

SAMOA

Arrangement of Provisions

**PART I
PRELIMINARY**

1. Short title and commencement
2. Interpretation
3. Act to bind the Government and requirement for co-operation and mutual support

**PART II
IMPORT BIOSECURITY**

4. Scope of biosecurity
5. Minister may appoint ports and airports
6. Quarantine station
7. Particulars to be given
8. Examination of documents
9. Facilities at ports and airports
10. Cleansing and disinfection of insanitary conveyance or installation
11. Landed cargo under quarantine control
12. Restriction on importation of regulated articles
13. Proof required of legal importation of regulated articles

14. Restriction on importation of cultures, etc
15. Prohibition of importation of regulated articles
16. Notification of imports
17. Dispatch of regulated articles to Samoa
18. Inspection on arrival
19. Examination of imported goods
20. Inspection of in-transit shipments
21. Importation for special purposes
22. Inspection and treatment
23. Ports and airports of entry
24. Duty of Immigration, Customs and Postal Officers
25. Seizure and biosecurity
26. Duty to prevent animal from being landed
27. Identification of packages
28. Declaration by passengers
29. Discharge and treatment of garbage and ballast water

**PART III
PEST AND DISEASE
CONTROL**

30. Pest and disease surveys

- | | |
|---|---|
| <ul style="list-style-type: none"> 31. Declaration and control of infected areas 32. Revocation of infected area declaration 33. Avoidance of pest or disease 34. Control or eradication of a pest or disease 35. Declaring and maintaining areas free or of low pest and disease prevalence 36. Proclamation of pest or disease emergency 37. Power to take the life of an animal and conduct post mortem examination 38. Beneficial organisms and biocontrol agents 39. Pests and diseases | <ul style="list-style-type: none"> 51. Protection against claims 52. Fees and charges 53. Withholding services 54. Enforcement of conditions imposed 55. Evidence 56. Sanctions 57. Disposal or destruction of regulated articles 58. Delegation by Minister 59. Delegation by Chief Executive Officer 60. Amendment of First Schedule 61. Giving notice under this Act 62. Existence of pest or disease 63. False, misleading or incomplete declarations and certificates 64. Transmission of forms, notices, advices etc 65. Liability for causing Authorised Officer to incur expense 66. Offences 67. Offence with which Authorised Officers may be charged 68. Money 69. Regulations 70. Consequential repeals and amendments 71. Savings and transitional arrangements |
|---|---|
- PART IV
GENERAL**
- | | |
|--|--|
| <ul style="list-style-type: none"> 40. International cooperation and register of known pests and diseases 41. National Biosecurity Coordination 42. Authorised Officers 43. Identity cards 44. Facilities for the inspection and treatment of regulated articles 45. Powers of entry 46. Search 47. Opening of containers, etc 48. Obstructing Authorised Officers 49. Compliance agreements 50. Safe carriage and safe working environment of Authorised Officers | <p>First Schedule – Penalties for offences</p> <p>Second Schedule – Consequential Repeals & Amendments</p> |
|--|--|
-

2005, No. 22

AN ACT to consolidate the law relating to the importation of regulated articles and associated biosecurity risk, and the control of pests and diseases of animals, plants and the wider environment.

[2nd December 2005]

BE IT ENACTED by the Legislative Assembly of Samoa in Parliament assembled as follows: -

**PART I
PRELIMINARY**

1. Short title and commencement-(1) This Act may be cited as the Quarantine (Biosecurity) Act 2005.

(2) This Act shall commence in part or in whole on a date or dates nominated by the Minister.

(3) Notice of commencement of this Act, in part or in whole, shall be published in Samoan and English in the Savali and one other newspaper circulating in Samoa.

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

“alien invasive species” means an alien species whose introduction and spread threaten ecosystems, habitats or species with environmental or economic harm;

“animal” means any living thing that is not a plant and includes a dead animal and any part of an animal;

“animal product” means any part of the animal including the flesh, wool, hair, skin, hide, bones, horns, hooves, feathers and other portions of the carcass and any product that is wholly or partly derived from an animal or any part of an animal being a product or a part of an animal which has not been treated or sterilized to the stage where it is rendered free from any disease and from carrying any disease;

- “approved” means approved by the Chief Executive Officer;
- “Authorised Officer” means an officer authorised by this Act or the regulations or by the Chief Executive Officer to do the act in relation to which the expression is used and may include an officer employed by another Ministry of the Government authorised by the Chief Executive Officer;
- “ballast water” means water (including sediment that is or has been contained in water) used as ballast in a vessel;
- “beneficial organism” means a natural enemy, antagonist or competitor, and other self-replicating biotic entity used for pest and/or disease control;
- “biosecurity risk” means risk of the likelihood of:
- (a) A disease or pest being introduced, established or spread in Samoa; and
 - (b) The disease or pest causing damage to human beings, animals, plants, other aspects of the environment or economic activities as a result of the introduction, establishment or spread of the disease or pest;
- “carcass” means the carcass of any animal and includes the whole or any part of the flesh, wool, hair, skin, hide, bones, horns, hooves, feathers or other portion of the carcass;
- “Chief Executive Officer” means the Chief Executive Officer of the Ministry responsible for this Act from time to time;
- “contamination” means the presence in goods, a storage place, or conveyance, of pests or other regulated articles, not constituting an infestation;
- “compliance agreement” has the meaning given by section 49;
- “conveyance” means any vessel, vehicle, or other means of transport, or any container that is used to move people and/or goods from one location to another;
- “country of origin” in relation to any regulated articles, means the country where the goods were grown or produced;

- “discharge” in relation to a vessel or installation, includes any escape, spilling, leaking, pumping, emptying or other release, however caused, from the vessel or installation;
- “disease” means any organism that is capable of harming or adversely affecting animals or plants and includes the causative agent and any form or stage of development of such disease and includes a micro-organism, a disease agent, an infectious agent and a parasite;
- “environment” includes all aspects of the surroundings of human beings, whether natural or surroundings created by human beings themselves, and whether affecting them as individuals or in social groupings;
- “fittings” means any container, stall, stable, sheep pen, milking shed, horse box, cage, kennel or other thing for keeping or confining animals and any halters, brushes, clothes, buckets or other articles or things whatsoever which have been brought into contact with any animal;
- “fodder” means any hay, grass, straw, green crop, root, fruit or vegetable (whether fresh, dried, preserved or processed), grain, or any cereal and includes any other thing used for the food of animals;
- “food” includes:
- (a) Any substance or thing of a kind used or capable of being used as food or drink by human beings; and
 - (b) Any substance or thing of a kind used or capable of being used as an ingredient in a substance or thing referred to in paragraph (a), whether or not it is in a condition fit for human consumption;
- “garbage” means mixed refuse, waste material derived in whole or in part from plants, fruits, vegetables, meat or other plant or animal material, or other refuse of any character whatsoever that has been associated with any fruits, vegetables, meats or other plant or animal material;
- “genetic material” means any material of plant, animal, microbial or other origin containing functional units of heredity;

- “genetically modified organism” means any genetic material whose genetic structure has been modified;
- “goods” includes regulated articles and any other kind of moveable property;
- “Government” means the Independent State of Samoa;
- “imported animal” means any animal brought into Samoa by sea or air;
- “infected” applied to any animal or plant means that the animal or plant may not be known to be actually diseased, but has had direct or indirect contact with any diseased animal or plant or any place or thing which an **Authorised** Officer suspects to be carrying or harbouring a disease;
- “infected area” means any area of land or water which the Minister by public notice has declared to be an infected area by a notice under section 31, and an infected area can include part of the territorial waters of Samoa;
- “infested” means the presence in goods of a living plant or animal or pest;
- “inspection” means the examination of any place, conveyance, good or thing for the purpose of detecting contamination;
- “installation” means:
- (a) A resources installation; or
 - (b) A sea installation;
- “in-transit” means the process where regulated articles, which are from another country and are not to be imported into Samoa and which are destined for another country, are temporarily in Samoa;
- “introduction” means the entry of a pest or disease resulting in its establishment;
- “land” refers to any area of the land of Samoa and any area of its territorial waters;
- “litter” means any straw, or other material which is used for bedding down animals and includes the excreta of animals;
- “Minister” means the Minister responsible for this Act from time to time;

- “Ministry” means the Ministry responsible for this Act from time to time;
- “monitoring” means an official monitoring process used to identify sanitary and phytosanitary situations and may include surveys, tests or examinations for the presence or absence of specified pests and diseases;
- “notice” means a notice in writing, or in print, or partly in writing and partly in print, delivered personally, or, (as the case may require) by leaving it at or posting it addressed to the office or address of an **Authorised** Officer, or the usual or last known place of abode or business in Samoa of the owner or other person to be affected by the notice, or by affixing the notice at the home or other conspicuous place on the land of the owner or other person;
- “occupier” in relation to any land, means the occupant of the land and if the land is not occupied or the occupant is unknown or cannot be found, includes the owner of the land or of any estate or interest in the land;
- “organism” means a biotic entity capable of reproduction or replication, vertebrate or invertebrate animals, plants and micro-organisms;
- “packing material” means any wood, straw, paper, cardboard, grass or leaves used in packing any goods and any other type of material in which goods or regulated articles are covered, enclosed, contained or wrapped;
- “permit” means a written authorisation issued by the Chief Executive Officer or an **Authorised** Officer under section 12 for the movement into or through Samoa of regulated articles;
- “pest” means an organism of plant or animal origin which can constitute a biosecurity risk and directly or indirectly cause disease, injury or damage to plants or animals, and includes any living stage of insect, mite, nematode, snail, slug, or other invertebrate animal, bacteria, fungi, virus or similar organism and includes a weed pest, an insect pest, a noxious plant, noxious insect

- and can include an alien invasive species of plants or animals;
- “Phytosanitary certificate” in relation to any plant or plant material, means an official certificate issued by an officer of a plant protection authority of the country of origin of the plant or plant material, substantially in the format of the Model Certificate of the International Plant Protection Convention, certifying that the plant or plant material to which it refers has been inspected and found free from agricultural pests and substantially free from other injurious pests;
- “place” includes any land, water, harbour, wharf, conveyance, building, premises or structure within the outer limits of the territorial sea of Samoa;
- “plant” means all species, varieties and types or parts thereof including stems, branches, tubers, bulbs, corms, sticks, budwood, cuttings, layers, slips, suckers, roots, leaves, flowers, fruits, vegetables, seeds, botanical specimens, germplasm and any other plant growth and includes a dead plant or part of a dead plant;
- “plant material” means any part of a plant that has been partially or wholly manufactured, but still presents a phytosanitary risk;
- “premises” includes the following:
- (a) A building or conveyance or structure;
 - (b) A place (whether enclosed, or built on, or not); and
 - (c) A part of a thing or place referred to in paragraph (a) or (b);
- “procedures” means:
- (a) The doing of anything under this Act or the regulations, and any conditions of permits or approvals given under any of the above; and
 - (b) The doing of anything in connection with activities carried out in the performance of functions related to this Act or the regulations;
- “public notice” in relation to any act, matter, or thing means a notice published in one or more newspapers circulating in the place or area to which the act, matter

or thing relates or refers or in which it arises and “publicly notified” has a corresponding meaning;

“quarantine” means a restriction imposed by an **Authorised** Officer, whereby the production, movement or existence of animals, animal products, plants, plant material, goods, regulated articles or any other articles or materials or the activity of persons is brought under regulation in order that the introduction or spread of a pest or disease may be prevented or limited or in order that a pest or disease already introduced may be controlled or eradicated, thereby reducing or avoiding losses that otherwise occur through damage done by the pest or disease or through a continuing of control measures;

“quarantine control” means:

- (a) A restriction imposed by an **Authorised** Officer whereby the production, movement or existence of regulated articles or any other article or material is brought under regulation; or
- (b) The activity of persons is brought under regulation, in order that the introduction or spread of a pest or disease may be prevented or limited or in order that a pest or disease already introduced may be controlled or eradicated;

“quarantine station” includes a quarantine station, temporary quarantine station, a quarantine check-point, a post-entry quarantine station, and all facilities and services related to such quarantine station or check-point;

“regulated article” means garbage, soil, pests, packing material, fittings, litter, manure or fodder and other materials, goods, substances, articles or equipment and includes one or more animals, animal products, plants or plant material the importation or movement of which may have potential to introduce or spread a pest or disease to or within Samoa;

“re-ship” in relation to any imported plant, plant material, animal, animal product, material or regulated article,

- means to send it out of Samoa, either by the vessel in which it was imported, or by any other vessel;
- “risk analysis” means the process of evaluating biological or other scientific and directly related evidence related to a biosecurity risk to determine whether a pest or disease should be regulated and the strength of any sanitary or phytosanitary measures to be taken against it;
- “SPS Agreement” means the World Trade Organisation Agreement on Sanitary and Phytosanitary Measures and includes any amendments to or substitutions of that Agreement that are or will become binding on Samoa from time to time;
- “Samoa” includes any land, place, water, harbour, wharf, port, airport, conveyance or premises within the outer limits of the territorial sea of Samoa;
- “soil” means loose earth material and includes rock and disintegrated rock which has an admixture of any organic material, soluble salts, gravel, compost or clay;
- “Territorial Sea” means the territorial sea as defined in the Maritime Zones Act 1999;
- “test” means an official examination to determine if pests or diseases are present;
- “timber” includes logs, branchwood, firewood and bark, and all wood which has been split, hewn, sawn or dressed but not otherwise manufactured, and further includes prefabricated building units, poles and the like, crossarms, shakes and shingles;
- “to treat” means to take measures to ensure removal of injurious materials or the elimination, sterilization or killing of any pests and diseases for the avoidance of contamination, including, among other measures, the cleaning, incineration, disinfection and disinfestation of regulated articles, or the re-shipment thereof, and the destruction of pests and diseases;
- “vessel” means any ship, boat or other vessel or vehicle used in navigation by sea, or aircraft, and includes an off-shore industry mobile unit (being an overseas installation) that is bound for or is at a port;

“Vessel Log” means the record kept by a vessel that provides details of ports of call of the vessel and details of where any cargo or passengers have been taken on board.

3. Act to bind the Government and requirement for co-operation and mutual support-(1) This Act binds the Government.

(2) In undertaking their functions and powers under:

(a) This Act by the Minister, the Chief Executive Officer and the Ministry; and

(b) The Health Ordinance 1959 by the Minister responsible for Health from time to time, the Chief Executive Officer of the Ministry of Health and the Ministry of Health,

the Ministers, the Chief Executive Officers and the Ministries shall co-operate and provide mutual support and assistance in dealing with any biosecurity risk to Samoa and the Samoan people.

Part II IMPORT BIOSECURITY

4. Scope of biosecurity - In this Act, biosecurity includes, but is not limited to, measures:

(1) For, or in relation to, the examination, exclusion, detention, observation, segregation, isolation, protection, testing, treatment and regulation of conveyances, installations, people, regulated articles or other goods or things; and

(2) Having as their object the prevention or control of the introduction, establishment or spread of pests and diseases that could cause significant damage to human beings, animals, plants, other aspects of the environment or economic activities.

5. Minister may appoint ports and airports - The Minister may from time to time by public notice appoint any specified ports or airports to be the only ports or airports at which regulated articles may lawfully be imported.

6. Quarantine station-(1) The Minister may from time to time by public notice define any land under the Minister's control or, with the written consent of the appropriate Minister or land owner, any land and declare it to be a quarantine station for the detention of one or more kinds of regulated articles, and from time to time may vary, alter, re-define, or abolish any such quarantine station.

(2) The cost of operating a quarantine station or of erecting specific purpose buildings and of purchasing necessary equipment and materials may be recovered from the user or users of the station or facility located within the station;

(3) The Chief Executive Officer may from time to time give directions on the regulation, management, and control of quarantine stations and the disposal, treatment or destruction of goods while in a quarantine station or in transit to or from a quarantine station and may by any such direction specify the time during which any regulated articles intended to be introduced into Samoa shall remain in a quarantine station.

7. Particulars to be given-(1) When a vessel arrives at a port or airport, the master, agent or representative of the vessel shall on request provide, produce and deliver to an **Authorised** Officer the passenger list, vessel log, manifest, journal and other vessel papers.

(2) Such papers shall contain sufficient detail to enable the identification of any regulated articles or persons which may be subject to quarantine control.

(3) It shall be an offence for any person to supply an **Authorised** Officer with false or incorrect or misleading or insufficient papers or other information in relation to goods or persons which may be subject to quarantine control.

8. Examination of documents - An **Authorised** Officer may, in carrying out functions under this Act or under any regulations, examine any vessel log, manifest, cargo stowage plan, passenger list or crew list or other document in any conveyance.

9. Facilities at ports and airports-(1) Every operator and owner of a port or airport shall provide at no cost to the Ministry:

- (a) Suitable furnished and equipped accommodation at the port or airport for the purposes of the proper operation and inspection functions to be performed by **Authorised** Officers;
- (b) Such shed accommodation as is necessary for the safe and effective inspection and, if necessary, the secure storage of goods;
- (c) Incineration or other equipment approved by the Chief Executive Officer and labour suitable for the proper disposal of garbage and regulated articles;
- (d) Such wall space and floor space as to allow for dump bins and quarantine signage to be prominently displayed to arriving passengers;
- (e) Containers specified by the Chief Executive Officer which are closable and capable of safely storing waste in the port or airport area; and
- (f) Such other facilities which the Chief Executive Officer deems necessary for the performance of the quarantine function at ports and airports including but not limited to sanitary and phytosanitary monitoring facilities.

(2) Every port and airport operator and owner shall fence, to the satisfaction of the Chief Executive Officer, the premises in which the incineration and other equipment and facilities referred to in subsection (1) is situated and keep such premises free from weeds and vermin.

(3) The Chief Executive Officer may determine by notice from time to time such conditions as are necessary to enable regulated articles to be safely disposed of in the context of subsection (1) and every port and airport operator and owner shall comply with such notice.

10. Cleansing and disinfection of insanitary conveyance or installation-(1) If an **Authorised** Officer reasonably believes that a conveyance or installation is likely to be in an insanitary

condition, or is likely to be carrying diseases or pests of concern to Samoa, the officer may impose conditions by notice to the owner or master or agent or representative of the conveyance or installation, to require specified processes to be carried out in respect of the conveyance or installation in the manner specified in the conditions.

(2) Without limiting subsection (1):

(a) The processes that may be specified in a notice under subsection (1) include:

(i) cleansing, disinfection, fumigation or other treatment of the conveyance or installation for the purposes of preventing the introduction, establishment or spread of diseases or pests; or

(ii) production of samples of, or exchange or other treatment of, ballast water in a vessel; and

(b) The notice may specify where the specified process is to be carried out.

(3) Any person who fails or refuses to comply with a notice given under subsection (1) commits an offence.

11. Landed cargo under quarantine control-(1) This section applies to:

(a) Regulated articles that form part of the cargo of a conveyance and are landed in Samoa; and

(b) Goods that have been exposed to regulated articles.

(2) The Chief Executive Officer may order goods to be held under quarantine control.

(3) The following are “relevant acts” in relation to goods:

(a) Moving the goods:

(i) from where they were landed to a place outside the precincts of the port or airport or installation, as the case may be; or

(ii) from a place to which they have been moved with the consent of an

Authorised Officer;

(b) Dealing with the goods; or

(c) Interfering with the goods.

(4) Any person who does a relevant act in relation to the goods without the written permission of an **Authorised** Officer or of the Chief Executive Officer commits an offence.

(5) An **Authorised** Officer or the Chief Executive Officer may give permission to a person to do one or more relevant acts in relation to specified goods.

(6) In deciding whether to give permission under subsection (5), an **Authorised** Officer or the Chief Executive Officer may have regard to such matters as they believe relevant and may issue permission subject to any conditions as they see fit.

(7) A permission may be expressed to be subject to a condition.

12. Restriction on importation of regulated articles-(1)

No person shall import or introduce any regulated articles into Samoa:

- (a) Without a written permit of the Chief Executive Officer or an **Authorised** Officer; or
 - (b) In contravention of any regulations or requirements or conditions made under the provisions of this Act.
- (2) Every permit issued under the provisions of paragraph (1) (a) shall be subject to such requirements and conditions as may be specified therein or in any regulations made under the provisions of this Act and, without limiting the generality of the foregoing -
- (a) Requirements and conditions may be imposed which take effect after the importation or introduction of any regulated articles;
 - (b) Requirements and conditions may be imposed requiring the payment of a deposit or entering into a bond, with or without sureties, for compliance with the requirements and conditions of any such permit;
 - (c) Requirements and conditions may include a direction to spend whatever period of time in post entry quarantine which may be necessary for determining that the regulated articles are free from pests and diseases.

(3) Any permit issued under the provisions of this Act or of any regulations may be general or may relate to a specified importation.

(4) Any permit issued under the provisions of this Act or of any regulations may be revoked or varied at any time by the Chief Executive Officer or by an **Authorised** Officer having regard to any change in the biosecurity risk to Samoa.

(5) If a decision is taken to refuse the issue of a permit the applicant must be advised in writing of that decision.

(6) Any regulated articles brought into Samoa in contravention of any of the provisions of this section shall be dealt with in accordance with the provisions of section 25.

(7) Any person who contravenes any of the provisions of this section commits an offence.

13. Proof required of legal importation of regulated articles-(1) An **Authorised** Officer may require any person possessing any regulated article which has been imported to furnish proof that the importation was effected in accordance with the provisions of this Act.

(2) If proof under subsection (1) is not furnished to the satisfaction of the **Authorised** Officer, the regulated article may be seized and dealt with under section 25.

14. Restriction on importation of cultures, etc.-(1) No person shall import or offer for importation any living culture or organism, including but not limited to parasites, predators, arachnids, insects, nematodes, fungi, bacteria, viruses, mycoplasma, plant parasitic organisms, germplasm or other invertebrate animals, except by a written permit issued by the Chief Executive Officer and in accordance with such conditions specified in the permit.

(2) Any person who contravenes subsection (1) commits an offence.

15. Prohibition of importation of regulated articles-(1) Notwithstanding sections 12 and 14 but subject to subsection (2), the Chief Executive Officer may by order, if of the opinion that there is an unacceptably high level of biosecurity risk in

respect of goods and following receipt of appropriate scientific advice, prohibit the importation of goods, either generally or from any specified place and either absolutely or subject to such conditions or restrictions, as may be specified in the order.

(2) Where the Chief Executive Officer orders the prohibition of the importation of goods under subsection (1), the Chief Executive Officer must before issuing the order take into account the risk analysis related to the goods.

16. Notification of imports-(1) Every importer of a regulated article shall notify the Chief Executive Officer of the intended date of arrival thereof and shall furnish the Chief Executive Officer with such additional information as the Chief Executive Officer may require.

(2) In respect of regulated articles that contain a genetically modified organism, the notification under subsection (1) shall state whether the article contains a genetically modified organism.

(3) Any person who contravenes any of the provisions of this section commits an offence.

17. Dispatch of regulated articles to Samoa-(1) For the purposes of this section, no person shall be deemed to have introduced into Samoa a regulated article where such article is received by the person from beyond Samoa without their consent given before dispatch of the article to Samoa.

(2) Notwithstanding that any person receives a regulated article from beyond Samoa without the person's consent given before dispatch of the regulated article, such person shall, on receipt of the regulated article, immediately notify an **Authorised** Officer and carry out to the satisfaction of the **Authorised** Officer such directions as the **Authorised** Officer may give as to the destruction, disposal or treatment of the regulated article.

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

18. Inspection on arrival-(1) The inspection or examination of regulated articles may be by any means.

(2) On the arrival from any place outside Samoa of any vessel, an **Authorised** Officer may require to be opened any package or inspect or examine any goods for the presence of -

- (a) Any regulated article intended for importation; and
- (b) Any regulated article which has been landed from the vessel, and, if found to be infested, the **Authorised** Officer may require that it be denied entry, disposed of or treated in such a manner as to eliminate the infestation prior to its release.

(3) After an inspection or examination under this section an **Authorised** Officer shall:

- (a) Subject to subsection (4), if of the opinion that there is an unacceptable level of biosecurity risk in respect of the regulated article, order the article into quarantine control; or
- (b) If of the opinion that there is no unacceptable level of biosecurity risk in respect of the regulated article, release the article from quarantine and permit it to be delivered to the importer.

(4) Where an **Authorised** Officer orders any article under subsection 3(a) into quarantine control, the **Authorised** Officer shall before issuing the order take into account:

- (a) The risk analysis related to the article; and
- (b) The control, inspection and approval procedures under the SPS Agreement.

19. Examination of imported goods-(1) An **Authorised** Officer may examine any imported goods that have been released from quarantine control.

(2) After the examination the **Authorised** Officer shall:

- (a) Subject to subsection (3), if of the opinion that there is an unacceptably high level of biosecurity risk in respect of the goods, order the goods into quarantine control; or
- (b) If of the opinion that there is no unacceptably high level of biosecurity risk in respect of the goods, release the goods from quarantine and permit them to be delivered to the importer.

(3) Where an **Authorised** Officer orders any goods under subsection 2(a) into quarantine control, the **Authorised** Officer shall before issuing the order take into account:

- (a) The risk analysis related to the goods; and
- (b) The control, inspection and approval procedures under the SPS Agreement.

20. Inspection of in-transit shipments-(1) When a conveyance carrying a regulated article from any place outside Samoa arrives at its first port or airport of entry in Samoa the importer or their agent or the representative thereof shall land all or any such part thereof as the **Authorised** Officer may direct for inspection and treatment if required and the regulated article shall not be removed, transhipped or diverted for inspection, treatment or discharge to a second destination or port or airport of entry except in the manner or subject to any conditions as directed by the **Authorised** Officer.

(2) Any person who contravenes subsection (1) commits an offence.

(3) If it is necessary to store any article referred to in subsection (1), any costs associated with this process shall be the responsibility of the importer of the article or their agent or representative.

21. Importation for special purposes-(1) Notwithstanding the provisions of sections 12 and 14, the Chief Executive Officer may issue a permit under the provisions of this Act in respect of any regulated articles required to be imported or introduced into Samoa for:

- (a) The purpose of research or experiment to improve the quality of plants, animals or the wider environment in Samoa and the products to be derived therefrom; or
- (b) The purpose of any zoological garden or display approved by the Chief Executive Officer; or
- (c) For any other special purpose approved in writing by the Chief Executive Officer.

(2) Conditions as deemed necessary may be imposed on such an importation.

22. Inspection and treatment - On the arrival of a conveyance in Samoa, if an **Authorised** Officer has reason to believe the conveyance is contaminated or otherwise infected, the Officer -

- (a) Shall enter and inspect the conveyance and apply seals, treatment or other measures commensurate with any risk of the presence or spread of pests and diseases; and
- (b) Shall require such treatment to be undertaken at the expense of the owner and/or operator of the conveyance as necessary to avoid the introduction of a pest or disease to Samoa.

23. Ports and airports of entry-(1) No regulated articles may be imported except through the ports or airports prescribed for the entry of such articles.

(2) Regulated articles requiring treatment as a condition of entry may be imported only through those ports or airports specified for their entry in the permit for their importation.

(3) Regulated articles arriving at the first port or airport of entry in Samoa may be permitted by an **Authorised** Officer to be diverted under quarantine control to an alternate port or airport, subject to such conditions as the **Authorised** Officer may direct, for treatment and disposition in accordance with paragraph (4) (b).

(4) When a conveyance carrying regulated articles arrives in Samoa, the following provisions shall be observed: -

- (a) Regulated articles intended to be conveyed to ports or airports other than the first port or airport of entry may be allowed to proceed to the ports or airports of destination if treatment facilities are available at such ports or airports;
- (b) Regulated articles intended to be conveyed to ports or airports where treatment facilities are not available shall be landed for inspection, and treatment if required, or shall be diverted to a port or airport where treatment facilities are available, there to be landed, inspected and treated, if

necessary, and transhipped under quarantine control;

- (c) An **Authorised** Officer shall issue a release, in writing, when satisfied that the shipment of regulated articles complies with the requirements of this Act.

(5) Any person who contravenes subsection (1) or subsection (2) or who knowingly has in their possession, or who takes from quarantine control, any regulated articles before an **Authorised** Officer has approved their release under paragraph (4) (c) commits an offence.

24. Duty of Immigration, Customs and Postal Officers—(1) At ports and airports it shall be the duty of all Immigration Officers, Customs Officers and Officers of the agencies responsible for the handling and delivery of postal articles (Postal Officers):

- (a) To provide **Authorised** Officers with such assistance as the **Authorised** Officers may reasonably require to undertake their functions and duties under this Act; and
- (b) Unless the Minister directs otherwise, to ensure that **Authorised** Officers have priority over such officers in undertaking their duties under this Act.

(2) It shall be the duty of all Customs, Immigration and Postal Officers to assist in carrying out the provisions of this Act and to assist with the prevention of the introduction into Samoa or the bringing to any part of Samoa of anything contrary to this Act, and for that purpose they may, in respect of anything so introduced or so brought or attempted to be introduced or brought, exercise all the powers conferred by the respective postal, customs or immigration legislation.

(3) Where a Customs or Immigration or Postal Officer has reason to believe that goods under their supervision or control may be a biosecurity risk the officer shall immediately notify the Chief Executive Officer or an **Authorised** Officer.

(4) A Customs or Immigration or Postal Officer may detain goods so as to allow for further inspection by an **Authorised Officer**.

25. Seizure and biosecurity-(1) Any regulated articles imported in contravention of the provisions of this Act or of any regulations or directions or orders made there under may, together with any descendant or anything cultivated there from and any other thing which may thereby be infected, be seized by an **Authorised Officer** and may be disinfected or be required to be taken to a quarantine station or be placed in isolation or under biosecurity conditions for further inspection and treatment as may be required.

(2) Where any regulated articles are found on any conveyance by an **Authorised Officer** which are not being imported or introduced into Samoa in accordance with the provisions of this Act or are not listed on the manifest of such conveyance, the **Authorised Officer** may direct either that the regulated articles be retained on the conveyance or re-shipped.

(3) An **Authorised Officer**, whenever the officer considers necessary, may direct that anything seized pursuant to subsection (1) be destroyed or otherwise disposed of where the seized article has a value not more than such amount approved by the Chief Executive Officer.

(4) The Chief Executive Officer, whenever the Chief Executive Officer considers necessary, may direct that anything seized pursuant to subsection (1) be destroyed or otherwise disposed of.

(5) No proceedings shall lie in respect of actions taken pursuant to subsections (1), (2), (3) and (4) and no compensation shall be payable in respect thereof and all costs and expenses of and attendant upon any such seizure of any regulated articles or thing and the destruction or other dealings therewith shall be borne by the importer thereof and shall be recoverable from the importer as a debt due to the Government.

(6) Where action is taken in respect of subsections (3) or (4) a receipt shall be issued for any article or thing seized.

26. Duty to prevent animal from being landed-(1) The owner, charterer, agent, master or captain of any conveyance arriving in Samoa shall -

- (a) Prevent any animal from being landed from such conveyance unless permitted by an **Authorised Officer**;
- (b) Take reasonable measures to prevent the deliberate or accidental landing or release of any such animal;
- (c) Comply with such conditions as the **Authorised Officer** determines; and
- (d) If so required by an **Authorised Officer**, enter into a bond as specified in the regulations.

(2) Any person who contravenes any of the provisions of subsection (1) commits an offence.

(3) If the Chief Executive Officer believes there is a biosecurity risk associated with an animal landed in contravention of subsection (1), the Chief Executive Officer may order the destruction of the animal concerned.

27. Identification of packages-(1) Boxes, cases, crates, packages, bales or other containers in which regulated articles are imported shall be identified to include the nature of the contents, country and locality of origin, name and address of the shipper and the consignee.

(2) The identification of goods under subsection (1) shall be sufficient to enable goods subject to quarantine control to be identified.

(3) Any person who imports anything into Samoa in contravention of any of the provisions of this section commits an offence.

28. Declaration by passengers-(1) Persons arriving in Samoa shall declare, in writing on the declaration form used for arrival clearance purposes, or in such other manner as may be prescribed, their possession of and/or intention to import any regulated article and it shall be the duty of the **Authorised Officer** at the time of importation thereof, to obtain such declaration from each person arriving from overseas.

(2) Any person who makes a false or misleading or incomplete declaration under subsection (1) commits an offence.

29. Discharge and treatment of garbage and ballast water-(1) No person shall, without the permission of an **Authorised** Officer and subject to such terms and conditions as the officer may impose, discharge any garbage or ballast water into Samoa or the territorial sea or cause it to be so discharged or to be landed from a conveyance.

(2) Any person who contravenes subsection (1) commits an offence.

PART III PEST AND DISEASE CONTROL

30. Pest and disease surveys-(1) The Chief Executive Officer may conduct or cause to be conducted pest and disease surveys in Samoa in the discharge of responsibilities under this Act or in relation to facilitating the production of goods or the export of goods from Samoa.

(2) All persons shall assist the Chief Executive Officer in the conduct of any survey under subsection (1) and shall provide any information which the Chief Executive Officer may reasonably require.

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

31. Declaration and control of infected areas-(1) If the Chief Executive Officer has cause to believe or suspect that any animal or plant which is on or in any land or water is suffering from or is affected by or infected with any pest or disease and is likely to be of quarantine concern to Samoa the Chief Executive Officer shall by public notice declare that land or water and such other land or water (if any) in the neighbourhood as may be specified, to be an infected area.

(2) Subject to subsection (3), a copy of the notice under subsection (1) shall be given to the occupier of each piece of land or water included in the infected area.

(3) Where an occupier cannot be identified or located for the purpose of serving a copy of the notice as required by subsection (2) the Chief Executive Officer shall cause a copy of the notice to be displayed on the land or water in a manner that is calculated to come to the attention of the occupier.

(4) Every notice under subsection (1) shall be in a form approved for the purpose by the Chief Executive Officer.

(5) When an infected area is declared under subsection (1) the Chief Executive Officer may require the Commissioner of Police and any Ministry or statutory corporation or agency of the Government, including but not limited to any officer of the Airports Authority or Samoa Ports Authority, to use their powers and resources to assist in the control or eradication of a pest or disease and such assistance may include but is not limited to:

- (a) Setting up roadblocks and checkpoints at all exits from the infected area; and
- (b) The setting up of facilities for the cleansing and disinfection of all persons and conveyances and any other thing likely to spread any pest or disease.

(6) The Chief Executive Officer shall cause to be set up adequate facilities for:

- (a) The disinfection of all conveyances, crates, containers, packing and any other things which are likely to carry pests or diseases and which are being sent out of an infected area; and
- (b) The detailed inspection and disinfection of all persons and their possessions leaving the infected area so as to prevent any person, clothing, footwear, implements or any goods, which in the opinion of the **Authorised** Officer are likely to be infected, from leaving the infected area.

(7) Every person commits an offence who:

- (a) Resists or wilfully obstructs or wilfully fails to comply with any **direction** of the Chief Executive Officer or any **Authorised** Officer or any police

officer or any other person who is acting in performance of their duties under this section; or

- (b) Knowingly enters or leaves an infected area or removes any goods from an infected area otherwise than in accordance with such conditions as may be specified by the Chief Executive Officer or an **Authorised** Officer; or
- (c) Knowingly moves any goods out of or into an infected area, or from one place within an infected area to another place within that infected area, without the written permission of the Chief Executive Officer or an **Authorised** Officer or otherwise than in accordance with such conditions as may be specified in the written permission.

(8) All goods that are removed or moved in contravention of subsection (7) may be seized by an **Authorised** Officer, and shall be forfeited, destroyed, sold or otherwise disposed of as the Chief Executive Officer may direct and no compensation or damages shall be paid to any person in respect of the Chief Executive Officer or an **Authorised** Officer or a police officer or any other person who is acting in performance of their duties and powers under this section.

32. Revocation of infected area declaration - Every declaration that an area of land or water is an infected area shall remain in force until it is revoked by a public notice in Samoan and English published in the Savali and one other newspaper circulating in Samoa and where possible served on the occupier of each piece of land or water affected in accordance with the provisions of section 31(2) and (3).

33. Avoidance of pest or disease - The Minister may by public notice specify particular activities that should be undertaken or avoided in order to prevent the spread of any pest or disease.

34. Control or eradication of a pest or disease-(1) The owner and occupier of any land or water and the owner or

person in charge of any conveyance shall do whatever is directed by an **Authorised** Officer which the officer considers necessary in respect of that land or water or conveyance to eradicate any pest or disease from the land or water or conveyance or to control or prevent the spread of any pest or disease to or from any place whatsoever.

(2) If such occupier, owner, or person in charge fails to comply, to the satisfaction of the **Authorised** Officer, with any direction given under subsection (1) the **Authorised** Officer may, with the authority of the Chief Executive Officer, carry out the measures directed in every way at the expense, (but without prejudice to their liability under this Act) of the occupier, owner or person in charge, as the case may be, and the expense may be recovered from the occupier and owner and person in charge, as the case may be, by the Chief Executive Officer as a debt due to the Government.

35. Declaring and maintaining areas free or of low pest and disease prevalence-(1) The Minister may, following receipt of appropriate scientific advice, declare a specific part of land or water or sea belonging to Samoa to be free, or an area of low pest and disease prevalence, from specific pests or diseases.

(2) In acting under subsection (1) the Minister must define the part of land or water or sea so covered, and may impose such controls and conditions on the movement of humans, animals, plants, goods or regulated articles as are necessary to maintain the freedom or the degree of low pest and disease prevalence from the particular pests and diseases of concern.

(3) Every person who wilfully acts in contravention of or wilfully fails to comply in any respect with any control or condition imposed under subsection (2) commits an offence.

36. Proclamation of pest or disease emergency-(1) If at any time it appears to the Minister that an outbreak of a serious pest or disease has occurred, or is likely to occur in Samoa or in any part or parts of Samoa, the Minister, with the authorisation of Cabinet and by public notice, may declare that a state of pest or disease emergency exists throughout an area or areas comprising such part or parts thereof as may be specified.

(2) The Minister may at any time in like manner revoke any such notice.

(3) No such notice shall remain in force for more than six months, but nothing in this subsection shall prevent the issue of another notice before or after the end of that period.

(4) While a pest or disease emergency exists throughout any such area or areas, the Chief Executive Officer may:

- (a) Require the owner of any good or article or equipment or land or water or premises or conveyance which is anywhere in Samoa and which the Chief Executive Officer considers would be of assistance in preventing, eradicating or limiting the spread of the pest or disease, to transfer the good or article or equipment to or permit it or the land or water or premises or conveyance to be used for a specified period by the Chief Executive Officer or any **Authorised Officer**;
- (b) Require treatment and measures to be adopted in respect of any goods or conveyances which are diseased, pestiferous, or infected, and require the cleansing or disinfecting of places, soil, conveyances, machinery, tools, equipment, clothing, footwear or thing and any other places or goods or soil or conveyance or thing which may have come into contact with those goods or conveyances or places or soil or thing;
- (c) Prohibit or restrict (subject to any conditions thought fit to impose) the introduction into an infected area or the removal from an infected area of any conveyance, machinery, tools, equipment, or other goods or thing or any animal or any plant material or any form of fungus, bacterium, virus, or micro-organism, or any insect, mite, or other invertebrate animal, or soil;
- (d) Require the treatment and measures to be adopted in respect of any goods or things or places which are diseased, pestiferous or infected, and require the cleansing or disinfecting of soil, conveyances,

machinery, tools, equipment, clothing, footwear, goods or other things which may have come into contact with the goods or things or places associated with the emergency;

- (e) Provide for the destruction or special treatment of any specified goods or things or conveyances and the special treatment of land and water and places;
 - (f) Determine the manner in which goods, things, soil and packages shall be treated, cleansed, destroyed, or otherwise disposed of;
 - (g) Determine the manner in which persons or goods or things coming into contact with diseased, pestiferous or infected goods, land, water, premises, places and conveyances shall be cleansed and disinfected;
 - (h) Provide for the disinfection of persons, clothing, conveyances and any goods and things whatsoever, who or which pass out of or through any area so as to assist in limiting the spread of the pest or disease;
 - (i) Require any port authority or airport authority in any instances where a pest or disease is found on or in any land or water or place to prohibit or restrict the use of any port or airport or facilities at such port or airport under the authority's control as the Chief Executive Officer may specify and to such extent as may be required.
- (5) Every person who in response to a requirement pursuant to this section:
- (a) Renders assistance; or
 - (b) Transfers any article or equipment or thing or conveyance; or
 - (c) Permits any land or water or premises or place or conveyance,
- to be used for any period under subsection (4) shall be entitled to be remunerated or compensated out of money appropriated by the Legislative Assembly at such rate and subject to such conditions as may be prescribed by regulations made under this

Act or as may be approved by the Chief Executive Officer of the Ministry of Finance if there are no such regulations or in cases where the regulations do not apply.

(6) Every person who wilfully acts in contravention of or wilfully fails to comply in any respect with any provision of this section commits an offence.

37. Power to take the life of an animal and conduct post mortem examination-(1) Where an **Authorised** Officer examining an animal suspects that the animal is diseased and considers a post mortem examination necessary to establish a diagnosis, the **Authorised** Officer may, on the authority of the Chief Executive Officer, take or cause to be taken the life of the animal and conduct a post mortem examination in such manner as considered necessary to decide whether the animal is diseased, and where necessary for the same purpose, obtain specimens for laboratory examination and diagnosis.

(2) Where an **Authorised** Officer takes or causes to be taken the life of an animal pursuant to subsection (1) the results of the examination and of any laboratory reports accruing from the examination must be provided in writing to the Chief Executive Officer and the owner of the animal where such owner can be identified and located.

38. Beneficial organisms and biocontrol agents-(1) The Minister, after receipt of appropriate scientific advice and with the authorisation of Cabinet, may approve the release of such beneficial organisms or biocontrol agents as are necessary for the control or eradication of a particular pest or disease.

(2) No liability shall attach to the Minister or the Government in respect of the release of beneficial organisms or biocontrol agents.

(3) The Chief Executive Officer shall maintain a register detailing:

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

(4) The register under subsection (3) shall be available for public inspection upon payment of a fee determined by the Chief Executive Officer.

39. Pests and diseases - The Chief Executive Officer shall cause to be kept and maintained a list of regulated pests and diseases which shall be available for public inspection upon payment of a fee determined by the Chief Executive Officer.

PART IV GENERAL

40. International cooperation and register of known pests and diseases-(1) The Minister, with the approval of Cabinet, may enter into agreements with other states and international organisations for the effective international cooperation and control of biosecurity risks in Samoa and elsewhere and in doing so the Minister may approve the exchange of information in accordance with such agreements.

(2) The Minister shall cause to be kept and maintained a list of pests and diseases known to be present in Samoa which shall be available for public inspection upon payment of a fee determined by the Chief Executive Officer.

41. National Biosecurity Coordination-(1) The Minister may enter into written agreements with other Ministries and Government agencies and other persons in relation to the effective management of this Act.

(2) Such authority under subsection (1) may include but is not limited to:

- (a) The power to enter into contractual arrangements for the provision of services to or by Ministries or Government agencies and other persons;
 - (b) The power to recover the cost of any services provided to any Ministry or Government agency or person under the provisions of this Act.
- (3) The Minister shall ensure that appropriate consultation with Ministries and Government agencies takes place where the

exercise of powers under this Act is relevant to the operation of those Ministries or Government agencies.

42. Authorised Officers-(1) The Chief Executive Officer may appoint such **Authorised** Officers as may be necessary for the proper carrying out of the provisions of this Act and any person so appointed shall perform such duties, not inconsistent with the provisions of this Act, as may be specified by the Chief Executive Officer in the instrument of appointment.

43. Identity cards-(1) The Chief Executive Officer may cause an identity card to be issued to an **Authorised** Officer.

(2) An identity card:

(a) Is to incorporate a recent photograph of the **Authorised** Officer to whom it is issued; and

(b) Is to contain:

(i) the **Authorised** Officer's signature; and

(ii) a unique number assigned to the Officer; and

(c) Is to state that the **Authorised** Officer is appointed under this Act.

(3) A person who ceases to be an **Authorised** Officer must, as soon as practicable after so ceasing, return their identity card to the Chief Executive Officer.

(4) A person commits an offence if:

(a) That person ceases to be an **Authorised** Officer and fails to return their identity card as required by subsection (3); or

(b) Uses their identity card in any circumstance where the person:

(i) has ceased to be an **Authorised** Officer; or

(ii) is not **authorised** to so act under this Act; or

(iii) is acting outside of the powers or duties or responsibilities of the person under this Act; or

- (c) Permits or assists another person to use their identity card for any purpose.

44. Facilities for the inspection and treatment of regulated articles-(1) The Chief Executive Officer may, on application by the owner or occupier of a place and on payment of the prescribed fee, by writing:

- (a) Approve and register a place where the inspection and treatment of goods may take place; and
 - (b) If a place is so approved, approve goods being moved, dealt with or interfered with in any way set out in the approval while they are in that place.
- (2) In deciding whether to give approval under subsection (1), the Chief Executive Officer shall take into account:
- (a) Whether everything to be done in the proposed application in relation to the goods at the place:
 - (i) can be done without an unacceptably high level of biosecurity risk; and
 - (ii) can be done without any contravention of the requirements of this Act, the regulations and the conditions or requirements set out in any permit;
 - (b) Whether the place and the facilities in the place are adequate to enable the proposed procedures to be carried out in respect of the goods;
 - (c) Whether the location of the place is appropriate having regard to the nature of the goods, the proposed procedures and the level of biosecurity risk;
 - (d) Whether the place is sufficiently close to the nearest place where duties are regularly performed by **Authorised** Officers or other persons **authorised** under this Act who could appropriately be called upon to check whether this Act and the regulations are being complied with in relation to the goods; and
 - (e) Any other matters the Chief Executive Officer thinks relevant.

(3) An approval under this section may be expressed to be subject to conditions stated in the approval and has effect for a period not exceeding 12 months.

(4) An approval under this section may be cancelled by the Chief Executive Officer at any time where the Chief Executive Officer is not satisfied that the place complies with the provisions of this Act or the regulations or is otherwise not suitable to be approved under this section.

45. Powers of entry-(1) In the exercise of functions, powers and duties under this Act, an **Authorised** Officer may, at any time, enter any conveyance, land, water or place, other than a dwelling house, for the purpose of searching for or inspection of regulated articles and before acting under the provisions of this section, the **Authorised** Officer shall, if requested to do so by the person in charge of the conveyance or in occupation of the land or water or place, produce the **Authorised** Officer's identify card.

(2) No **Authorised** Officer may enter a dwelling house without the owner or occupier's approval unless **authorised** in that behalf by a search warrant under the hand of a Judge or a Registrar of the Supreme or District Court who shall not grant the warrant unless satisfied that the **Authorised** Officer has reasonable grounds for requiring entry to the dwelling.

(3) A search warrant under subsection (2) may be applied for and **authorised** in the same manner as provided for under Section 83 of the Criminal Procedure Act 1972, with such adaptations and modifications as the case may require.

46. Search - Despite any other law and subject to section 45(2), an **Authorised** Officer may, in carrying out functions under this Act or under any regulations or orders made thereunder, examine cargo, mail, baggage, conveyances or areas for the purpose of searching for or inspecting quarantinable goods without the need to obtain a search warrant.

47. Opening of containers, etc-(1) An **Authorised** Officer may require the importer or exporter of any box, case,

receptacle or container to open it or cause it to be opened or unloaded for inspection.

(2) The cost of opening and resealing any box, case, receptacle or container under subsection (1) shall be borne by the importer or exporter as the **Authorised** Officer may determine and where the opening or resealing is undertaken by or on behalf of an **Authorised** Officer such cost shall be recoverable from the importer or exporter as a debt due to the Government.

48. Obstructing **Authorised Officers** - Any person who directly or indirectly obstructs, hinders, interrupts, interferes with, threatens or assaults an **Authorised** Officer in the performance of their functions under this Act or regulations commits an offence.

49. Compliance agreements-(1) The Chief Executive Officer may enter into a written agreement (a compliance agreement) with a person in connection with:

- (a) The application of particular procedures in respect of goods; and
- (b) The supervision, monitoring and testing of the person's compliance with those procedures.

(2) A compliance agreement may provide that, in circumstances stated in the agreement, the Chief Executive Officer may, by written notice, cancel or vary the agreement or suspend its operation for a period and these circumstances may include but are not limited to the lack of adherence to required procedures.

(3) An **Authorised** Officer may release goods to which a compliance agreement applies on the basis of a certificate or assurance, given by a person **authorised** under the agreement to give the certificate or assurance, that all the procedures to which the agreement refers have been complied with in respect of the goods.

(4) Any person who knowingly or recklessly provides the Chief Executive Officer or an **Authorised** Officer with a false or misleading or incomplete certificate or assurance under subsection (3) commits an offence.

50. Safe carriage and safe working environment of Authorised Officers-(1) Where it is necessary for Authorised Officers to be transported to vessels, such transport shall provide safe carriage having regard to the conditions of travel.

(2) Where it is necessary for an Authorised Officer to undertake inspection duties on vessels or premises or places, not being a vessel or premise or place owned by the Government, the owner and operator of the vessel or premises or place, as the case may be, shall provide a safe working environment for the Authorised Officer.

(3) Any person who has a duty under this section who fails to perform that duty commits an offence.

51. Protection against claims – Subject to this Act, no claim or proceedings shall lie against the Government, the Ministry, the Minister, the Chief Executive Officer, an Authorised Officer or any person authorised to act under the provisions of this Act or regulations in respect of anything done or omitted to be done in the discharge or purported discharge of any function or power under this Act or any regulations or directions or orders made thereunder in good faith and without negligence.

52. Fees and charges-(1) The Minister may impose fees or other charges, by public notice, on importers, exporters or other persons for permits, certificates, approvals of any sort, or for the services of an Authorised Officer, or for space, food or any materials used in quarantine stations or facilities or for application of treatment required under this Act or for any other matter provided for under this Act.

(2) If payment of any fee or charge is not received within a period nominated by the Chief Executive Officer the Minister may impose a penalty on such moneys owing at a rate or in such amount as prescribed by regulation.

(3) In the event that further development of any quarantine facility is necessary for the purpose of safely allowing an importation of any quarantinable good, the cost of any such development may be recovered from the proposed user of such facility.

(4) The Chief Executive Officer may require that any fee or other charge or penalty imposed under this section be paid in whole or part prior to the Minister or Chief Executive Officer or **Authorised** Officer or any other person **authorised** to act under the provisions of this Act or regulations providing any service, permit, certificate, approval or other matter provided for under this Act.

53. Withholding services-(1) If the Chief Executive Officer is satisfied that payment due for services provided under this Act, including any penalty imposed, has not been received, a direction may be issued by the Chief Executive Officer by written notice that services not be provided to the debtor in the future.

(2) Where a person is indebted to the Government under the provisions of this Act and the person has failed to pay the debt within a period nominated by the Chief Executive Officer, the Chief Executive Officer may refuse to register or renew or transfer any registration required by such person under the provisions of this Act until the debt is paid and the Chief Executive Officer is satisfied that the person will be able to meet their financial obligations to the Government in the future.

54. Enforcement of conditions imposed - Any person who contravenes any condition or requirement specified in, or imposed by, any permit, notice or other instrument issued under any provision of this Act or of any regulations or directions or orders made thereunder, shall be deemed to have contravened the provision under which such permit, notice or instrument was issued.

55. Evidence-(1) Despite any other law, in any court or tribunal or administrative or other proceedings under the provisions of this Act, the Minister, the Chief Executive Officer, an **Authorised** Officer or other person **authorised** to act under this Act or regulations may present as evidence in lieu of a regulated article a certificate of analysis of such article and such certificate shall be in a form approved by the Chief Executive Officer from time to time.

(2) A certificate of analysis under subsection (1) shall establish the matter or matters certified in the certificate in the absence of acceptable evidence to the contrary.

56. Sanctions (1) Subject to such procedure as may be prescribed, the Chief Executive Officer may, where satisfied that a person has committed an offence against this Act in respect of which a pecuniary penalty is provided or in respect of which any goods are liable to be forfeited, compound such offence and may order such person to pay such sum of money, not exceeding the maximum amount of the pecuniary penalty to which such person would have been liable if the person had been prosecuted and convicted for the offence, as the Chief Executive Officer may think fit, and the Chief Executive Officer may order any goods liable to forfeiture in connection therewith to be disposed of or destroyed.

(2) The Chief Executive Officer shall not exercise the powers under this section unless such person in writing admits the offence and requests the Chief Executive Officer to deal with the offence under this section.

(3) The Commissioner of Police shall provide the Chief Executive Officer or an **Authorised** Officer with assistance as required under this section.

(4) Where the Chief Executive Officer makes an order under subsection (1):

- (a) The order shall be writing and shall have attached to it the request to the Chief Executive Officer to deal with the matter;
- (b) The order shall specify the offence which the person has committed and the penalty imposed by the Chief Executive Officer;
- (c) A copy of the order shall be given to the person if so requested;
- (d) The person against whom the order is made shall not be liable to any further proceedings or prosecution in respect of the offence and if in custody shall be discharged;
- (e) The order shall be final and not be subject to appeal; and

- (f) If the sum of money ordered to be paid or any part thereof is not paid, it shall be lawful for the Chief Executive Officer to send a copy of the order to a court of competent jurisdiction which shall thereupon make an order for the enforcement of the order in the same manner as if a penalty had been imposed by the court.

57. Disposal or destruction of regulated articles -

Whenever a person is convicted of an offence punishable under this Act or any regulations or orders made thereunder, the court before which the person is convicted may order the disposal or destruction of the regulated articles or other item, if any, in respect of which the offence has been committed.

58. Delegation by Minister - The Minister may, by signed writing, delegate to the Chief Executive Officer all or any of the Minister's powers under this Act, the regulations and any other instrument under this Act or regulations.

59. Delegation by Chief Executive Officer - The Chief Executive Officer may, by signed writing, delegate to an officer all or any of the Chief Executive Officer's powers, except the power of delegation, under this Act, the regulations and any other instrument under this Act or regulations.

60. Amendment of First Schedule - The Minister may amend the First Schedule to this Act by public notice from time to time.

61. Giving notice under this Act - Any notice or direction which may be given to any owner or occupier of land or water or any other person by the Minister or Chief Executive Officer or an **Authorised** Officer in the performance of duties under this Act may be given by delivering the notice or direction to the owner or occupier or other person, as the case may require, or by leaving it at or posting it addressed to their usual or last known place of abode or business in Samoa and, where it is

impracticable to give notice in accordance with the foregoing provisions of this section, it may be given by public notice.

62. Existence of pest or disease-(1) For the purposes of this Act, the Chief Executive Officer may at any time issue an advice in writing:

- (a) Stating that any disease or pest is or is not known or believed to exist in any place, country, or region;
- (b) Determining the classification, name or identity of any animal, animal product, plant, plant material, disease or pest.

(2) Every advice given under this section shall, for the purposes of this Act, be conclusive until revoked or amended in writing by the Chief Executive Officer and shall be admissible in any court or other proceedings as sufficient evidence of the matter stated in the advice unless the contrary is established.

63. False, misleading or incomplete declarations and certificates - Every person who makes any false or misleading or incomplete declaration under this Act or gives any false or misleading or incomplete certificate under this Act knowing the declaration or certificate to be false or misleading or incomplete, as the case may be, commits an offence.

64. Transmission of forms, notices, advices etc – Forms, notices, advices, correspondence and other communications relevant to this Act may be transmitted in electronic form subject to the approval of the Chief Executive Officer.

65. Liability for causing Authorised Officer to incur expense - If any person, by failing to comply with or acting contrary to this Act, causes an Authorised Officer to incur an expense that would not otherwise have been incurred, that person shall reimburse the Government for the full amount of that expense reasonably and properly incurred and that amount shall be recoverable from the person as a debt due to the Government.

66. Offences—(1) Every person who commits an offence against this Act is liable on conviction to a fine and a term of imprisonment as specified in the First Schedule to this Act.

(2) Where a body corporate is found guilty of an offence against this Act, every director, manager and any other person concerned in the management of the body corporate is guilty of the like offence unless the director or manager or other person, as the case may require, proves that the offence was committed without the director's or manager's or other person's consent or connivance and that the director or manager or other person exercised all such diligence to prevent the commission of the offence as the director or manager or the other person, as the case may require, ought to have exercised having regard to the nature of the director's or manager's or other person's functions in that capacity and to all the circumstances.

67. Offence with which Authorised Officers may be charged - Every Authorised Officer commits an offence if a regulated article under the officer's official custody or control is improperly used or disposed of, or reasonable care is not taken in respect of such regulated article.

68. Money - All money recovered or received under this Act shall be dealt with in accordance with the provisions of the Public Finance Management Act 2001.

69. Regulations—(1) Subject to subsection (3), the Head of State may, from time to time on the advice of Cabinet, make regulations providing for such matters as are contemplated by or are necessary to give full effect to the provisions of this Act and for its due administration.

(2) Without limiting the generality of subsection (1), regulations may provide for:

- (a) Fees, charges and penalties; and
- (b) Offences punishable by a fine not exceeding 100 penalty units or imprisonment not exceeding 12 months, or both.

(3) Notwithstanding anything in this Act, any regulation, order, directive, procedure or rule made by or established under

this Act shall take into account the provisions of the SPS Agreement.

70. Consequential repeals and amendments – The enactments specified in the Second Schedule to this Act are repealed or amended in the manner indicated in the Schedule.

71. Savings and transitional arrangements-(1) Every document and act of authority so far as they are subsisting or in force at the time of the repeal of the enactments repealed under section 70 and the Second Schedule shall continue and have effect under the corresponding provisions of this Act and regulations made under this Act until such time as they are altered or amended or cancelled, as the case may require, under the provisions of this Act.

(2) Despite the provisions of this Act, all applications, prosecutions, actions and other matters arising out of or under the provisions of the enactments repealed under section 70 and the Second Schedule which are not determined or otherwise dealt with under such provisions at the date of commencement of this Act shall be determined or otherwise dealt with under the corresponding provisions of this Act with such modifications, adaptations and alterations as the Minister may determine.

(3) Any reference to any provision or matter under or concerning any enactment repealed under section 70 and the Second Schedule in any enactment, other than this Act, shall be taken for all purposes as a reference to the corresponding provision or matter in this Act, unless the Minister by notice determines otherwise.

(4) For the purposes of this section, where there is no corresponding provision in this Act or regulations under this Act, the Minister may by notice determine a provision of this Act or regulations under this Act to be a corresponding provision.

(5) Despite the provisions of this Act, where this Act does not provide or provides insufficient or inadequate provision for the transition from the enactments repealed under section 70 and the Second Schedule to this Act, the Minister by notice may make such provisions as the Minister deems necessary in order

for all matters under or concerning the enactments repealed under section 70 and the Second Schedule to be properly and effectively determined or otherwise dealt with.

FIRST SCHEDULE

PENALTIES FOR OFFENCES (Section 66)

For the offences listed in column 1 a fine not exceeding the number of penalty units listed in column 2 and, if applicable, imprisonment for a period not exceeding the period listed in column 3, or both a fine and imprisonment, may be imposed by a court:

<u>Column 1</u> Offence:	<u>Column 2</u> Fine not exceeding:	<u>Column 3</u> Imprisonment not exceeding:
1. Section 7 (3)	3 penalty units	3 months
2. Section 10 (3)	6 penalty units	6 months
3. Section 11 (4)	6 penalty units	6 months
4. Section 12 (7)	12 penalty units	12 months
5. Section 14(2)	12 penalty units	12 months
6. Section 16 (3)	6 penalty units	6 months
7. Section 17 (3)	3 penalty units	3 months
8. Section 20 (2)	3 penalty units	3 months
9. Section 23 (5)	3 penalty units	3 months
10. Section 26 (2)	6 penalty units	6 months
11. Section 27 (3)	3 penalty units	3 months
12. Section 28 (2)	3 penalty units	3 months
13. Section 29 (2)	12 penalty units	12 months
14. Section 30 (3)	3 penalty units	3 months
15. Section 31 (7)	6 penalty units	6 months
16. Section 35(3)	6 penalty units	6 months
17. Section 36 (6)	6 penalty units	6 months
18. Section 43 (4)	6 penalty units	6 months
19. Section 48	6 penalty units	6 months
20. Section 49 (4)	6 penalty units	6 months
21. Section 50 (3)	6 penalty units	6 months

2005, No.22	<i>Quarantine (Biosecurity) 2005</i>	101
22. Section 63	3 penalty units	3 months
23. Section 67	12 penalty units	12 months

SECOND SCHEDULE (Section 70)

CONSEQUENTIAL REPEALS AND AMENDMENTS

<u>Enactment</u>	<u>Enactment repealed, amended or modified</u>
Animals Ordinance 1960	Repeal sections 37, 38, 39,40(2)(a),(b),(c),(d),(e), (f),(g) and (h)
Bunchytop Act 1965	Repeal
Cocoa Disease Ordinance 1961	Repeal
Noxious Weeds Ordinance 1961	Repeal
Plants Act 1984	Repeal
Rhinoceros Beetle Ordinance 1954	Repeal

**The Quarantine (Biosecurity) Act 2005 is administered in the
Ministry of Agriculture**