

# **National Agriculture Quarantine and Inspection Authority Act 1997**

No. 6 of 1997.

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Certified on: / /20 .

INDEPENDENT STATE OF PAPUA NEW GUINEA.

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# INDEPENDENT STATE OF PAPUA NEW GUINEA.

AN ACT

entitled

## *National Agriculture Quarantine and Inspection Authority Act 1997,*

Being an Act to provide for the protection of animals and plants, natural resources and the environment from pests and diseases in the interest of National, Social and Economic Development and, for that purpose, to establish the National Agriculture Quarantine and Inspection Authority and to define its powers and functions, and for related purposes.

### **PART I. – PRELIMINARY.**

#### **1. COMPLIANCE WITH CONSTITUTIONAL REQUIREMENTS.**

(1) This Act, to the extent that it regulates or restricts a right of freedom conferred by Subdivision III.3.C of the *Constitution* (*qualified rights*) namely–

(a) the right to freedom from arbitrary search and entry conferred by Section 44 of the *Constitution*; and

(b) the right to privacy conferred by Section 49 of the *Constitution*; and

(c) the right of freedom of movement conferred by Section 52 of the *Constitution*,

is a law that is made for the purpose of giving effect to the public interest in public order and public welfare.

(2) [*Repealed.*]

(3) For the purposes of Section 41(2) of the *Organic Law on Provincial Governments and Local-level Governments*, it is hereby declared that this Act relates to a matter of national interest.

#### **2. INTERPRETATION.**

(1) In this Act, unless the contrary intention appears–

“**agriculture quarantine**” means quarantine in accordance with this Act:

“**Agriculture Quarantine Officer**” means a Quarantine Officer appointed under Section 32;

“**aircraft**” includes any vessel that is used in navigation by air and includes an hovercraft;

“**animal**” means any living stage of any member of the animal kingdom including mammals, birds and fish except human beings and, in the case of mammals, birds and fish, includes their egg, semen or carcass;

“**animal product**” means any part of an animal including the flesh, wool, hair, hide, bones, horn, hooves, feathers and other portions of the carcass or any product that is wholly or partly derived from an animal or any part of an animal;

“**arrival**” means–

(a) in the case of a sea-going vessel—arrival at a port; or

(b) in the case of an aircraft—arrival at a landing place; or

(c) in the case of an inland navigation vessel—arrival at a frontier post; or

(d) in the case of a road vehicle—arrival at a frontier post;

“**Authority**” means the National Agriculture Quarantine and Inspection Authority established by Section 3;

“**authorized person**” means a person authorized by this Act;

“**Board**” means the Board established by Section 7;

“**Chairman**” means the Chairman of the Board appointed under Section 10;

“**Chief Quarantine Officer**” means a Chief Quarantine Officer appointed under Section 32;

“**Committee**” means a committee of the Board established under Section 16

“**Deputy Chairman**” means the Deputy Chairman of the Board appointed under Section 10;

“**disease**” means—

(a) in relation to animals, a harmful deviation, parasite or pest that may directly or indirectly injure or cause an unhealthy condition in an animal; or

(b) in relation to plants, any pest or form of fungus, bacteria, virus, viroid, micoplasma or algal disease or any other organism including flowering parasite that may directly or indirectly injure or cause an unhealthy condition to a plant;

“**exporter**” includes an agent for an exporter or consignor;

“**first port of entry**” means a port declared under this Act to be first port of entry, and, in relation to a vessel or aircraft, its first port of entry;

“**fish**” means any water dwelling aquatic or marine mammal or plant alive or dead and includes their eggs, spawn, spat and any parts of their body;

“**frontier post**” means a place declared under this Act to be a frontier post:

“**goods**” includes all kinds of movable property;

“**importer**” includes an agent for an importer or consignee;

“**landing place**” means a place declared under this Act to be a landing place

“**Managing Director**” means the Managing Director of the Authority appointed under Section 20;

“**master**” means—

(a) in relation to a vessel, a person (other than the pilot) in charge of or in command of the vessel; or

(b) in relation to an aircraft, the pilot in command;

“**officer**” means an officer appointed under this Act;

“**organism**” means any protozoan, fungus, bacterium, virus or other organism or micro-organism being one which, if living, is capable of causing or transmitting any disease affecting animals or, if dead, was so capable, and includes any vaccine, culture, subculture or any other preparation of any other such protozoan, fungus, bacterium, virus, organism or micro-organism;

“**package**” includes—

(a) any means by which a plant is cased, packed, covered or enclosed; or

(b) soil, compost, hay, straw, sphagnum, moss, vermiculite, or admixtures or any substance or material in which plants are growing or packed;

“**permit to land**” means a permit to land issued under this Act;

“**pest**” in relation to plants, means an insect, invertebrate animal, nematode or mollusc that is destructive or injurious or apt to be destructive or injurious to plants;

“**plant**” means a member of the vegetable kingdom or a part of any such member, whether living or dead;

“**port**” includes a landing place, sea-port, airport or post office;

“**prescribed articles**” means animals or plants, soil composts, manures, organic fertilizers,

hay, straw, fodder or packing material;

“**pratique**” in relation to a vessel or aircraft, means a certificate of pratique granted by a Quarantine Officer since the last arrival of the vessel or aircraft in the country from a place outside the country, and having effect at a port or place where the vessel or aircraft is about to arrive;

“**proclaimed place**” means a place declared to be a proclaimed place under this Act;

“**quarantine**” means measures for the inspection, exclusion, detention, observation, segregation, isolation, treatment, sanitary disinfection of vessels, aircraft, goods, animals and plants for the prevention of the introduction or spread of disease or pests affecting animals and plants;

“**quarantinable disease**” means cadang-cadang, foot and mouth disease, African swine fever, rabies, New Castle disease or such other disease declared under Section 32 to be a quarantinable disease;

“**quarantine area**” means a port of a country declared under Section 32 to be quarantine area;

“**quarantine import permit**” means a quarantine import permit issued under this Act;

“**Quarantine Officer**” means an Agriculture Quarantine Officer;

“**quarantine station**” a place declared under Section 32 to be a quarantine station, and includes—

(a) a temporary quarantine station; and

(b) in relation to an animal or plant ordered into quarantine. any place or building to which it is removed or it is detained under this section;

“**temporary quarantine station**” means a place declared to be a temporary quarantine station under this Act;

“**this Act**” includes the Regulations and By-laws;

“**vessel**” includes a craft that can be used in navigation by water.

## **PART II. – THE NATIONAL AGRICULTURE AND QUARANTINE AND INSPECTION AUTHORITY.**

### *Division 1.*

#### *The National Agriculture Quarantine and Inspection Authority.*

### **3. ESTABLISHMENT, ETC., OF NATIONAL AGRICULTURE QUARANTINE AND INSPECTION AUTHORITY.**

(1) The National Agriculture Quarantine and Inspection Authority is hereby established.

(2) The Authority—

(a) is a body corporate with perpetual succession; and

(b) shall have a common seal; and

(c) may acquire, hold and dispose of property; and

(d) may sue and be sued in its corporate name and style.

(3) All Courts, Judges and persons acting judicially shall take judicial notice of the common seal of the Authority affixed to a document and shall presume that it was duly affixed.

#### **4. OBJECTS OF THE AUTHORITY.**

(1) The objects of the Authority are the conduct of quarantine and inspection of–

- (a) any animal end species; and
- (b) any fish species; and
- (c) any plant species; and
- (d) any products derived from animals, fish and plants,

to prevent pests or diseases from entering in or going out of Papua New Guinea.

(2) On the basis of recommendation of the Authority and with the approval of the Minister and on such terms and conditions as the Minister thinks proper, the Authority may enter into and carry out arrangements, without the functions of the Authority, with other technical and scientific institutions and such other bodies as the Authority determines for the purposes of the Authority.

#### **5. FUNCTIONS OF THE AUTHORITY.**

The functions of the Authority are–

- (a) to advise the Ministry and the National Government on policy formulations and legislative changes pertaining to agriculture quarantine and inspection matters; and
- (b) to monitor and inspect all imports of animals, fish and plants and their parts and products, including fresh, frozen and processed food to ensure the imports are free from pests, diseases, weeds and any other symptoms; and
- (c) to regulate and control all imports of animals, fish and plants and their parts and products, including fresh frozen and processed food to ensure the imports are free from pests, diseases, weeds and any other symptoms; and
- (d) to undertake all necessary actions to prevent arrival and spread of pests, diseases, contamination, weeds, and any undesirable changes pertaining to animals, fish and plants and their parts and products, including fresh, frozen and processed foods; and
- (e) to monitor, inspect and control the export of animals, fish and plants and their parts and products to ensure that they are free from pests, diseases, weeds and any other symptoms; and
- (f) to undertake all necessary actions to ensure that the export of animals, plants, fish and their parts and products are free from pests, diseases, weeds and any other symptoms so as to provide quality assurance to meet the import requirements of importing countries; and
- (g) to issue permits, certificates and endorsements pertaining to imports and exports of animals, fish and plants and their parts and products to provide quality assurance and to ensure that they are free from pests, diseases, weeds, and any other symptoms; and
- (h) to inspect and treat vessels, aircraft, vehicles, equipment and machinery, that are used in importing and exporting animals, fish and plants to ensure that they are free from pests, diseases, weeds and any other symptoms; and
- (i) to regulate the movement of animals and plants from one part of the country to another to control and prevent the spread of pests, diseases, weeds, and any other symptoms; and
- (j) to undertake and maintain inspection and quarantine surveillance pertaining to pests, diseases, weeds, and any other symptoms on animals, fish and plants within and on the borders of the country; and
- (k) to monitor, assess and carry out tests on animals, fish and plants and their parts and products that are introduced into the country to ensure that they are free of pests, diseases,

weeds and any other symptoms; and

(l) to liaise with other countries, international agencies and other organization in developing policies, strategies and agreements relating to quarantine, quality and inspection matters in respect of animals and plants; and

(m) to provide quarantine and inspection information and services to individuals, agencies and other organizations within the country and overseas in respect of animals and plants: and

(n) to levy fees and charges for any of the purposes of this Act and any regulations made thereunder; and

(o) to exercise all functions and powers and perform all duties which, under any other written law, are or may be or become vested in the Authority or are delegated to the Authority; and

(p) to do such matters and things as may be incidental to or consequential upon the exercise of its power or the discharge of its functions under this Act.

## **6. POWERS OF THE AUTHORITY.**

The Authority has, in addition to the powers otherwise conferred on it by this Act and any other law, full powers to do all things that are necessary or convenient to be done for or in connection with the performance of its functions.

### ***Division 2.*** ***Board of the Authority.***

## **7. ESTABLISHMENT OF THE BOARD OF THE AUTHORITY.**

(1) There is established a Board of the Authority.

(2) The Board shall carry out the functions, exercise the powers and manage and direct the affairs of the Authority.

## **8. MEMBERSHIP OF THE BOARD.**

(1) The Board shall consists of–

(a) the Departmental Head of the Department responsible for agriculture and livestock matters, or his nominee, *ex officio*; and

(b) the Departmental Head of the Department responsible for trade and industry matters, or his nominee, *ex officio*; and

(c) the Executive Head of the National Fisheries Authority, or his nominee, *ex officio*; and

(d)<sup>[1]</sup> the Commissioner of the Independent Consumer and Competition Commission established under the Independent Consumer Competition Act 2002, or his nominee, *ex officio*; and

(e) the Managing Director, *ex officio*; and

(f) one member to represent the Papua New Guinea Grower's Association; and

(g) one member to represent agricultural processors; and

(h) one member to represent the Fishing Industry Association; and

(i) one member to represent livestock producers.

(2) The members referred to in Subsection (1)(f), (g), (h) and (i)–



- (a)<sup>[2]</sup> shall be appointed in accordance with the *Regulatory Statutory Authorities (Appointment to Certain Offices) Act 2004*; and
- (b) shall be appointed for a term not exceeding three years; and
- (c) shall hold office on such terms and conditions as are determined under the *Boards (Fees and Allowances) Act 1955*; and
- (d) are eligible for re-appointment; and
- (e) shall be ordinarily resident in the country.

(3) A nominee referred to in Subsection (1)(a), (b), (c) and (d) shall be an officer of a level not less than that of an Assistant Secretary.

(4) If a body referred to in Subsection (1)(f), (g), (h) and (i) ceases to exist or is unable to nominate a person for membership to the Board, the Minister may appoint a person for membership who shall, so far as practicable, be representative of the interest of the group comprised by the body.

## **9. FILLING OF VACANCIES.**

Where there is a vacancy in the membership of the Board (other than a vacancy in the offices referred to in Section 8(1)(a), (b), (c), (d) and (e))

- (a) an appointment to fill the vacancy shall, subject to Paragraphs (b) and (c) of this Section be made as soon as practicable and in any case not later than three months after the date on which the vacancy occurs; and
- (b) the appointment shall be made in accordance with Section 8 and the person so appointed shall hold office, subject to this Act, for the balance of his predecessor's term of office; and
- (c) where the vacancy occurs within three months before the expiration of the term of office, the vacancy shall remain unfilled for the remainder of the term.

## **10. CHAIRMAN AND DEPUTY CHAIRMAN.**

(1) The Minister shall appoint one member of the Board to be the Chairman of the Board and one other member to be the Deputy Chairman of the Board

(2) The Chairman and Deputy Chairman shall hold office as Chairman and Deputy Chairman respectively until the expiration of the period of their respective appointments or until they cease to be members, whichever first occurs.

## **11. LEAVE OF ABSENCE.**

The Minister may grant leave of absence to a member of the Board on such terms and conditions as the Minister determines.

## **12. VACATION OF OFFICE .**

(1) A member of the Board, other than an *ex-officio* member, may resign his office by writing signed by him and delivered to the Minister.

(2) If a member of the Board, other than an *ex-officio* member

- (a) becomes permanently incapable of performing his duties; or
- (b) resigns his office in accordance with Subsection (1); or
- (c) is absent, except with the written consent of the Minister, from three consecutive meetings of the Board; or
- (d) fails to comply with Section 15; or
- (e) becomes bankrupt or applies to take the benefit of any law for the benefit of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration for their benefit; or
- (f) is convicted of an offence punishable under a law by a term of imprisonment of one year or longer and, as a result of the conviction, is sentenced to death or imprisonment; or
- (g) ceases to be ordinarily resident in the country,

the Minister shall terminate his appointment.

(3) The Minister may at anytime, by written notice, advise a member, other than an *ex-officio* member, that he intends to terminate his appointment on grounds of inability, incapacity, inefficiency or misbehaviour.

(4) Within 14 days of the receipt of a notice under Subsection (3), the member may reply in writing to the minister, who shall consider the reply, and, where appropriate, terminate the appointment of that member.

(5) Where the member referred to in Subsection 930 does not reply in accordance with Subsection (4), his appointment is terminated.

### **13. VACANCY NOT TO AFFECT POWERS OR FUNCTIONS.**

The exercise of a power or the performance of a function of the Board is not invalidated by reason only of a vacancy in the membership of the Board.

### **14. MEETINGS OF THE BOARD.**

(1) The Board shall meet as often as the business of the Board requires, and at such time and such places as the Chairman directs, but in any event not less frequently than once in every three months.

(2) At the meeting of the Board—

- (a) five members constitute a quorum; and
- (b) the Chairman, or in his absence, the Deputy Chairman shall preside, and if both the Chairman and Deputy Chairman are absent, the members present shall appoint from among their own number a Chairman for that meeting; and
- (c) matters arising shall be decided by a majority of the votes of the members present and voting; and
- (d) the person presiding has a deliberative, and in the event of an equality of votes on any matter. also a casting vote.

(3) The Board shall cause minutes of its meeting to be recorded and kept.

(4) Subject to this Act, the procedures of the Board are as determined by the Board.

## **15. DISCLOSURE OF INTEREST BY MEMBERS OF THE BOARD.**

(1) A member of the Board who has a direct or indirect personal or pecuniary interest in a matter being considered or about to be considered by the Board shall, as soon as possible after the relevant facts have come to his knowledge, disclose the nature of his interest at a meeting of the Board.

(2) A disclosure under Subsection (1) shall be recorded in the minutes of the Board, and the member—

(a) shall not take part, after the disclosure, in any deliberation or decision of the Board in relation to the matter; and

(b) shall be disregarded for the purpose of constituting a quorum of the Board for any such deliberation or decision.

## **16. COMMITTEES OF THE BOARD.**

(1) The Board may, from time to time, establish Committees of the Board to advise the Board on such matters as the Board considers necessary.

(2) In establishing a Committee under Subsection (1), the Board may—

(a) appoint such persons, including members, as it considers necessary; and

(b) specify the functions and procedures of the Committee.

## **17. REPORTS.**

(1) The Board shall furnish to the Minister—

(a) on or before 15 March in every year, a report on the progress and performance of the Authority for the previous year; and

(b) such other reports in relation to the functions of the Authority as are requested by the Minister.

(2) As soon as practicable after he has received the report referred to in Subsection (1)(a), the Minister shall forward the report to the Speaker for presentation to the Parliament.

## **18. DELEGATION OF POWERS.**

The Board may, by written instrument, delegate all or any of its powers and functions, other than—

(a) this power of delegation; and

(b) the power to borrow money or raise loans or give loans or advances or to subscribe to or underwrite the issue of stocks, debentures of business enterprises; and

(c) the powers in relation to the making of by-laws.

## **19. DIRECTIONS BY MINISTER.**

(1) The Minister may, after consultation with Board or otherwise, give to the Board such directions consistent with Government policies and programmes and not inconsistent with the provisions of this Act, as he considers fit, as to the exercise and performance by the Board of its powers, duties and functions under this Act, and the Board shall give effect to all such directions.

(2) The Board shall furnish the Minister with such information with respect to its activities as he may from time to time require.

### ***Division 3.*** ***Staff of the Authority.***

## **20. MANAGING DIRECTOR.**

(1)<sup>[3]</sup> <sup>[4]</sup>There shall be a Managing Director of the Authority whose manner of appointment, suspension and dismissal are as specified in the *Regulatory Statutory Authorities (Appointment to Certain Offices) Act 2004*.

(2) The Managing Director is—

- (a) the Chief Executive Officer of the Authority; and
- (b) responsible to the Board for the efficient carrying out of the functions and responsibilities of the Authority.

(3) Subject to the *Salaries and Conditions Monitoring Committee Act 1988*, the terms and conditions of appointment of the Managing Director are as determined by the Board.

## **21. FUNCTIONS OF THE MANAGING DIRECTOR.**

(1) The Managing Director shall—

- (a) manage the Authority in accordance with the policy and direction of the Board; and
- (b) advise the Board on any matter concerning the Authority referred to him by the Board; and
- (c) carry out and perform the duties required of him under this Act and under his contract of employment.

(2) The Managing Director has such other duties as the Board shall from time to time determine.

## **22. TERMINATION OF APPOINTMENT OF THE MANAGING DIRECTOR.**

(1) If the Managing Director—

- (a) becomes permanently incapable of performing his duties; or
- (b) resigns his office by writing under his hand to the Minister; or
- (c) occupies or holds any other paid office or employment or engages in the practice of any profession or business without the written consent of the Minister; or

(d) becomes bankrupt or applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his debtors or makes an assignment or his remuneration for their benefit; or

(e) is convicted of an offence punishable under a law by death or by imprisonment for one year or longer and, as a result of the conviction, is sentenced to death or imprisonment,

the Minister shall terminate the appointment.

(2) The Minister may, at any time, by written notice, advise the Managing Director that he intends to terminate his appointment as Managing Director on the grounds of inability, inefficiency, incapacity or misbehaviour.

(3) Within 14 days of the receipt of a notice under Subsection (2), the Managing Director may reply in writing to the Minister, who shall consider the reply and, where appropriate, after considering a recommendation of the Board, terminate the appointment.

(4) Where the Managing Director does not, within 14 days of the receipt of a notice under Subsection (3), reply in writing to the Minister, his appointment is terminated.

(5) Where the appointment of the Managing Director is terminated under this section, the Minister shall, by a notice in the National Gazette, declare the office vacant.

### **23. APPOINTMENT OF OFFICERS.**

(1) The Board may appoint to be officers of the Authority such persons it considers fit and necessary for the purposes of the Authority.

(2) Subject to the *Salaries and Conditions Monitoring Committee Act 1988*, the terms and conditions of appointment of officers of the Authority are as determined by the Board in accordance with this Act.

### **24. TEMPORARY AND CASUAL EMPLOYEES.**

(1) The Managing Director may, with the approval of the Board, appoint such temporary and casual employees as are necessary for the purposes of the Authority.

(2) Employees appointed under Subsection (1) shall be employed on such terms and conditions as the Board determines.

### **25. CONSULTANTS.**

(1) The Board may, from time to time—

(a) within the limit of funds available for the purpose; and

(b) on such terms and conditions as are fixed by the Minister on the advice of the Board.

appoint such consultants as are necessary for the purposes of the Authority.

## **26. CONTRACT OF EMPLOYMENT.**

The Managing Director and every other officer of the Service (other than temporary or casual employees) shall be employed under a contract of employment which—

- (a) in the case of the Managing Director, shall be executed by the Head of State, acting on advice of the Minister, and by the Managing Director; and
- (b) in the case of any other employee, shall be executed by the Managing Director on behalf of the Authority and the employee.

## **27. PUBLIC SERVICE RIGHTS.**

Where—

- (a) an officer of the Public Service is appointed as Managing Director; and
- (b) an officer of the Authority was, immediately before his appointment, an officer of the Public Service,

his service as Managing Director or an officer of the Service, as the case may be, shall be counted as service in the Public Service for the purpose of determining his rights (if any) in respect of—

- (c) leave of absence on grounds of illness; and
- (d) furlough, or pay in lieu of furlough (including pay to dependents on the death of the officer).

## **PART III. – BY-LAWS OF THE AUTHORITY.**

### **28. BY-LAWS.**

(1) The Board may make by-laws not inconsistent with this Act for the control, management and regulation of the affairs of the Authority and in particular, providing for or in relation to—

- (a) the management, good governance and discipline of the Authority; and
- (b) the use and custody of the seal of the Authority; and
- (c) subject to Section 23, the tenure and terms and conditions of employment of officers and other staff of the Authority; and
- (d) subject to Sections 20, 21 and 22, the tenure of office, the qualifications for employment and the conditions of employment, and the functions, powers and duties. of the Managing Director; and
- (e) the number, stipends. manner of appointment and dismissal of members of the technical and other staff of the Authority; and
- (f) the control and investment of the property of the Authority; and
- (g) generally, all other matters that are authorized by this Act or that are necessary or convenient for giving effect of this Act.

(2) The by-laws may provide for empowering any authority (including the Board) or member of the staff of the Authority to make rules or orders (not inconsistent with this Act or with any by-laws for)—

(a) regulating, or providing for the regulation of, any specified matter or class of matters (being a matter or class of matters with respect to which by-laws may be made); and  
(b) carrying out or giving effect to the by-laws, and such rules to orders that have the same force and effect as by-laws.

## **29. APPROVAL AND PUBLICATION OF BY-LAWS.**

(1) All by-laws shall be—

(a) sealed with the seal of the Authority; and  
(b) approved by the Head of State, acting on advice of the Minister; and  
(c) notified in the National Gazette.

(2) A by-law shall not be expressed to take effect from a date before the date of notification in a case where, it so took effect—

(a) the rights of a person (other than the Authority) existing at the date of notification would be affected in a manner prejudicial to him; or  
(b) liabilities would be imposed on a person (other than the Authority) in respect of anything done or omitted to be done before the date of notification.

(3) Where, in a by-law, provision is made in contravention of Subsection (2), the provision is of no effect.

(4) The production of—

(a) a copy of a by-law under the seal of the Authority; or  
(b) a document purporting to be a copy of a by-law and to have been printed by the Government Printer,

is in all proceedings, sufficient evidence of the by-law.

(5) The by-laws made in each secular year shall be numbered in regular arithmetical series, beginning with the number 1, in the order in which they are notified in the National Gazette, and a notice in the National Gazette of the fact that a by-law has been made, specifying the number of the by-law. is sufficient compliance with the requirement of Subsection (1) that the by-law be notified in the National Gazette.

## **PART IV. – QUARANTINE GENERALLY.**

### ***Division 1.***

### ***Special provisions in relation to pests and diseases.***

## **30. EPIDEMICS.**

(1) Where the Minister is satisfied that an epidemic caused by a quarantine disease or danger of such an epidemic exists in a part of the country, he may, by notice in the National Gazette, declare the existence in that part of the country of the epidemic or of the danger of the epidemic.

(2) On the publication of a notice under Subsection (1), the Minister may, during the period that the notice remains in force, give such directions and take such action as he thinks necessary to control and eradicate the epidemic, or to remove the danger of the epidemic, by quarantine measures or measures incidental to quarantine.

### **31. EMERGENCY ACTION.**

(1) Where, in the opinion of the Minister, an emergency has arisen that requires action to be taken not otherwise authorized by this Act, he may take such quarantine measures incidental to quarantine, as he thinks necessary or desirable for the diagnosis, prevention and treatment of a quarantine pest or disease.

(2) A person who—

- (a) refuses or fails to comply with a direction given under Subsection (1); or
- (b) hinders or obstructs the taking of any action under that Subsection,

is guilty of an offence.

Penalty: A fine not exceeding K4,000.00.

### ***Division 2.*** ***General provisions in relation to quarantine.***

### **32. DECLARATIONS, ETC., BY MINISTER.**

(1) The Minister may, by notice in the National Gazette, do all or any of the following:—

- (a) declare a port in the country to be a first port of entry for overseas vessels or overseas aircraft;
- (b) declare any place or area in the country to be a landing place for aircraft;
- (c) declare a place in the country to be a frontier post;
- (d) declare a port in the country to be a port where imported animals or plants, or any particular kind of imported species of animal or plant, may be landed;
- (e) declare a place on land or sea to be a quarantine station for the performance of quarantine by vessels, aircraft, animals, plants or goods;
- (f) prohibit the importation into the country of an article which, in his opinion, is likely to introduce a communicable disease, or a disease or pests affecting animals or plants;
- (g) prohibit or restrict the importation into a port or place in the country of all or any animals, fish or plants, or any soil or packing material;
- (h) prohibit the removal of animals, plants or goods from any part of the country to any other part of the country;
- (i) declare a part of the country to be a quarantine area in which a quarantinable disease or pest affecting animals or plants exists, or is suspected to exist;
- (j) declare that a vessel, aircraft, person, animal, plant or goods in a quarantine area, or in a part of the country in which a quarantine disease, or a disease or pest affecting animals or plants, exists or is suspected to exist is subject to quarantine;
- (k) declare that a vessel, aircraft, person, animal, plant or goods in a quarantine area, or in a part of the country in which a quarantine disease, or a disease or pest affecting animals or plants, exists or is suspected to exist is subject to quarantine;



- (l) declare a disease to be a quarantinable disease;
- (m) declare a pest to be a quarantinable pest;
- (n) declare a place to be a proclaimed place–
  - (i) within or outside the country that is infected with a quarantinable disease; or
  - (ii) within or outside the country at which a quarantinable disease may be brought or carried from or through;
- (o) appoint such officers of the Authority to be–
  - (i) a Chief Quarantine Officer; or
  - (ii) a Quarantine Officer;

for the purposes of this Act.

(2) The power to declare a first port of entry under this Section extends to authorize the declaration of a port to be the first port of entry for–

- (a) all overseas vessels and overseas aircraft; or
- (b) overseas vessels and overseas aircraft from a particular place; or
- (c) a class of overseas vessels or overseas aircraft.

(3) The power of prohibition under this Section extends to authorize prohibition generally or with limitations as to place and subject-matter, and absolutely or subject to specified conditions or restrictions.

### **33. PROHIBITION, ETC., OF IMPORTATION OF CULTURES, ETC.**

(1) Notwithstanding any other law, the Managing Director may, by notice in the National Gazette, prohibit or restrict the introduction into the country of a disease, noxious insect, pest, disease germ, microbe or disease agent, or any culture, virus, substance or article containing, or likely to contain, any disease, noxious insect, pest, disease germ, microbe or disease agent.

(2) The Managing Director may issue a licence in the prescribed form, subject to the conditions (if any) specified in the licence, to a person to import a disease agent, or any culture, virus, substance or article containing, or likely to contain, any disease, noxious insect, pest, or disease germ, microbe or disease agent.

### **34. DISINFECTING APPARATUS ON VESSELS AND AIRCRAFT.**

(1) If required by the Managing Director by a written order to do so, the owner or master of a vessel or aircraft going from one part of the country to another part of the country, or of a vessel or aircraft carrying passengers and trading regularly with Papua New Guinea, shall cause to be carried on the vessel or aircraft, for such time as is prescribed–

- (a) such prophylactic agents as are prescribed; and
- (b) such efficient disinfecting apparatus or appliances and disinfections as are approved by the Managing Director.

(2) A person who contravenes Subsection (1) is guilty of an offence.

Penalty: A fine not exceeding K4,000.00.

### **35. PRECAUTIONARY MEASURES FOR VESSELS AND AIRCRAFT FROM PROCLAIMED PLACES.**

(1) The master of a vessel or aircraft that—

(a) is bound for a port or place in Papua New Guinea; and

(b) comes from, or calls or touches, a proclaimed place, shall while his vessel or aircraft is at the proclaimed place and during the voyage to Papua New Guinea, take, in respect of the vessel or aircraft and her crew, passengers and cargo, such precautionary measures as are prescribed or as notified by the Authority in writing to prevent the introduction into or spread within the country of a quarantinable disease.

(2) The master of a vessel or aircraft who fails to comply with Subsection (1) and allows his vessel or aircraft to enter a port or place in the country, is guilty of an offence.

Penalty: A fine not exceeding K4,000.00.

(3) Where a vessel or aircraft has arrived from a proclaimed place and the prescribed precautionary measures referred to in Subsection (1) have not been taken, a Quarantine Officer may cause to be carried out the prescribed precautionary measures for the prevention of the introduction or spread of a quarantinable disease with respect to the vessel or aircraft, and her crew, passengers and cargo.

(4) The expense of carrying out any measures under Subsection (3) may be recovered by the Authority from the owner of the vessel or aircraft as a debt.

### **36. FUMIGATION OF VESSELS AND AIRCRAFT.**

(1) The owner or master of a vessel or aircraft going from a port in the country to another port in the country, shall, on the written order of a Quarantine Officer, cause his vessel or aircraft to be cleansed, disinfected, fumigated or submitted to any specified process for the destruction of rat, mice, insects or disease agents, in the presence and to the satisfaction of an officer of the Authority.

(2) A person who contravenes Subsection (1) is guilty of an offence.

Penalty: A fine not exceeding K4,000.00.

## **PART V. – QUARANTINE OF VESSELS, AIRCRAFT, USED VEHICLES, EQUIPMENT, MACHINERY AND GOODS.**

### **37. VESSELS, ETC., SUBJECT TO QUARANTINE.**

The following vessels, aircraft and vehicles are subject to quarantine:—

(a) an overseas vessel or overseas aircraft until pratique has been granted or until the vessel or aircraft has been released from quarantine;

(b) a vessel or aircraft on board which a quarantinable disease, or a disease that there is reason to believe or suspect to be a quarantine disease, has broken out or has been discovered (notwithstanding that pratique has been granted or that it has been released from quarantine);

- (c) a vessel or aircraft that is ordered into quarantine by a Quarantine Officer;
- (d) a land vehicle or an inland navigation vessel that enters the country by an overland route or by an inland water route.

### **38. GOODS SUBJECT TO QUARANTINE.**

The following goods are subject to quarantine:–

- (a) goods that are on board a vessel or aircraft subject to quarantine, or, if it is an overseas vessel or overseas aircraft, that have been on board the vessel or aircraft since her arrival in the country;
- (b) goods infected with a quarantinable disease;
- (c) goods that have been in contact with or exposed to infection from a quarantinable disease or goods subject to quarantine;
- (d) goods imported into the country by an overland route or an inland water route.

### **39. DURATION OF LIABILITY TO QUARANTINE.**

Vessels, aircraft and goods subject to quarantine under Sections 37 and 38 shall continue to be subject to quarantine from the time when they become subject to quarantine until they are released or until pratique has been granted in accordance with this Act.

### **40. ENTRY OF OVERSEAS VESSELS AND AIRCRAFT.**

The master of an overseas vessel or overseas aircraft arriving in the country who, unless from stress of weather or other reasonable cause, causes the vessel or aircraft to enter a port other than a first port of entry, is guilty of an offence.

Penalty: A fine not exceeding K5,000.00.

### **41. LANDING OF OVERSEAS AIRCRAFT.**

The master of an overseas aircraft who, unless from stress of weather or other reasonable cause, allows the aircraft to land in the country at a place other than a landing place, is guilty of an offence.

Penalty: A fine not exceeding K5,000.00.

### **42. RESTRICTION OF ENTRY BY AIR.**

(1) Where the Minister is of the opinion that there is danger of the introduction into the country by aircraft of disease from a place beyond the country, he may, by notice in the National Gazette, declare that place to be a place in relation to which this Section applies.

(2) The master or owner of an aircraft who permits the aircraft to enter the country from or through a place to which this Section applies is guilty of an offence.

Penalty: A fine not exceeding K5,000.00.

(3) The Minister may, in the notice under Subsection (1) or by other notice in the National Gazette, declare that goods shall not, so long as the notice remains in force, enter the country by aircraft from a place to which this Section applies unless the conditions as complied with the conditions specified in the notice.

(4) The conditions specified in a notice under Subsection (3) shall be such conditions as the Minister thinks necessary or expedient for avoiding the possibility of the entry into the country of goods suffering from, or capable of communicating, a disease of animals or plants.

(5) A person who imports goods into the country in contravention of a notice under Subsection (3) is guilty of an offence.

Penalty: A fine not exceeding K4,000,00.

(6) The master and owner of an aircraft by which goods enter the country in contravention of a notice under Subsection (3) are each guilty of an offence.

Penalty: A fine not exceeding K4,000.00.

#### **43. AIRCRAFT LANDING AT PLACE OTHER THAN LANDING PLACES.**

Where an aircraft subject to quarantine makes a landing at a part of the country that is not a landing place, the aircraft and the goods, animals or plants on board the aircraft, shall, for the purposes of this Act, be deemed to be ordered into quarantine, and shall be dealt with as prescribed.

#### **44. ENTERING BY OVERLAND ROUTE, ETC.**

A person who permits animals and plants to enter the country by an overland route or by an inland water route otherwise than—

- (a) at a frontier post; or
- (b) with the prior approval of the Chief Agriculture Quarantine Officer,

is guilty of an offence.

Penalty: A fine not exceeding K4,000.00.

#### **45. REPORTS AND INSPECTIONS.**

(1) The master of an overseas vessel or overseas aircraft arriving at a port in the country shall, on being required to do so, make out and deliver to a Quarantine Officer, a report in the prescribed form, signed by him.

(2) A person who contravenes Subsection (1) is guilty of an offence.

Penalty: A fine not exceeding K4,000.00.

(3) The master of an overseas vessel or overseas aircraft arriving at a port in the country shall truly answer to the best of his knowledge all questions put to him by a Quarantine Officer concerning—

- (a) the sanitary conditions of the vessel or aircraft during the voyage; and
- (b) the existence of a quarantinable or infectious disease at the ports of departure or call, or on board a vessel or aircraft the master and the crew have come into contact with; and
- (c) the presence at any time of animals or plants and other articles on the vessel or aircraft; and
- (d) the ports or places at which the animals or plants and other articles were put on board the vessel or aircraft.

(4) A person who contravenes Subsection (3) is guilty of an offence.

Penalty: A fine not exceeding K4,000.00

(5) Questions under Subsection (3) may be written or oral and the Quarantine Officer may require the answers to be given in writing or orally.

(6) A Quarantine Officer may, if he thinks fit, require the master or a senior officer of the vessel or aircraft to verify an answer to a question asked under Subsection (3) by a declaration in writing signed by him solemnly declaring the truth of the answer.

(7) A person who makes a false statement in a declaration under Subsection (6) is guilty of an offence.

Penalty: A fine not exceeding K4,000.00.

#### **46. NOTIFICATION OF OUTBREAK OF DISEASE.**

(1) Where the master of a vessel or aircraft believes or suspects, or has reason to believe or suspect that—

- (a) an eruptive disease of animal and plant; or
- (b) a quarantinable disease,

has broken out on board a vessel or aircraft, he shall immediately (unless the vessel or aircraft is actually performing quarantine under the supervision of a Quarantine Officer) notify a Quarantine Officer of the outbreak of the disease.

(2) The master of a vessel or aircraft in port shall immediately give written notice to a Quarantine Officer of every case of a prescribed disease that was on his vessel or aircraft with the animals or plants when the vessel or aircraft arrived in the port, or that has arisen on his vessel or aircraft since it arrived in the port.

(3) A person who contravenes Subsection (1) or (2) is guilty of an offence.

Penalty: A fine not exceeding K4,000.00.

#### **47. UNAUTHORIZED PERSONS BOARDING VESSELS AND AIRCRAFT.**

An authorized person who—

- (a) goes on board or alongside a vessel or aircraft subject to quarantine; or
- (b) approaches within 30 metres of a quarantine area on a landing place,

is guilty of an offence.

Penalty: A fine not exceeding K4,000.00.

#### **48. BOARDING OF VESSELS AND AIRCRAFT BY QUARANTINE OFFICERS.**

(1) A master of a vessel or aircraft shall, on being required by a Quarantine Officer to do so shall—

- (a) bring the vessel or aircraft to; and
- (b) by all reasonable means, facilitate the boarding of the vessel or aircraft by,

a Quarantine Officer.

(2) A person who contravenes Subsection (1) is guilty of an offence.

Penalty: A fine not exceeding K4,000.00.

#### **49. MOORING GROUNDS, ETC., FOR VESSELS AND AIRCRAFT TO QUARANTINE.**

(1) The master of a vessel or aircraft subject to agriculture quarantine shall, immediately on arrival at or near a port or landing place, bring the vessel or aircraft to a place determined by the Minister, by notice in the National Gazette, to be a mooring ground or landing place for vessels or aircraft subject to agriculture quarantine.

(2) A person who contravenes Subsection (1) is guilty of an offence.

Penalty: A fine not exceeding K4,000.00.

(3) On the request of the master, owner or agent of a vessel or aircraft subject to agriculture quarantine, and on payment of the prescribed fee, the vessel or aircraft may, with the approval of a Quarantine Officer, be taken for inspection to some place other than the mooring ground or landing place.

#### **50. LEAVING QUARANTINE AREA OR VESSELS OR AIRCRAFT SUBJECT TO QUARANTINE.**

The master of a vessel or aircraft subject to agriculture quarantine who—

- (a) leaves, or knowingly or negligently permit animals and plants to leave, his vessel or aircraft; or
- (b) knowingly or negligently permits any goods to be removed from his vessel or aircraft,

is guilty of an offence.

Penalty: A fine not exceeding K4,000.00.

## **51. ARREST OF PERSONS LIABLE TO QUARANTINE.**

A member of the Police Force or a Quarantine Officer may, without warrant, arrest a person who has, in contravention of this Act, left a vessel or aircraft subject to agriculture quarantine, or a quarantine station.

## **52. MOORING OF VESSELS AND AIRCRAFT FROM PROCLAIMED PLACES.**

(1) A vessel or aircraft arriving at a port from a proclaimed place and not having a certificate of pratique shall be moored or berthed in the port in accordance with the directions of a Quarantine Officer.

(2) The master of a vessel or aircraft who permits the vessel or aircraft to be moored or berthed in a port in contravention of this section, is guilty of an offence.

Penalty: A fine not exceeding K4,000.00.

## **53. PRATIQUE.**

(1) Where, after boarding an overseas vessel or overseas aircraft that does not have a certificate of pratique, a Quarantine Officer is satisfied that the vessel or aircraft is free from infection, he shall immediately give the master a certificate of pratique in the prescribed form.

(2) A certificate of pratique may be expressed to have effect—

(a) in all ports in the country; or

(b) only in a specified port or ports, or in the ports in any specified provinces or areas; or

(c) for a specified time.

(3) A certificate of pratique may be expressed to have relation to all or any measures of quarantine as specified.

(4) A certificate of pratique may be granted to a vessel or aircraft that is about to arrive from overseas if the Quarantine Officer at the port of entry receives a report from the master of the vessel or aircraft that all animals, plants and goods on board the vessel or aircraft are in good condition and that all goods and materials have all necessary valid agriculture quarantine certification.

## **54. QUARANTINE SURVEILLANCE.**

(1) Subject to this section, where—

(a) a vessel or aircraft has arrived at a port from a proclaimed place, or is subject to agriculture quarantine; and

(b) a Quarantine Officer is satisfied that no animal or plant on board is suffering from a quarantinable disease, but is not satisfied that the vessel or aircraft is free from infection,

the Quarantine Officer may–

- (c) refrain from giving a certificate of pratique; or
- (d) permit the vessel or aircraft to proceed on her voyage without performing quarantine at a quarantine station; or
- (e) permit animals and plants and other goods for the port to be landed; and
- (f) permit any cargo for the port that is on the vessel or aircraft to be landed.

(2) The vessel or aircraft referred to in Subsection (1) continues to be subject to quarantine until pratique is granted.

(3) All cargo landed under this section–

- (a) shall continue to be subject to quarantine for such period as is prescribed; and
- (b) during that period–
  - (i) are subject to quarantine surveillance; and
  - (ii) are subject to the regulations relating to quarantine surveillance.

(4) All cargo and personal effects landed under this Section are subject to treatment and disinfection as prescribed.

(5) A person who contravenes this Section is guilty of an offence.

Penalty: A fine not exceeding K4,000.00.

## **PART VI. – PERFORMANCE OF QUARANTINE.**

### **55. ORDER TO PERFORM QUARANTINE.**

(1) A Quarantine Officer may, in writing, order into quarantine, a vessel, aircraft or goods (whether or not subject to quarantine) which in his opinion is or are likely to be–

- (a) infected with; or
- (b) a source from which goods may be infected with,

a quarantinable disease.

(2) A Quarantine Officer may, in writing, order into quarantine goods that are or have been on board an overseas vessel or overseas aircraft if he is not satisfied that within the prescribed period, the goods have been successfully treated.

(3) Where a vessel or aircraft has arrived in the country from a proclaimed place, a Quarantine Officer may, in writing, order that a vessel or aircraft into quarantine.

(4) An order under Subsection (1), (2) or (3) may be served on the master of the vessel or owner or consignee or a person having

- (a) in the case of a vessel or aircraft, be served on the aircraft; and
- (b) in the case of goods, possession or custody of the goods.



(5) When an order has been served in accordance with this section, the vessel or aircraft and all goods on board the vessel or aircraft, as the case may be, shall be deemed to be ordered into quarantine.

## **56. CONTAGIOUS DISEASES ON BOARD VESSELS OR AIRCRAFT.**

(1) Where a vessel has on board a case of contagious disease, and a Quarantine Officer certifies that measures of quarantine are necessary to prevent the disease from spreading—

(a) all such measures for the disinfection of the vessel or aircraft and all such other measures of quarantine as are prescribed or as a Quarantine Officer directs, shall be taken; and

(b) goods suffering from, or suspected to be suffering from, the disease, or that may have been exposed to infection from the disease may be—

(i) ordered into quarantine; and

(ii) removed to a quarantine station to perform quarantine.

(2) Goods to which Subsection (1) applies shall be deemed to be subject to quarantine, notwithstanding that the disease had not been declared to be a quarantinable disease.

(3) A person who permits goods to which Subsection (1) applies to leave the vessel or aircraft without the written approval of a Quarantine Officer is guilty of an offence.

Penalty: A fine not exceeding K4,000.00.

(4) Where a Quarantine Officer has given a certificate under Subsection (1), the master of a vessel or aircraft who knowingly or negligently allows the goods that—

(a) are suffering from or are suspected to be suffering from, the disease; or

(b) has been exposed to infection from the disease,

to leave the vessel or aircraft, is guilty of an offence.

Penalty: A fine not exceeding K4,000.00.

## **57. CONVEYANCE OF VESSELS AND AIRCRAFT INTO QUARANTINE.**

(1) Where a vessel or aircraft is ordered into quarantine, the master shall immediately cause the vessel or aircraft, and all goods on board the vessel or aircraft, to be conveyed into such quarantine station as the Quarantine Officer directs, to perform quarantine.

(2) A person who contravenes Subsection (1) is guilty of an offence.

Penalty: A fine not exceeding K4,000.00.

## **58. EFFECT OF ORDER INTO QUARANTINE.**

A vessel or aircraft ordered into quarantine shall be deemed to be in quarantine, even if the vessel or aircraft is not within a quarantine station.

## **59. PARTICULARS TO BE GIVEN.**

Where a vessel or aircraft arrives at the appointed quarantine station, the master shall, on request, produce and deliver to the officer in charge of the quarantine station any log, manifest, journal and other papers of the vessel or aircraft.

## **60. PERFORMANCE OF QUARANTINE BY VESSELS AND AIRCRAFT.**

Subject to this Act, a vessel or aircraft in quarantine shall perform quarantine at the appointed quarantine station, and for that purpose—

- (a) may be detained there by a Quarantine Officer or an authorized person until released in accordance with this Act; and
- (b) whilst so detained is subject to the regulations relating to the performance of quarantine.

## **61. MOVING OF VESSELS OR AIRCRAFT IN QUARANTINE.**

The master of vessel or aircraft that is in quarantine who moves the vessel or aircraft, or allows the vessel or aircraft to be moved, otherwise than in accordance with this Act, is guilty of an offence.

Penalty: A fine not exceeding K4,000.00.

## **62. CLEANSING AND DISINFECTION OF VESSELS AND AIRCRAFT.**

(1) A Quarantine Officer may order a vessel or aircraft in quarantine to be cleansed and disinfected or treated in such manner as he directs, and the master of the vessel or aircraft shall cause the vessel or aircraft to be cleansed and disinfected or treated accordingly.

(2) Where a vessel or aircraft ordered into quarantine has to be cleansed, fumigated, disinfected or treated in any manner, a Quarantine Officer may direct the vessel or aircraft to be taken for that purpose to a particular place and the master of the vessel or aircraft shall cause the vessel or aircraft to be taken to that place.

(3) A person who contravenes Subsection (1) or (2) is guilty of an offence.

Penalty: A fine not exceeding K4,000.00.

## **63. UNAUTHORIZED REMOVAL OF GOODS.**

(1) Where a vessel or aircraft is in quarantine, an unauthorized person who lands or unships, or moves with intent to land or unship, goods from the vessel or aircraft, whilst the vessel or aircraft has not been released from quarantine, is guilty of an offence.

Penalty: A fine not exceeding K1,000.00.

(2) A person who knowingly receives or has in his possession goods landed or unshipped from a vessel or aircraft in contravention of Subsection (1), is guilty of an offence.

Penalty: A fine not exceeding K4,000.00.

(3) In a prosecution for an offence against Subsection (2), the burden of proving want of knowledge is on the defendant.

#### **64. QUARANTINE OF GOODS.**

(1) Goods ordered into quarantine shall be subject to quarantine, and, for that purpose, may—

- (a) be detailed on board the vessel or aircraft; or
- (b) be detained on the premises on which they are found; or
- (c) be removed to and detained in a quarantine station; or
- (d) be removed to and detained in a suitable place or building approved by a Quarantine Officer,

until released in accordance with this Act.

(2) Goods detained under Subsection (1) are subject to the regulations relating to the performance of quarantine and the administration of a quarantine station.

(3) A person who contravenes the regulations relating to the performance of quarantine or the administration of a quarantine station is guilty of an offence.

Penalty: A fine not exceeding K800.00 or imprisonment for a term not exceeding three months.

(4) Where cargo ordered into quarantine are not, in the opinion of a Quarantine Officer, actually suffering from a quarantinable disease, the Quarantine Officer may release the cargo under quarantine surveillance.

(5) A person to whom goods are released under quarantine surveillance under Subsection (4) shall comply with regulations relating to quarantine surveillance.

(6) A person who contravenes Subsection (5) is guilty of an offence.

Penalty: A fine not exceeding K4,000.00 or imprisonment for a term not exceeding three months.

#### **65. TREATMENT AND DISINFECTION OF GOODS.**

(1) Goods ordered into quarantine shall be treated and disinfected as prescribed, and when so treated and disinfected, may be released from quarantine.

(2) Subject to Subsection (3), if the Agriculture Quarantine Officer in charge of goods ordered into quarantine is of opinion that they—

- (a) cannot be effectively disinfected; and
- (b) ought to be released from quarantine owing to the danger of infection,

he may order the destruction of the goods.

(3) The power conferred by Subsection (2) shall not be exercised without the written approval of the Minister where the value of the goods exceeds K5,000.00.

#### **66. RELEASE FROM QUARANTINE.**

When quarantine has been performed by a vessel or aircraft in accordance with this Act, the vessel or aircraft shall be released from quarantine without delay.

#### **67. UNLAWFUL DAMAGE OF GOODS BY OFFICERS.**

A Quarantine Officer, who unlawfully destroys or damages goods under his charge in the performance of quarantine, is guilty of an offence.

Penalty: A fine not exceeding K1,000.00.

### **PART VII. – QUARANTINE OF ANIMALS AND PLANTS.**

#### **68. LANDING OF ANIMALS AND PLANTS.**

A person, who imports animals or plants into the country otherwise than at a declared port, is guilty of an offence.

Penalty: A fine not exceeding K4,000.00.

#### **69. PERMITS FOR LANDING.**

(1) Imported animals or plants, and soil, compost, manures, organic fertilizers, or mixtures of them, hay, straw, fodder, litter, fittings, clothing, utensils, appliances, packages or packing material used on a vessel or aircraft in connection with the importation of animals or plants, shall not be landed or removed from the vessel or aircraft until a permit for their landing or removal from the vessel or aircraft has been granted by a Quarantine Officer.

(2) A person who contravenes Subsection (1) is guilty of an offence.

Penalty: A fine not exceeding K4,000.00.

(3) Where a Quarantine Officer considers it advisable or convenient, he may, before granting a permit under Subsection (1), order the treatment, in such manner as prescribed or as he thinks proper, of imported animals or plants, or soil, compost, manures, organic fertilizers, or admixtures of them, hay, straw, fodder, litter, fittings, clothing, utensils, appliances. packages or packing material used on a vessel or aircraft in connection with the importation of animals or plants.

#### **70. QUARANTINE CONTROL OF IMPORTED ANIMALS AND PLANTS, ETC.**

(1) Imported animals or plants, and soil, compost, manures, organic fertilizers, or mixtures of them, hay, straw, fodder, litter, fittings, clothing, utensils, appliances. packages or packing material used on a vessel or aircraft in connection with the importation of animals or plants, shall not be moved, dealt with or interfered with, until released from quarantine or except by authority and in accordance with this Act.

(2) A person who contravenes Subsection (1) is guilty of an offence.

Penalty: A fine not exceeding K4,000.00.

## **71. EXAMINATION OF IMPORTED ANIMALS.**

(1) Before they are delivered to the importer, imported animals shall be submitted for inspection to a Quarantine Officer.

(2) Where an imported animal—

(a) comes from a country declared by the Minister by notice in the National Gazette to be free from diseases affecting animals of that kind; and

(b) is accompanied by a certificate acceptable to the Managing Director, of a veterinary surgeon at the port of shipment, certifying that he had examined the animal before its shipment, and that it was then in good health and free from disease,

and the Managing Director has reported to the Minister that he is satisfied that—

(c) during the voyage the animal has not suffered from a disease or been exposed to infection; and

(d) the animal was free from disease at the time of landing; and

(e) there is no danger of the animal introducing a disease,

the Managing Director may, subject to the regulations, give to the importer a certificate to that effect and allow the animal to be delivered to the importer without being required to perform quarantine.

(3) Where an imported animal is not suffering from a disease, the Quarantine Officer may, subject to the regulations, permit the animal to leave the vessel or aircraft, or if it has been ordered into quarantine, the quarantine station, under quarantine surveillance.

(4) An animal under quarantine surveillance shall continue under surveillance for such period as is prescribed, and shall be treated and dealt with as prescribed.

(5) During the period referred to in Subsection (4)—

(a) the owner or importer in charge of the animal shall comply with the regulations relating to quarantine surveillance of animals; and

(b) a Quarantine Officer may at any time order the animal into quarantine.

## **72. EXAMINATION OF IMPORTED PLANTS.**

(1) Imported plants, and packages, packing material or goods used in connection with imported plants, shall, before they are delivered to the importer, be submitted for examination by a Quarantine Officer approved by the Managing Director for the purpose.

(2) Where the matters referred to in Subsection (1) are found to be free from disease. and the Quarantine Officer is satisfied that they can be delivered to the importer without danger of

introducing a disease, he may, subject to the regulations, authorize their delivery to the importer.

(3) Where the matters referred to in Subsection (1) are found not to be free from disease, or the Quarantine Officer is not satisfied that they can be delivered to the importer without danger of introducing some disease, he may order the plants into quarantine or may order them to be subjected to such treatment as prescribed.

### **73. ORDERING INTO QUARANTINE.**

(1) A Quarantine Officer may examine and order into quarantine animals or plants declared to be subject to quarantine.

(2) A Quarantine Officer may examine and order into quarantine imported goods or packages that are or are likely to be, in his opinion, infected with a disease affecting animals or plants, or that contain or appear to contain an insect, pest or vector of disease.

### **74. PERFORMANCE OF QUARANTINE.**

Animals, plants and goods ordered into quarantine shall be conveyed to a quarantine station without delay, and be detained therefore for such period as is prescribed, and while so detained shall be dealt with and treated as prescribed.

### **75. DESTRUCTION OF DISEASED ANIMALS.**

Where a Quarantine Officer certifies that an animal ordered into quarantine is affected with a disease and, in his opinion, is a source of danger to other animals or humans and ought to be destroyed, the Managing Director, after notice to the owner, agent or person in charge (if known), may order it to be destroyed.

### **76. DESTRUCTION OF DISEASED PLANTS.**

Where a Quarantine Officer certifies that any plant ordered into quarantine—

- (a) are affected with—
  - (i) a disease; or
  - (ii) a noxious insect or a pest; or
- (b) have been exposed to infection from—
  - (i) a plant so affected; or
  - (ii) a vector of diseases; or
  - (iii) an article contaminated with a disease; or
  - (iv) a noxious insect or a pest; or
  - (v) weed seeds,

and, in his opinion, are a source of danger to other plants and ought to be destroyed, the Managing Director, after notice to the owner or agent or person in charge (if known), may order it to be destroyed.

## **PART VIII. – EXPENSES OF QUARANTINE.**

### **77. EXPENSES OF QUARANTINE.**

(1) Subject to this section, the master, owner or agent of a vessel or aircraft ordered into quarantine, or a vessel or aircraft removed to perform quarantine, are severally responsible for–

- (a) the removal of the goods and cargo to the quarantine station; and
- (b) the care and maintenance of the goods and cargo whilst detained at the quarantine station; and
- (c) the conveyance of the goods from the quarantine station to their ports of destination; and
- (d) the provisions of such launch and patrol services and such supervision as the Minister thinks are necessary to ensure the satisfactory performance of quarantine by the vessel or aircraft and the goods on the vessels or aircraft.

(2) Subject to this section, the master, owner or agent of the vessel or aircraft may arrange with the Minister for the carrying out of any responsibility under this Section and for the payment of the expenses incurred, but in any case the Minister may take such action if he considers it necessary or convenient to do so and any expenses incurred shall be paid by the master, owner or agent of the vessel or aircraft to the Authority.

### **78. COSTS OF DISINFECTING GOODS.**

The master, owner or agent of a vessel or aircraft ordered into quarantine, or ordered to be cleaned, fumigated or treated, shall pay–

- (a) all costs of removal of cargo or goods from the vessel or aircraft; and
- (b) costs incurred in the cleansing, fumigation, disinfection or treatment of the vessel or aircraft, or of goods or things taken from the vessel or aircraft; and
- (c) costs of inspections and supervision required.

### **79. SECURITY.**

Before permitting any goods, personal effects or things to leave or be removed from a vessel or aircraft ordered into quarantine, the Quarantine Officer may require the master, owner or agent of the vessel or aircraft to give security to the satisfaction of the Quarantine Officer that all responsibilities under this Act of the master, owner and agent of the vessel or aircraft, in respect of those goods, personal effects and things, will be faithfully carried out.

### **80. PILOTAGE.**

The owners and agents of a vessel or aircraft ordered into quarantine shall pay to the Authority all charges incurred by the Authority in connection with the piloting or towing of the vessel or aircraft into or out of port or from one place to another in port.

### **81. PAYMENT FOR SERVICES OF QUARANTINE.**

(1) Where a vessel or aircraft is ordered into quarantine, the Managing Director may–

- (a) appoint a Quarantine Officer to take charge of the goods and cargo of the vessel or aircraft while in quarantine; and
- (b) fix the amount of remuneration to be paid to the Quarantine Officer referred to in Paragraph (a) for his services in respect of the goods and cargo whilst the vessel or aircraft is in quarantine.

(2) The remuneration referred to in Subsection (1) shall be paid to the Authority by the owners or agents of the vessel or aircraft.

## **82. EXPENSES IN RESPECT OF ANIMALS AND PLANTS.**

(1) Any expenses connected with—

- (a) the examination of any animals, plants or goods, their conveyance to a quarantine station and their detention, maintenance and treatment in quarantine, or under quarantine surveillance; and
- (b) the removal, disposal and destruction of any animals, plants or goods ordered to be destroyed under this Act,

shall be paid by the importer or owner of the animals, plants or goods to the Authority, and are a charge on the animals, plants or goods.

(2) A Quarantine Officer may refuse to grant a permit for the landing or removal of any animals, plants or goods until security is given to his satisfaction for payment of the expenses payable to the Authority under this section.

## **83. CHARGES OF VESSELS AND AIRCRAFT.**

Expenses or charges payable to the Authority under this Part by the owner or agent of a vessel or aircraft are a charge on the vessel or aircraft, and the vessel or aircraft may be detained by an officer until the expenses are paid.

## **84. RECOVERY OF EXPENSES.**

Expenses of charges payable to the Authority under this Part may be recovered by the Authority as a debt.

## **PART IX. – GENERAL OFFENCES.**

### **85. IMPORTATION CONTRARY TO NOTICES, ETC.**

(1) A person who knowingly imports or brings into any port or place in the country—

- (a) a disease affecting animals or plants; or
- (b) a noxious insect; or
- (c) a pest; or
- (d) a disease germ, microbe or disease agent; or
- (e) any culture, virus, or substance containing a disease germ or microbe or disease agent; or
- (f) any goods; or



- (g) any packages; or
- (h) any animal or plant,

in contravention of this Act, is guilty of an offence.

Penalty: A fine not exceeding K4,000.00.

(2) In a prosecution for an offence against this section, the burden of proving want of knowledge is on the defendant.

## **86. IMPORTATION OF PROHIBITED ANIMALS.**

The master or owner of a vessel or aircraft, who brings an animal, or permits an animal to be brought in the vessel or aircraft into a port or place in the country in contravention of this Act, is guilty of an offence.

Penalty: A fine not exceeding K4,000.00.

## **87. TRESPASSING ON QUARANTINE STATIONS, ETC.**

(1) An unauthorized person who—

- (a) enters or trespasses on a quarantine station; or
- (b) interferes with any vessel, aircraft, animal, plant, or goods subject to quarantine; or
- (c) removes any part of contents of any plant, animal, or goods kept, stored or growing at or about a quarantine station,

is guilty of an offence.

Penalty: A fine not exceeding K4,000.00

## **88. PILOT CONDUCTING VESSEL WRONGLY.**

Unless compelled by stress of weather or other reasonable cause, a pilot who conducts a vessel subject to quarantine into a place other than the proper place for the vessel, is guilty of an offence.

Penalty: A fine not exceeding K5,000.00.

## **89. DISEASED VESSEL OR AIRCRAFT ENTERING PORT OTHER THAN FIRST PORT OF ENTRY.**

(1) The master of an overseas vessel or overseas aircraft who, knowing that a quarantine disease exists on his vessel or aircraft, permits the vessel or aircraft to enter a port, other than a port declared to be a first port of entry, is guilty of an offence unless he proves that it was necessary for the vessel or aircraft to enter the port for the purpose of saving life.

(2) A person who contravenes Subsection (1) is guilty of an offence.

Penalty: Imprisonment for a term not exceeding three years.

## **90. OFFENCES AS TO DOCUMENTS.**

A person who—

- (a) forges a document under this Act, or an official copy of any such document, or the signature of an officer performing a duty under this Act; or
- (b) utters or puts off, knowing it to be forged, a forged document purporting to be a document issued under this Act; or
- (c) fraudulently lends a certificate or document issued under this Act to any other person or allows it to be used by any other person,

is guilty of an offence.

Penalty: Imprisonment for a term not exceeding three years.

## **91. BRIBING, ASSAULTING, OBSTRUCTING OR INTIMIDATING OFFICERS.**

A person who—

- (a) gives, or offers or promises to give or procure to be given, a bribe, recompense or reward to an officer, to induce him in any way to neglect or not to perform his duty; or
- (b) makes a collusive agreement with an officer to neglect or not to perform his duty; or
- (c) by threats, demands or promises, attempts to influence improperly an officer in the performance of his duty; or
- (d) assaults or by force, molests, obstructs or intimidates an officer in the performance of his duty,

is guilty of an offence.

Penalty: On summary conviction—a fine not exceeding K4,000.00 or imprisonment for a term not exceeding six months, or both.

On conviction on indictment—imprisonment for a term not exceeding three years.

## **92. MASTERS AND CHIEF OFFICERS OF VESSELS AND AIRCRAFT MISLEADING QUARANTINE OFFICERS.**

A master or Chief Officer of a vessel or aircraft who—

- (a) wilfully makes a false statement in answer to a question asked him under this Act by a Quarantine Officer; or
- (b) wilfully misleads a Quarantine Officer in the performance of his duty,

is guilty of an offence.

Penalty: A fine not exceeding K4,000.00 or imprisonment for a term not exceeding two years.

## **93. DERELICTION OF DUTY.**

An officer who—

(a) wilfully deserts from his duty; or  
(b) knowingly and unlawfully permits any vessel, aircraft, animal, plant or goods to depart from, or to be conveyed out of, a quarantine station where it or they are detained,

is guilty of an offence.

Penalty: A fine not exceeding K2,000.00 or imprisonment for a term not exceeding two years.

#### **94. OFFICERS TAKING BRIBES.**

An officer who—

(a) accepts a bribe, recompense or reward for or on account of any neglect to perform, or non-performance of, his duty; or  
(b) makes a collusive agreement with a person to neglect or not to perform his duty,

is guilty of an offence.

Penalty: A fine not exceeding K3,000.00 or imprisonment for a term not exceeding three years.

#### **95. MALICIOUSLY ORDERING VESSELS, ETC., INTO QUARANTINE.**

A Quarantine Officer who maliciously and without reasonable cause orders any vessel, aircraft, animal, plant or goods into quarantine, is guilty of an offence.

Penalty: A fine not exceeding K2,000.00 or imprisonment for a term not exceeding two years or both.

#### **96. FORFEITURE OF ANIMALS, PLANTS, ETC.**

Animals, plants or goods imported into the country, or brought into any port or place in the country in contravention of this Act, and all soil, compost, manures, organic fertilizers, or admixtures of them, hay, straw, fodder, litter, fittings, clothing, utensils, appliances, packages or packing material moved or dealt with in contravention of this Act, are forfeited and may be seized by an officer and disposed of as prescribed.

#### **97. DESTRUCTION OF CERTAIN ANIMALS.**

Where the master of a vessel or aircraft fails to comply with the direction of a Quarantine Officer or the prescribed conditions relating to the control or confinement of an animal that has been brought into a port or place in the country but is not intended or permitted to be imported into the country, the Quarantine Officer may destroy the animal.

#### **98. SEIZURE OF ANIMALS SUBJECT TO QUARANTINE.**

An officer of the Authority or a Customs Officer or a member of the Police Force. may—

- (a) seize any animals, plants or goods subject to quarantine that are found outside a quarantine station; and
- (b) convey them to a quarantine station.

## **99. INSPECTION.**

(1) A Quarantine Officer may, at any time—

- (a) board a vessel or aircraft in a port or place in the country; and
- (b) enter and inspect any part of the vessel or aircraft, and all animals, plants and goods on board the vessel or aircraft; and
- (c) inspect the passenger list, log, manifest, journal and other papers of the vessel or aircraft.

(2) The master of a vessel or aircraft shall, if so required by a Quarantine Officer, produce to the Quarantine Officer for inspection the passenger list, log, manifest, journal and other papers.

(3) A person who contravenes Subsection (2) is guilty of an offence.

Penalty: A fine not exceeding K4,000.00.

(4) A person authorized in writing by the Managing Director to act under this subsection may, at any time—

- (a) board a vessel or aircraft in a port or place in the country; and
- (b) enter and inspect any part of the vessel or aircraft and inspect all animals, plants and goods on board the vessel or aircraft.

## **100. BOARDING OF VESSELS AND AIRCRAFT.**

(1) A Quarantine Officer, or a person authorized under Section 99(4) boarding a vessel or aircraft may remain on the vessel or aircraft for such time as he thinks necessary or desirable.

(2) The master, if so required by a Quarantine Officer or person who is on a vessel accordance with Subsection (1) shall cause to provide suitable and sufficient food and sleeping accommodation for that Quarantine Officer or that person.

(3) A person who contravenes Subsection (2) is guilty of an offence.

Penalty: A fine not exceeding K4,000.00.

## **101. INQUIRIES BY QUARANTINE OFFICERS.**

(1) A Quarantine Officer may ask the master or Chief Officer of a vessel or aircraft any questions that he thinks proper to ask concerning animals and plants on board the vessel or aircraft or the sanitary conditions of that vessel or aircraft and the master or Chief Officer shall truly answer such questions to the best of his knowledge, information and belief.

(2) A Quarantine officer may ask any crew member on board a vessel or aircraft any questions concerning animal and plant health status on board and the crew member shall truly answer such questions to the best of his knowledge, information and belief.

(3) If he thinks fit, a Quarantine Officer may require a crew member who has been asked questions under this Section to verify by statutory declaration the answers given to the questions.

(4) A person who contravenes this Section is guilty of an offence.

Penalty: A fine not exceeding K2,000.00.

## **102. PRESCRIBED NOTICES.**

(1) An Agriculture Quarantine Officer may affix prescribed notices in relation to agriculture quarantine—

(a) on any part of a vessel or aircraft subject to quarantine; and

(b) on or near a quarantine station; and

(c) on goods subject to quarantine.

(2) A person who removes, defaces or interferes with a notice affixed under this Section is guilty of an offence.

Penalty: A fine not exceeding K4,000.00.

## **103. CLEANSING AND DISINFECTION OF INSANITARY VESSELS AND AIRCRAFT.**

(1) Subject to the regulations, a Quarantine Officer may order a vessel or aircraft that—

(a) is in a port in the country; and

(b) in his opinion, is in an insanitary condition favourable to the spread of animal and plant pests diseases,

to be cleansed, fumigated, disinfected or treated to his satisfaction.

(2) Subject to the regulations, where a Quarantine Officer orders a vessel or aircraft to be cleansed, fumigated, disinfected or treated under this section, he may order the vessel or aircraft to be taken to an appointed place approved by him for that purpose.

(3) The Minister may order a vessel or aircraft in a port or place in the country to be taken to any other port or place in the country for the purpose of cleansing, fumigation, disinfection, treatment or performance of quarantine.

(4) The master of a vessel or aircraft in respect of which an order is made under this Section who fails to comply with the order, is guilty of an offence.

Penalty: A fine not exceeding K5,000.00

#### **104. POWER TO ADMINISTER OATHS, ETC.**

A Quarantine Officer may administer oaths or affirmations and take declarations in all cases in which answers to questions asked under this Act are by this Act required to be verified by oath, affirmation or declaration.

#### **105. AVERMENT OF PROSECUTION.**

In a prosecution for an offence against this Act the averment of the prosecutor contained in the information shall, in the absence of proof to the contrary, be deemed to be proved.

### **PART X. – FINANCES ETC.**

#### **106. APPLICATION OF THE *PUBLIC FINANCES (MANAGEMENT) ACT 1995*.**

Part VIII of the *Public Finances (Management) Act 1995* applies to and in relation to the Authority.

#### **107. APPLICATION OF *AUDIT ACT 1989*.**

The accounts of the Authority shall be audited in accordance with Part III of the *Audit Act 1989*.

#### **108. EXEMPTION FROM TAXATION.**

The income, property and operation of the Authority are not subject to income tax under the *Income Tax Act 1959*.

#### **109. FUNDS OF THE AUTHORITY.**

(1) The funds of the Authority consists of–

- (a) such moneys are appropriated annually by Parliament for the purposes of carrying out and giving effect to this Act; and
- (b) all money received by the Authority by way of grants or subscriptions; and
- (c) all moneys received by the Authority for services and goods provided by the Authority; and
- (d) all other moneys received by the Authority in accordance with this Act and in the exercise and performance of its powers, functions and duties.

(2) The moneys of the Authority may be expended only–

- (a) in payment or discharge of expenses, obligations and liabilities of the Authority; and
- (b) in payment of the remuneration of the members of the Board and the Managing Director, officers and employees of the Service; and
- (c) for such other purposes as are consistent with the functions of the Authority and as are approved by the Board.

## **110. BANK ACCOUNTS.**

(1) The Authority shall open and maintain such bank accounts as are necessary for the exercise and performance of its powers and functions, and shall pay into them such moneys referred to in Section 109.

(2) In respect of moneys advanced or borrowed under this Act or any other Act, the Authority shall maintain a separate account in respect of the moneys that are related to each such purpose and shall cause proper entries of—

- (a) all moneys so advanced or borrowed for a particular purpose of the Authority; and
- (b) the purpose to which the moneys have been applied,

to be made in the account maintained in respect of that purpose.

## **PART XI. – MISCELLANEOUS.**

### **111. PROOF OF CERTAIN MATTERS.**

In any proceeding by or against the Authority, proof is not required, unless evidence is given to the contrary, of—

- (a) the constitution of the Board or of a Committee; or
- (b) a resolution of the Board or of a Committee; or
- (c) the appointment of a member of the Board or a member of a Committee, the Managing Director or an employee, servant or agent of the Authority; or
- (d) the presence of a quorum at a meeting at which a determination is made or an act done by the Board or by a Committee.

### **112. SERVICE OF PROCESS.**

Any notice, summons writ or other process requiring to be served on the Authority may be served by being left at the head office of the Authority or, in the case of a notice, by post.

### **113. SEAL.**

(1) The Authority shall have the right to the use of any such seal or representation as it may select or devise and thereafter display or exhibit in affairs.

(2) A person, who uses a seal or representation identical with that of the Authority, or which so resembles the seal or representation of the Authority so as to deceive or cause confusion, is guilty of an offence.

Penalty: A fine not exceeding K2,000.00 or imprisonment for a term not exceeding six months, or both.

### **114. AUTHENTICATION OF DOCUMENTS.**

A document requiring authentication by the Authority is sufficiently authenticated without the seal of the Authority if signed by the Chairman.

## **115. RETURNS AND INFORMATION.**

(1) The Authority, or any person authorized on behalf of the Authority, may, by written notice, require a person to furnish to the Authority or to the person so authorized, within such period as may be specified in the notice, all such returns and information relating to all such matters as specified in the notice as may be necessary for the Authority in relation to the performance of its functions under this or any other Act and as are within the knowledge of that person or in his custody or under his control.

(2) A person who, on being required under Subsection (1) to furnish any return or information, fails to comply with a notice under Subsection (1), is guilty of an offence.

Penalty: A fine not exceeding K1,000.00 or imprisonment for a term not exceeding 12 months. or both.

(3) All monies received by way of fines for offences against Subsection (1) shall be paid into the funds of the Authority.

(4) It is a defence to a offence under Subsection (2), if a person charged proves that the return or information was not relevant to the exercise of the powers and functions of the Authority under this or any other Act or was not in the possession or under the control of such person at the time of the receipt of the notice.

## **116. CONFIDENTIALITY.**

(1) Information disclosed under this Act to the Minister, to a member of the Board or a Committee or to an employee of the Authority shall not be disclosed to any person who is not a member of the Board or a Committee or an employee of the Authority without the prior written approval of the person who provided that information, except—

(a) to the extent that disclosure is authorized or required under this act or any other law; and  
(b) to the extent that the person providing the information authorized its disclosure at the time of providing the information; or

(c) to the extent necessary to enable the Managing Director to publish statistical information concerning the subject matter of the functions of the Authority; or

(d) to the extent necessary to enable the Authority the Minister to give advice to the National Executive Council, Departments or any other agency of the State.

(2) A member of the Board or a Committee or an employee of the Authority who uses, for the purpose of his personal gain, any information disclosed under this Act that comes to his knowledge in the course of, or by reason of his membership of the Board or a Committee or his employment as an employee of the Authority, is guilty of an offence.

Penalty: A fine not exceeding K5,000.00 or imprisonment for a term not exceeding two years, or both.

## **117. ATTORNEY.**

The Authority may, by instrument under seal, appoint, whether within or outside the country. to be its attorney and, subject to the instrument of appointment, a person so appointed may do



any act or exercise or perform any power or function which he is authorized by the instrument to do, exercise or perform.

#### **118. DUTIES OF CERTAIN OFFICERS.**

(1) It shall be the duty of all officers of Post Offices and Customs to enforce compliance with the provisions of this Act.

(2) Where an officer referred to in Subsection (1) is, in the course of his normal duties, required to exercise a power or perform a function under this Act, he shall, in the exercise of such power or the performance of such function, be deemed to be an officer of the Authority.

#### **119. PROTECTION FROM PERSONAL LIABILITY.**

(1) A member of the Board or of a Committee or an officer, employee or agent of the Authority is not personally liable for any act or default of himself or the Authority, done or omitted to be done in good faith in the operations of the Authority, or for the purposes of the Authority.

(2) Any expenses incurred by the Board or a Committee, employee or other person acting under the direction of the Authority shall be borne by and paid out of the funds of the Authority.

#### **120. TRANSFER OF ASSETS.**

All assets used for quarantine and inspection services (other than land held by the State) which, immediately before the coming into operation of this Act, were held by the Department of Agriculture and Livestock and which, by agreement between the Departmental Head of that Department and the Authority, are necessary to be transferred to the Authority for the purposes of the Authority, are, on that coming into operation, transferred to and become assets of the Authority.

#### **121. TRANSITIONAL STAFF ARRANGEMENTS.**

(1) The Departmental Head of the Department of Agriculture and Livestock shall, on the coming into operation of this Act, appoint a senior officer of the Department to hold the office of Managing Director as acting Managing Director on the same terms and conditions of employment as that person held in the Department prior to his appointment or, where the appointee is an officer of a level below that of an Assistant Secretary in the Public Service, on such terms and conditions as are approved by the Departmental Head of the Department of Personnel Management, until such time as a Managing Director is appointed and the terms and conditions of appointment are determined in accordance with this Act.

(2) An officer who, immediately before the coming into operation of this Act, was employed under the quarantine and inspection services at the Department of Agriculture and Livestock shall, on that coming into operation, be seconded by the Departmental Head to the Authority for the purposes of the Authority and shall hold a similar office and, on the same terms and conditions as he held prior to his secondment until such time appointments and terms and conditions of employment are determined under this Act.

## **122. REGULATIONS.**

The Head of State, acting on advice, may make regulations not inconsistent with this Act prescribing all matters that are required or permitted to be prescribed for carrying out or giving effect to this Act, and in particular for—

- (a) prescribing ports, aircraft and frontier posts at which animals or animal products, or plants or plant products, or particular plants or plant products may be brought into the country; and
- (b) prohibiting or restricting the introduction either generally or from any specified region, country or place or origin of any plant materials as prescribed as being likely to introduce diseases or pests having noxious or undesirable characteristics; and
- (c) prohibiting or restricting the introduction either generally or to any specified region of the country of any soil or similar matter as may be prescribed in the regulations as being likely to introduce pests or diseases; and
- (d) prescribing conditions for introducing plant and plant products into the country or from any specified region, country or place of origin; and
- (e) prescribing treatment of aircraft or any other conveyance arriving in the country and the procedures to be adopted on their arrival; and
- (f) requiring masters of ships and aircraft and controlling authorities of ports to give such information for the purposes of this Act; and
- (g) requiring any person arriving in the country, including a member of the crew of any vessel or aircraft including those of the Defence Force, to make a declaration as to whether they have any plant, parts of a plant (including seeds), plant product, animal, animal product or any other goods liable to harbour pests or diseases in their possession or as part of their personal luggage and to answer such questions as are put to them; and
- (h) prescribing permit fees for imports and exports of fresh or processed food materials, live animals and plants, inspection and clearance of vessels and aircraft and related services provided to importers, exporters, shippers and airlines; and
- (i) prescribing charges or authorizing charges for the destruction, fumigation, disinfection or other treatment for animals, animal products, animal manure, fittings or fodder entering the country and prescribing conditions which are necessary for the prevention of the introduction of pests or diseases; and
- (j) requiring health certificates from relevant government authorities of any country or place from which any plant, plant product, animal, animal product, animal manure, packing material, fitting or fodder that are to be introduced into the country; and
- (k) prescribing charges and fees for conveying plants and animals to and from quarantine, and for their maintenance and inspection while in quarantine; and
- (l) regulating the duties of masters of ships and aircraft in relation to any animal, whether not intended to be introduced into the country, and in relation to the storage of garbage aboard ships or aircraft; and
- (m) prescribing the manner in which persons coming into contact with any plant, animal, soil, animal manure, animal product or any ship or aircraft, conveyance or fittings used for any plant, animal, animal product or animal manure shall be disinfected; and
- (n) prescribing the procedure for the confiscation and destruction of plants, part of plants, plant products, animals, animal products, animal manure, fodder and fittings; and
- (o) fees and charges payable in respect of services rendered or goods supplied by the Authorities; and
- (p) penalties for fines not exceeding K4,000.00 for offences against the Regulations.

<sup>[1]</sup> Section 8 Subsection (1) amended by No. 6 of 2002.

<sup>[2]</sup> Section 8 Subsection (2) amended by No. 97 of 2006, Sched. 1.

<sup>[3]</sup> Section 20 Subsection (1) substituted by No. 97 of 2006, Sched. 1.

<sup>[4]</sup> Section 20 Subsection (1) substituted by No. 97 of 2006, Sched. 1.