even a paper bag.



“biosecurity documentation” includes a sanitary or phytosanitary certificate, a certificate of origin and documentary evidence of permission to import or export goods under this Ordinance;

“biosecurity entry clearance” means permission under section [CVA7] for a crew member or passenger to land from a vessel or aircraft;

“biosecurity export specification” means a specification issued under section [BEP4];

“biosecurity functions of the Government” means the functions set out in section [Pre5];

“biosecurity goods inspection” means an inspection of incoming goods under section [BIP2] for the purpose of biosecurity import clearance;

“biosecurity import clearance” of an article means permission under section [BIP3] for the article or consignment to be imported;

“biosecurity import declaration” means a declaration by an importer of goods required pursuant to section [BIP2];

“biosecurity import permit” means a permit for the importation of regulated articles issued under section [BIP5];

“biosecurity import specification” means a specification issued under section [BIP4];

“biosecurity landing clearance” means permission under section [CVA2] for a vessel or aircraft to land crew members, passengers or goods;

“biosecurity measure” means the inspection, detention, quarantining, testing, treatment, re-consignment or destruction of a regulated article to eliminate or reduce the biosecurity threat presented by the article;

“biosecurity officer” means and includes –

- (a) the Director; and
- (b) any person designated as a biosecurity officer under section [Adm1];

*[Or ‘appointed’ if that term used]*

“biosecurity port quarantine” means that a vessel or aircraft is subject to biosecurity quarantine measures before it can land crew members, passengers or goods;

“biosecurity quarantine” means confinement in isolation of an article and any conveyance, container or packaging in which the article is carried, for inspection,

Note that a ‘conveyance’ (which includes a vessel or aircraft) might be an article, if it is brought in for use or re-sale in the Territory.

The definitions of ‘Director’, ‘officer’ etc. will need to be adapted to refer to local requirements.

The term ‘item’ is used to include buildings, while ‘article’ can mean any individual item of goods.

The term ‘pest’ includes a noxious weed, which might also be an invasive species.

testing and/or treatment, in order to prevent or limit the entry, introduction, establishment or spread of a prohibited or restricted non-native species, pest or disease;

“biosecurity register” means the register kept by the Director under section [Adm4];

“biosecurity risk” means the likelihood of the introduction, establishment or spread of a non-native species or of a pest or disease which would adversely affect animals, plants, human beings, the environment or economic activities, and the likely extent of such harm;

“biosecurity risk assessment” means the evaluation by a qualified person of biological or other scientific and economic evidence to determine whether a non-native species or a pest or disease should be prohibited or restricted, and the nature of any biosecurity measures to be taken against it, including processes relating to the transport, establishment, abundance, spread, and impact of a species;

“biosecurity specifications” means biosecurity import specifications or biosecurity export specifications;

“biosecurity threat” means the threat of harm being caused or adverse effects resulting to animals, plants, human beings, the environment or economic activities as a result of the introduction, establishment or spread of a prohibited or restricted non-native species, pest or disease;

“biosecurity vessel or aircraft arrival declaration” means a declaration made by the master of an incoming vessel or captain of an aircraft respectively under section [CVA1];

“biosecurity vessel or aircraft inspection” means the inspection of an incoming vessel or aircraft under section [CVA2] for the purpose of biosecurity landing clearance;

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

“consignment” means a quantity of articles which arrive in the same vessel or aircraft and are under the ownership or custody of the same person;

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

“conveyance” means a vessel, aircraft, vehicle or other means of transporting people, goods or animals from one location to another, and includes a towed oil rig;

“country” includes a territory or part of a country that administers its own biosecurity laws;

“country of origin” includes a re-exporting country;

“custodian”, in respect of an item, means the person in possession and charge of an 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 person for the time being performing the functions of the Director [of Biosecurity];

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

“document” means any mode of communicating information in a retrievable form, including electronically (as to which see section [MP7(4)]);

“environment” includes –

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

“eradication” means the removal of an entire population of a non-native species or of a pest or disease within an area where re-colonisation is unlikely to occur;

“establishment”, in relation to a non-native species, or a pest or disease, means the process whereby it forms a self-sustaining population over a period of time corresponding to multiple generations without direct intervention by people, or despite human intervention;

“exporter” means a person who exports or seeks to export goods from [Jurisdiction], other than as the master of a vessel or captain of an aircraft in which the goods are carried, and includes the owner, agent and custodian;

“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 water, meat, vegetables, grain or material used for the food or litter of animals, or the storage of animal products;

“food” includes any substance or product, whether processed, partially processed or unprocessed, intended to be, or reasonably expected to be ingested by humans;

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

“goods” means any kind of moveable property or thing and includes a conveyance;

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

“importer” means a person who imports or seeks to import goods into [Jurisdiction], other than as the master of a vessel or captain of an aircraft in which the goods are carried, and includes the owner, agent and custodian;

“incoming vessel” means a vessel that has come into [Jurisdiction] and intends to land crew members, passengers or goods;

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

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

“inspection”, in relation to an item, means an official examination of the item to determine if any non-native species or pest or disease is present in the item and whether in other respects the item conforms to the requirements of this Ordinance;

“introduction”, in relation to a species or organism, means the transport of it, through human or animal activity (intentionally or accidentally) to areas outside its potential range as defined by its natural dispersal mechanisms and biogeographical barriers; and “introduced” is to be construed accordingly;

“invasive non-native species” means a non-native species that has the ability to spread, causing damage to the environment, the economy or human health;

“IPPC” means the International Plant Protection Convention of the Food and Agriculture Organization of the United Nations;

“item” means any kind of moveable or immovable property or thing, including premises;

“land”, as a verb, means to offload cargo, passengers or crew, and includes allowing passengers or crew to dive from a vessel into the waters of [Jurisdiction];

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

“non-native species” (of plant or animal) means a species, subspecies or lower taxon, introduced outside its natural past or present distribution, and includes any part, gamete, seed, egg or propagule of such species that might survive and subsequently reproduce;

“notifiable” in relation to a species, pest or disease means a non-native species, or a pest or disease, that is notifiable under section [BIC10];

“OIE” means the Organisation Internationale Epizoötique or World Organisation for Animal Health;

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

“outgoing vessel” means a vessel that intends to leave [Jurisdiction] for another destination;

“packing material” means any fabric, paper, cardboard, plastic, wood, straw, grass or leaves used in packing any goods, and any other type of material in which goods are covered, enclosed, contained or wrapped;

“passenger arrival biosecurity declaration” means declaration made by a passenger or crew member as required by section [CVA7];

“pest” means any species, strain or biotype of a plant, animal, microbe or pathogenic agent, or any organism, other than a non-native species, 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, and includes a noxious weed;

“plant” includes seeds, germplasm, any other part of a plant and a dead or preserved plant, including a marine plant;

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

“plant product” means –

- (a) plant material;
- (b) timber; and
- (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 not sufficient scientific data to support a refusal;

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

“prohibited export” means a regulated article the exportation of which is prohibited under section [BBC2(5)];

“prohibited import” means a regulated article the importation of which is prohibited under section [BBC2(1)];

“prohibited or restricted” in relation to a species, pest or disease means prohibited or restricted under section [BBC2];

“reconsign”, in relation to a regulated article or consignment which has been refused biosecurity import clearance, means to send the article or consignment out of [Jurisdiction], either by the vessel or aircraft on which it was imported or by another vessel or aircraft;

“regulated article” has the meaning given to that term in section [Pre2(3)];

“restricted export” means a regulated article the exportation of which is permitted under section [BBC2(7)] subject to conditions specified under section [BEP4];

“restricted import” means a regulated article the importation of which is permitted under section [BBC2(3)] subject to conditions specified under section [BIP4];

“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;

“specification” includes any matter specified by the Director in writing; and

“specification” is to be construed accordingly;

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

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

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

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

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

“uncleared”, in relation to a regulated article, means that the article has not received biosecurity clearance;

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

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

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

“waters of [Jurisdiction]” means –

- (a) the territorial waters of [Jurisdiction]; and
- (b) the Exclusive Economic Zone of [Jurisdiction].

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**SCHEDULE 2**

*(Section [CVA1])*

**CONTENTS OF A BIOSECURITY VESSEL OR AIRCRAFT ARRIVAL  
DECLARATION**

A biosecurity vessel or aircraft arrival declaration, if required, must contain:

- (a) the estimated time of arrival of the vessel or aircraft;
- (b) its immediately preceding port of call or airport;
- (c) the nature and country or area of origin of its cargo;
- (d) the number of passengers and crew;
- (e) whether the cargo includes any regulated articles and if so their nature;
- (f) the presence of any live animal or live plant on the vessel or aircraft;
- (g) the nature of any illness or malady affecting any live animal, plant, crew member, passenger or other individual on board the vessel or aircraft;
- (h) where and how the cargo was stored before being loaded onto the vessel or aircraft;
- (i) whether the vessel or aircraft and its cargo has had any biosecurity inspection in another country before coming to [Jurisdiction], and if so what inspection;
- (j) any other matter relevant to facilitating biosecurity landing clearance of the vessel or aircraft that is reasonably required by the Director.

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**SCHEDULE 3**

*(Section [Adm3])*

**ADDITIONAL POWERS OF BIOSECURITY OFFICERS**

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**Schedule 2 - Contents of a Biosecurity Vessel or  
Aircraft Arrival Declaration**

These are much the same as the existing requirements under customs and immigration legislation, except for the emphasis on ‘regulated articles’ and ‘biosecurity inspection’.



### **1. Entry, search and seizure**

- (1) If a biosecurity officer reasonably suspects the presence of a prohibited or restricted non-native species, pest or disease that is not under official control, the officer may at any time –
- (a) stop, board and search any conveyance;
  - (b) enter and search any premises, building or area, including a biosecurity holding area or biosecurity quarantine station, and land adjacent to a dwelling house;
  - (c) with the consent of the owner, enter and search a dwelling house for animals, plants and their products;
  - (d) on a warrant issued under subsection (3), enter and search a dwelling house.
- (2) If a Magistrate is satisfied on evidence by a biosecurity officer that –
- (a) there may be in a dwelling house a regulated article that poses a biosecurity threat to [Jurisdiction]; and
  - (b) the consent of the owner or occupier to entry and search of the dwelling house cannot be obtained,
- the Magistrate may issue a warrant authorising the officer to enter and search the dwelling house for that 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 [Jurisdiction] are kept.
- (4) During a search of premises or a conveyance under this clause a biosecurity officer may seize anything which –
- (a) is an uncleared imported regulated article;
  - (b) poses a biosecurity threat to [Jurisdiction]; or

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### **Schedule 3 – Additional Powers of Biosecurity Officers**

This Schedule sets out the powers of biosecurity officers that are available in all circumstances. They are in addition to the powers relating to border control in Parts [BIP], [BEP] and [BQ] and the powers relating to ships and aircraft in Part [CVA]. They include power to kill animals and conduct a post mortem examination, and powers relating to people generally.

#### **Para.1: Entry, search and seizure**

This gives a biosecurity officer the power to stop, board and search conveyances and enter and search premises, buildings or areas, if the officer suspects the presence of a prohibited or restricted non-native species, pest or disease that is not under official control (as defined in Schedule 1).

A warrant is needed to search a dwelling house.

- (c) may be used as evidence of the commission of an offence under this Ordinance.
- (5) A biosecurity officer who seizes anything from a person under subparagraph (4) must, if reasonably practicable –
  - (a) inform the person of the reason for the seizure;
  - (b) give the person a receipt for the thing seized; and
  - (c) remove the thing to a place of safekeeping and deal with it in accordance with this Ordinance.
- (6) A biosecurity officer may, at the expense of the owner or custodian, submit to appropriate biosecurity measures any regulated article seized pursuant to this clause.

The officer can seize anything which poses a biosecurity threat or can be used as evidence of the commission of an offence under the Ordinance.

## **2. Inspection of documents**

- (1) A biosecurity officer may –
  - (a) open and inspect any incoming document, including mail and items carried by a courier, 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 and items carried by a courier, if the officer reasonably suspects that the document contains or relates to –
    - (i) an uncleared regulated article that requires biosecurity export clearance; or
    - (ii) a regulated article that could pose a serious biosecurity threat to the country of destination of the document.
- (2) The powers in subsection (1)(b) and (c) must only be exercised in respect of personal letters if the officer reasonably suspects that a letter contains or relates to a biosecurity threat.

## **3. Inspection of articles**

(1) For the purpose of exercising the powers of inspection under this Ordinance, a biosecurity officer may request an importer or exporter to unpack and/or break up a consignment, or to open a container, at the person's risk and expense.

(2) When conducting an inspection under this Ordinance, 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 this Ordinance or to investigate a possible offence under it.

(3) If an importer or exporter refuses to comply with a request under subparagraph (1), or to facilitate action under subparagraph (2) –

- (a) the biosecurity officer may break up the consignment or open the container or cause it to be broken or opened;
- (b) the cost of action under subparagraph (a) is a debt owing to the Government by the importer or exporter, as the case may be;
- (c) no liability lies on the Government or any biosecurity officer, and no compensation is payable, for the action of breaking up or opening, unless negligence or malice is proved.

#### **4. Detention of articles**

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

(2) If an outgoing regulated article that requires biosecurity export clearance has not been cleared, a biosecurity officer may detain the article, and any conveyance, container or baggage in which the article is carried, until clearance or other disposition of the article under this Ordinance.

#### **Para.2: Inspection of documents**

There are several requirements in the Ordinance for the production of documents relating to articles and consignments. This para. regulates the inspection of documents.

#### **Para.3: Inspection of articles**

There are several requirements or powers in the Ordinance for the inspection of articles and consignments. This para. regulates such inspections. Inspection might be only visual, or might involve handling; it would not include chemical tests etc. which are covered by para. 5.

(3) If an animal or plant or animal or plant product in [Jurisdiction] is suspected of being a prohibited or restricted non-native species, or of being infected or infested by a prohibited or restricted pest or disease, a biosecurity officer may direct the animal, plant or product to be detained in a place specified by the biosecurity officer for tests to be conducted or for treatment to be administered.

- (4) If an article is to be detained under this clause, a biosecurity officer may –
- (a) direct the importer or exporter or owner of the article to remove it to the specified place;
  - (b) if necessary (because the importer or exporter or owner refuses to obey the direction, or because of the nature of the biosecurity threat,) arrange for the article to be removed to the specified place.

(5) If, after being tested as in paragraph 5, the animal, plant or product is considered to pose a biosecurity threat to [Jurisdiction], the officer may further detain it in the specified place for biosecurity measures to be taken in respect of it, but an animal, plant or product may be detained only for so long as is required for biosecurity measures to be taken in respect of it.

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

## **5. Testing of articles**

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

(2) Following a test of an incoming article, the article must be either released to the importer, and biosecurity import clearance granted in respect of it, or it must be treated, reconditioned or destroyed.

## **Para.4: Detention of articles**

This empowers a biosecurity officer to direct that an animal or plant or product that requires biosecurity measures to be taken be detained and confined in a place specified by the officer for tests to be conducted.

The cost of removal and detention is borne by the importer and no compensation is payable unless negligence or malice is proved.

(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 a condition for importation into the receiving country.

(4) Following tests on an outgoing article, biosecurity export clearance must either be granted or refused in respect of the article.

(5) Following detention of an article under paragraph 4, a biosecurity officer may test the article, or cause it to be tested, in accordance with this clause.

(6) Tests conducted under this clause may include –

- (a) the taking of samples in accordance with paragraph 6;
- (b) conducting a post mortem examination in accordance with paragraph 10.

(7) If a test conducted under this clause without negligence or malice destroys or damages an animal or other article being tested, no compensation is payable to the importer or owner of the animal or other article.

## **6. Taking of samples**

(1) A biosecurity officer may, with the consent of the importer, owner or custodian, take samples from any –

- (a) part of an incoming vessel or aircraft that has on board regulated articles;
- (b) warehouse containing regulated articles intended for importation;
- (c) consignment of incoming regulated articles, wherever located;
- (d) incoming container, baggage or thing that the officer reasonably suspects to be or include a regulated article,

if the taking of a sample is necessary for the grant of biosecurity import clearance for the article.

## **Para.5: Testing of articles**

This para. governs the testing of samples. See the definition of ‘test’ in Schedule 1.

There is a duty of care on the testing authority, but otherwise no compensation is payable for a test that damages or destroys an article.

See also section [MP5] as to liability of officials.

Under section [Pre5(6)], testing could be outsourced to other agencies.

(2) A biosecurity officer may, with the consent of the person in charge of the article, take samples of any outgoing regulated article if the taking of a sample is necessary for the grant of biosecurity export clearance for the article.

(3) If the person in charge of a regulated article refuses consent under subsection (1) or (2) respectively, the biosecurity officer may require the person to provide a sample, failing which biosecurity import or export clearance, as the case may be, will not be granted.

(4) A biosecurity officer may request the importer or exporter of a consignment to unpack it or break it up to facilitate sampling, at the risk and expense of the importer or exporter.

(5) A person who refuses to –  
 (a) allow samples to be taken ;  
 (b) provide samples; or  
 (c) facilitate sampling,

when required to do so under this clause, commits an offence under section [OP4].

(6) When exercising powers under subsection (1) or (2), a biosecurity officer must, if reasonably practicable, give the importer or exporter a written notice, identifying the quantity of the sample and the place where the sample is to be analysed.

(7) In other respects, the procedure for taking and analysing samples, recording the results and disposing of the samples is as determined by the Director in consultation with relevant experts, according to the type of sample.

(8) If, in the course of sampling, goods are destroyed or damaged, without negligence or malice, no compensation is payable to the importer or exporter or owner of the goods.

#### **Para.6: Taking of samples**

This para. gives a biosecurity office power to take samples for analysis. Detailed rules about taking of samples are often found in other legislation, such as pesticides or pharmaceuticals but are not needed in this Ordinance. They can be prescribed by regulations if required e.g. as to what happens to the remainder of the consignment meanwhile.

(9) The importer or exporter or owner of a regulated article from which samples are taken under this clause must be notified in writing of the findings in respect of the samples as soon as reasonably practicable.

## **7. Treatment of articles**

(1) If an incoming article is found to be or to contain a prohibited or restricted non-native species, or to be infected, infested or contaminated by a prohibited or restricted pest or disease, the article may be treated to reduce the biosecurity risk to an acceptable level, whether or not treatment is a specified requirement or a condition of an import permit.

(2) Once treatment has been administered to the satisfaction of the biosecurity officer, the article must, subject to subsection (5), be released to the importer or owner and biosecurity import clearance granted in respect of it.

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

(4) If treatment is available to eliminate or reduce to an acceptable level the biosecurity threat posed by an animal or plant or animal or plant product that has been detained under paragraph 4, a biosecurity officer may –

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

(5) The cost of treatment is to be borne by the importer or owner of the item, but the importer or owner may instead opt to have the article reconsigned or destroyed.

### **Para.7: Treatment of articles**

This para. applies if an article needs to be treated to remove the biosecurity risk. It enables a biosecurity officer to administer treatment to an animal, plant or product, to eliminate or reduce the risk.

‘Treatment’ is defined in Schedule 1 and can include cutting off branches, vaccinating animals and a whole range of action to reduce a biosecurity threat. It might be administered in quarantine, or at approved premises, or at a port or airport.

(6) If an importer or owner fails to have an article which requires treatment under this section treated within a reasonable time, the biosecurity officer may require the article to be destroyed.

(7) If –

- (a) appropriate treatment is not available in [Jurisdiction];
  - (b) in the opinion of a biosecurity officer, there would still be a biosecurity risk after treatment; or
  - (c) the importer or owner chooses not to have the article treated,
- the article must be destroyed, subject to subsection (8).

(8) If subparagraph (7) applies in the case of an incoming article, and if the importer chooses, the article may be reconsigned rather than destroyed, but subject to paragraph 8.

(9) If, in the course of treatment, goods are destroyed or damaged, without negligence or malice, no compensation is payable to the importer or exporter of the goods.

(10) Treatment of an article –

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

## **8. Reconsignment of articles**

(1) If an incoming regulated article which requires biosecurity documentation is not accompanied by the necessary documentation, a biosecurity officer may, after informing the importer, detain the article for reconsignment or destruction .

Under subparas.(6) and (7), if treatment is no possible for any reason, the animal, plant or product may be destroyed. The owner is not entitled to compensation for damage to or destruction of an article unless there is malice or negligence.

Under subpara.(8) the importer is given the option of having the item destroyed or reconsigned, rather than treated, but subject to the biosecurity risk.

Subpara. (10) is in case the Director is not a veterinarian; it is not needed if the Director is suitably qualified.



- (2) An incoming article that is a prohibited import must be reconsigned or destroyed.
- (3) Reconsignment is at the option and cost of the importer, but –
- (a) reconsignment must be effected within a time specified by the officer, which must be reasonable in the circumstances;
  - (b) if the biosecurity officer considers that the biosecurity risk of reconsignment is unacceptable, the option is not available.
- (4) The power to order reconsignment of an article under this clause applies also to any container, crate, baggage, package or mail which carries it.
- (5) If reconsignment is not effected within the time specified under subsection (3)(a), or is not acceptable, the article or consignment must be destroyed.
- (6) No compensation is payable to the importer for the cost of reconsignment under this paragraph.

## **9. Destruction of articles**

- (1) If an incoming article is found to be or contain a prohibited or restricted non-native species, or to be infected, infested or contaminated by a prohibited or restricted pest or disease, and –
- (a) appropriate treatment is not available in [Jurisdiction];
  - (b) in the opinion of the Director there would still be a biosecurity risk after treatment; or
  - (c) the importer chooses not to have the article treated,
- the article must be reconsigned or, if the importer chooses, or if paragraph 8(3)(b) applies, destroyed.
- (2) The power of destruction of articles in sub-paragraph (1) is in addition to any other power of destruction in or under this Ordinance.

## **Para.8: Reconsignment of articles**

This para. applies if an article needs to be reconsigned out of the Territory to remove the biosecurity risk. Reconsignment does not apply to outgoing articles.

- (3) Destruction of an article under this Ordinance may include any container, crate, baggage, package or mail which carries it.
- (4) Packaging of an article may be destroyed, if considered to pose a biosecurity risk, whether or not the article is destroyed.
- (5) If the article to be destroyed appears to be of or above the value of [£1,000], the Director must obtain the written approval of the Governor before arranging for its destruction, unless delay would increase the biosecurity risk unacceptably.
- (6) The manner of destruction of articles under this clause is as approved by the Director and the importer or owner of the article, if known, must be invited to witness the destruction.
- (7) The Director must, if reasonably practicable, give notice of an intention to destroy any article to the importer or owner in writing before the action is taken.
- (8) No compensation is payable to the importer for destruction of an article under this paragraph, unless negligence or malice is proved.

#### **10. Post mortem examination of an animal**

- (1) If a biosecurity officer examining an animal pursuant to this Ordinance suspects that the animal is diseased and considers a post mortem examination to be necessary to establish a diagnosis, the officer may, on the written authority of the Director and without the consent of the owner –
- (a) take or cause to be taken the life of the animal;
  - (b) cause a post mortem examination to be conducted to decide whether the animal is diseased; and
  - (c) obtain specimens from the animal for laboratory examination and diagnosis.
- (2) If an examination is conducted pursuant to subsection (1), the results of the examination and of any laboratory reports resulting from the examination must be

#### **Para.9: Destruction of articles**

This para. applies if an article needs to be destroyed to remove the biosecurity risk.

To avoid peremptory destruction of articles, the clause provides for reconsignment as an option available to the importer, but the option is not available if the biosecurity risk is too great.

Subpara. (5) sets a financial limit to the type of article that a biosecurity officer can order destroyed without reference to higher authority; the amount is for local decision, as is the authority.

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

### **11. Quarantine seal and identification marks**

(1) A biosecurity officer may apply or cause to be applied an identification mark to any regulated article, container, premises, equipment, or conveyance.

(2) A biosecurity officer may affix a notice to any vessel or aircraft held in biosecurity port quarantine, stating the conditions and duration of quarantine and other information relating to the vessel or aircraft as directed by the Director.

(3) At any time after the arrival of a vessel or aircraft in [Jurisdiction] a biosecurity officer may place a quarantine seal or lock on any container or package of imported goods on the vessel or aircraft, either for subsequent biosecurity quarantine inspection of the goods, or for the holding of goods under biosecurity quarantine while the vessel or aircraft remains in [Jurisdiction].

(4) A biosecurity officer may place a quarantine seal or lock on any container or package of imported goods which has been discharged from any vessel or aircraft arriving in [Jurisdiction], either for subsequent biosecurity quarantine inspection, treatment or detention prior to release or for reconsignment of the goods as the case may be.

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

(6) A person who removes an identification mark or notice affixed under this paragraph or interferes with or removes a quarantine seal or lock or without lawful authority commits an offence.

Penalty: A fine of [£5.000], or imprisonment for [6 months], or both.

### **Para.10: Post mortem examination of an animal**

This para. permits the killing of an animal in order to conduct a post mortem examination. It confers the power to take the life of an animal, without compensation.

If it is thought desirable to provide for compensation, this can be included; but a diseased animal will presumably not be worth much.

### **Para.11: Quarantine seal and identification marks**

This enables a biosecurity officer to seal incoming containers, mark regulated articles for identification purposes and place notices on a quarantine station stating the conditions and duration of quarantine and other information as specified by the Director. Such a notice must not be removed.

This para. could if preferred be included in Part [BQ] as it creates an offence.

## 12. Powers in relation to people

(1) If a biosecurity officer is of the opinion that any person –  
 (a) seeking to enter or leave [Jurisdiction];  
 (b) employed in connection with biosecurity control; or  
 (c) engaged in importing or exporting articles,  
 is in possession or control of an article that poses a biosecurity threat to [Jurisdiction], the officer may detain and question the person.

(2) If a biosecurity officer suspects that there may be upon a person seeking to enter [Jurisdiction] an article the importation of which would constitute an offence under this Ordinance, the officer may cause the person and the person's baggage to be searched.

(3) If a biosecurity officer suspects that there may be upon a person seeking to leave [Jurisdiction] an article the exportation of which would constitute an offence under this Ordinance, the officer may cause the person and the person's baggage to be searched.

(4) A search of a person under this clause must be carried out by an officer of the same sex as the person searched.

(5) A person may be detained under this clause 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 any article found.

(6) A person who refuses to –  
 (a) answer to the best of his or her knowledge and ability questions reasonably put by a biosecurity officer; or  
 (b) submit to a search reasonably required under this clause,  
 commits an offence.

Penalty: A fine of [£5,000] or imprisonment for [6] months, or both.

### Para.12: Powers in relation to people

This governs the detention, questioning and searching of people and their baggage.

It applies not only to incoming and outgoing passengers And people engaged in imports and exports but to workers at e.g. quarantine stations.

Subpara. (6) is in addition to the duty of passengers to make a declaration under section [CVA7].

- (7) In this paragraph, “person” means an individual.
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#### **SCHEDULE 4**

(Section [Adm4])

#### CONTENTS OF THE BIOSECURITY REGISTER

The biosecurity register must include the following:

- (a) the prohibited imports list declared under section [BBC2(1)];
  - (b) the restricted imports list declared under section [BBC2(3)];
  - (c) the prohibited exports list declared under section [BBC2(5)];
  - (d) the restricted exports list declared under section [BBC2(7)];
  - (e) biosecurity clearance agents; *[If any]*
  - (f) biosecurity quarantine stations;
  - (g) biosecurity import permits issued, refused and revoked under Part [BIP];
  - (h) exemptions granted under section [BIP6];
  - (i) transit waivers issued under section [BIP7], other than in-transit passenger waivers;
  - (j) biosecurity controlled areas declared under section [BIC2] or [BIC4];
  - (k) species, pests and diseases declared to be notifiable under section [BIC10] (the ‘watch list’);
  - (l) occurrences of such species, pests and diseases notified under section [BIC10];
  - (m) beneficial organisms and biocontrol agents released under section [BIC11];
  - (n) bilateral agreements entered into with potential receiving countries under section [Adm7];
  - (o) any other matter required by or under this Ordinance to be included in the biosecurity register or considered by the Director to be necessary or appropriate for inclusion.
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#### **SCHEDULE 4 - CONTENTS OF THE BIOSECURITY REGISTER**

This could be omitted as the general obligation to have a register is in clause [Adm4], but it is a useful checklist of things that need to be done in the course of biosecurity operations.



