AN ACT

To prevent the entry of animal and plant pests and diseases into the Republic of Palau; to control their establishment and spread in the Republic of Palau; to regulate the movement of animal and plant pests and diseases, and of animals and plants and their products; to repeal 34 PNC §§ 2001 – 2010; to facilitate international cooperation with respect to animal and plant diseases; and for other related purposes.

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PART 1. GENERAL PROVISIONS.

Section 1. Short title. This Act may be cited as the Biosecurity Act of 2014.

Section 2. Definitions.

(a) In this Act, unless the context otherwise requires:

(1) "Animal" means any mammal (other than a human), bird, insect, amphibian, reptile, fish, mollusk or other member of the animal kingdom, whether alive or dead, and includes the egg, embryo, ova or semen and any organic animal tissue from which another animal could be produced, and the hide, skin, hair, feathers, shell, horns, hoof, viscera or any other part or portion of the body of an animal;

(2) "Animal product" means any article or substance derived from an animal, whether or not in combination with any other article or substance, and includes:

(A) meat, fat, milk, whey, cream, butter, cheese, eggs and other foodstuffs derived from an animal;

(B) the dung, urine, feces, saliva, bone or blood of an animal, or any article or substance derived from the dung, urine, feces, saliva, bone or blood of an

animal;

(C) the secretions of any animal; and

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

(3) "Article" means a single unit of any goods;

(4) "Baggage" means any goods which accompany a passenger or crew member on a conveyance, including clothing and any article attached or otherwise connected to the body or clothing of any passenger or crew member;

(5) "Biosecurity" means the control by legal and administrative means of pests and diseases affecting animals, plants and their products, in order to avoid adverse effects from such pests and diseases on the economy and health of the Republic of Palau;

(6) "Biosecurity approved premises" means premises approved for the inspection, testing and treatment of regulated articles;

(7) "Biosecurity authority" of a receiving country means the authority in that country which administers its biosecurity laws;

(8) "Biosecurity certification requirement," in relation to an article, means a requirement by a receiving country for a sanitary or phytosanitary certificate in respect of the article;

(9) "Biosecurity clearance," in respect of a regulated article or consignment, means biosecurity import clearance or biosecurity export clearance;

(10) "Biosecurity control" of a regulated article means submission of the article for inspection under this Act, and thereafter taking such biosecurity measures, or permitting such measures to be taken, as are directed pursuant to this Act, until biosecurity clearance is granted in respect of the article;

(11) "Biosecurity declaration" in relation to an article or consignment means a written statement of the nature, quantity and origin of the article or consignment, and of other details relating to it required by or under this Act;

(12) "Biosecurity emergency" means the incursion or suspected incursion of a regulated pest or disease into any area of the Republic of Palau, or the existence of some other biosecurity threat, which requires urgent action, whether by eradication,

containment or other response, and for which the powers under this Act are not otherwise adequate;

(13) "Biosecurity inspection" of an incoming or outgoing conveyance, article or consignment means an inspection to ascertain whether the conveyance, article or consignment presents a biosecurity risk to the Republic of Palau or a receiving country and whether in other respects it conforms to the requirements of this Act;

(14) "Biosecurity measure" means the inspection, detention, quarantining, testing, treatment, reconsignment or destruction of a regulated article to eliminate or reduce the biosecurity threat presented by the article;

(15) "Biosecurity officer" means the Chief and his or her deputy, if any, and any person designated a biosecurity officer in accordance with this law or Executive Order;

(16) "Biosecurity risk" means the likelihood of the introduction, establishment or spread of a pest or disease which would adversely affect animals, plants, human beings, the environment or economic activities, and the likely extent of such harm;

(17) "Biosecurity risk assessment" in relation to a regulated article means evaluation of the biosecurity risk posed by the article;

(18) "Biosecurity threat" means the threat of harm being caused or adverse effects resulting to animals, plants, human beings, the environment or economic activities as a result of the introduction, establishment or spread of a regulated pest or disease;

(19) "Chief" means the Chief of the Division of Biosecurity;

(20) "Consignment" means a quantity of goods which arrive in the same vessel or aircraft and which in accordance with this Act can be covered by a single import permit or sanitary or phytosanitary certificate;

(21) "Contamination" means the presence in any item of a pest, not constituting an infestation;

(22) "Conveyance" means a ship, aircraft, vehicle or other means of transporting people, goods or animals from one location to another, while it is being used or prepared for such transport;

(23) "Disease" means any unhealthy condition in an animal or plant which is known or suspected to be caused by an organism, and includes a disease transmissible

from animals to humans and a disease capable of harming the environment;

(24) "Division" means the Republic of Palau Division of Biosecurity constituted by Section 69;

(25) "Establishment," in relation to a pest or disease, means the perpetuation in an area of the pest or disease for the foreseeable future after its entry into the area;

(26) "Exporter" means a person who exports or seeks to export goods, other than as the master of the vessel or captain of the aircraft in which the goods are carried, and includes a biosecurity clearance agent;

(27) "Fittings" means any stall, box, cage, enclosure, pen, net or other material used for penning, yarding, confining or containing any animal and includes any harness, saddlery, rope, bucket, trough, bedding, utensil or implement used in the handling or keeping of animals or animal products;

(28) "Fodder" means any water, meat, vegetables, grain or material used for the food or litter of animals, or the storage of animal products;

(29) "Garbage" means waste material derived in whole or in part from plants, fruit, vegetables, meat or other plant or animal material, or other refuse of any kind that has been associated with any plants, fruits, vegetables, meat or other plant or animal material;

(30) "Genetic material" means any material of plant, animal, microbial or other origin containing functional units of heredity;

(30) "Goods" means any kind of moveable property or thing;

(31) "Host material" means any packing material, container, fittings, litter, manure, fodder or similar goods that might have had contact with animals or animal products;

(32) "Importer" means a person who imports or seeks to import goods, other than as the master of a vessel or captain of the aircraft in which the goods are carried; and includes a biosecurity clearance agent;

(33) "In transit," in relation to goods, means the goods are not imported into an area but pass through it to another area, whether by the same or another conveyance, during which time they remain enclosed, are not split up, are not combined with other

goods, and do not have their packaging changed;

(34) "Infected," in relation to an animal or plant, means that the animal or plant is diseased or may have been exposed to the risk of infection during the preceding 6 months;

(35) "Infested," in relation an item or area, means that there is present in the item or area a living pest or disease;

(36) "IPPC" means the International Plant Protection Convention of the Food and Agriculture Organization of the United Nations;

(37) "Introduction," in relation to a pest or disease, means the entry of the pest or disease into an area, resulting in its establishment in the area;

(38) "Item" means any kind of moveable or immoveable property or thing, including premises;

(39) "Living organism" means any organism capable of transferring or replicating genetic material, including sterile organisms, viruses, viroids, plasmids, bacteriophages and prions;

(40) "Microbe" means any organism or biotic entity of microscopic proportions, whether unicellular, multicellular or sub-cellular in common form;

(41) "Minister" means the Minister of Natural Resources, Environment and Tourism;

(42) "OIE" means the Office International des Epizooties;

(43) "Organism" means a biotic entity capable of reproduction or replication other than a human;

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

(45) "Person" means a public or private institution, corporation, partnership, joint venture, association, firm, or company organized or existing under the laws of the Republic or of any state or country, or an individual;

(46) "Pest" means any species, strain or biotype of a plant, animal, microbe or pathogenic agent, or any organism, which:

(A) causes disease; or

(B) is detrimental to or capable of harming or adversely affecting animals or animal products, plants or plant products, human beings or the environment;

(47) "Phytosanitary certificate" means a certificate relating to a plant or plant product which:

(A) is issued by the biosecurity authority of the country of origin;

(B) certifies that the plant or plant product is substantially free from plant pests and diseases and in other respects meets the plant health import requirements of the receiving country; and

(C) is patterned after the model certificates of the IPPC;

(48) "Plant" includes seeds, germplasm, any other part of a plant and a dead or preserved plant;

(49) "Plant material" means any unmanufactured material of plant origin, including grain;

(50) "Plant product" means:

(A) plant material;

(B) timber; and

(C) any product manufactured wholly or partly from one or more plants;

(51) "PPPO" means the Pacific Plant Protection Organization;

(52) "Reconsign," in relation to a regulated article or consignment which has been refused biosecurity import clearance, means to send the article or consignment out of the Republic of Palau, either by the vessel or aircraft on which it was imported or by another vessel or aircraft;

(53) "Regulated article" means:

(A) any animal or animal product;

(B) any plant or plant product;

(C) any living organism, whether modified or not;

(D) soil;

(E) any genetic material;

(F) human remains;

(G) any host material;

(H) a regulated pest or disease;

(I) any clothing, machinery or other article that contains or has adhering to it anything mentioned in paragraph (a), (b), (c) or (d);

(J) garbage;

(K) any other article, substance, goods or thing declared by the Minister by order to be a regulated article for the purposes of this Act;

(54) "Regulated consignment" means a consignment of regulated articles;

(55) "Regulated pest or disease" means a pest or disease the importation of which into the Republic of Palau is prohibited or restricted under section 4;

(56) "Sanitary certificate" means a certificate relating to an animal or animal product which:

(A) is issued by the biosecurity authority of the country of origin or re-exporting country;

(B) certifies that the animal or animal product is substantially free from animal pests and diseases and in other respects meets the animal health import requirements of the receiving country; and

(C) complies with relevant requirements of the SPS Agreement;

(57) "SPS Agreement" means the World Trade Organization Agreement on the Application of Sanitary and Phytosanitary Measures;

(58) "Timber" includes round wood, sawn wood, wood chips and dunnage, with or without bark;

(59) "Treatment" means an authorized procedure for the killing, removal, modification or rendering infertile or non-viable of a pest or disease by way of cleansing, fumigation, inoculation, disinfection, disinfestation, decontamination, or otherwise.

Section 3. Responsibility for the Act; delegation. The Minister shall be responsible for the implementation of this Act. Unless otherwise specified herein, the Minister shall exercise all powers necessary to enforce this Act, and may delegate those functions not expressly conferred to others by this Act.

PART 2. BORDER BIOSECURITY CONTROL.

Section 4. Regulated pests and diseases.

(a) The Minister may by order declare the pests or diseases:

(1) the importation of which is prohibited for all purposes;

(2) the importation of which is permitted subject to conditions.

(b) A person who imports or attempts to import a pest or disease which is prohibited under subsection (a)(1) commits an offense.

(c) A person who imports or attempts to import a pest or disease which is regulated under subsection (a)(2) in breach of the conditions of import, commits an offense.

Section 5. Prohibited imports.

(a) The Minister may by order prohibit the importation of:

(1) particular regulated articles from all countries; or

(2) particular regulated articles from one or more particular countries of origin.

(b) An order under this section in respect of an article:

(1) may be made at any time before biosecurity import clearance is granted in respect of the article; and

(2) continues in force until the prohibition is revoked or modified.

(c) If a person imports or attempts to import a prohibited article,

(1) the person commits an offense; and

(2) biosecurity import clearance under section 25 may be refused for the article.

(d) Before making an order under this section, the Minister shall obtain:

(1) a pest risk analysis;

(2) the advice of the Chief and of relevant technical section heads.

Section 6. Biosecurity points of entry and departure.

(a) The Minister may, consistent with Palau law, designate as biosecurity points of entry the ports, airports and post offices at which regulated articles may enter the Republic of Palau.

(b) Subject to subsection (i), a master or captain who causes or permits an

incoming vessel or aircraft to berth or land except at a port or airport that is a biosecurity point of entry commits an offense.

(c) A person who imports, or attempts to import, a regulated article or consignment except at a biosecurity point of entry commits an offense.

(d) The Minister may, consistent with Palau law, designate as biosecurity points of departure the ports, airports and post offices at which regulated articles may be exported.

(e) A master or captain who causes or permits a vessel or aircraft to leave the Republic of Palau except from a port or airport that is a biosecurity point of departure commits an offense.

(f) A person who exports, or attempts to export, a regulated article or consignment except at a biosecurity point of departure commits an offense.

(g) A designation of a biosecurity point of entry or departure may be limited to particular types of vessels, aircraft or articles or to arrivals from or exports to particular countries, to the extent consistent with Palau law.

(h) A vessel or aircraft may berth or land elsewhere than at a biosecurity point of entry:

(1) if constrained by adverse weather, mechanical failure or superior force; or

(2) if so directed by a duly authorized biosecurity officer.

(i) In the circumstances mentioned in subsection (h), the place where the vessel has berthed or the aircraft has landed is deemed to be a biosecurity point of entry for the purposes of this Act, once the Chief has been notified of the berthing or landing.

(j) Before making an order under subsection (a) or (d) the Minister should consult with the officers or authorities responsible for the movement of vessels, aircraft and postal items in the Republic of Palau.

Section 7. <u>Designation of biosecurity holding areas.</u>

(a) The Minister, to the extent that such does not conflict with Palau law, may by order designate:

(1) any territorial waters or any part of a port as a biosecurity port

holding area for vessels;

(2) any part of an airport as a biosecurity port holding area for aircraft;

(3) any area of land at or adjacent to a port or airport as a biosecurity goods holding area for incoming or outgoing containers and goods; and

(4) any part of a post office that has been designated as a biosecurity point of entry or departure as a biosecurity postal holding area for incoming or outgoing mail;

(b) Before making an order under this Section the Minister should consult with the officers or authorities responsible for the movement of vessels, aircraft and postal items in the Republic of Palau.

Section 8. Management of biosecurity holding areas.

(a) Sections 36(b) and (c) apply to biosecurity holding areas as they apply to biosecurity quarantine stations.

(b) No person, other than the person in charge of the area or a biosecurity officer acting in the course of duty, may enter a biosecurity holding area without the written permission of the Chief or the permission of the person in charge of the area or of a biosecurity officer acting in the course of duty.

(c) A duly authorized biosecurity officer may, in order to reduce a biosecurity threat, lock, seal or otherwise prevent entry to and exit from a biosecurity holding area or any building in it.

(d) A person who:

(1) enters a biosecurity holding area without permission pursuant to subsection (2); or

(2) damages, interferes with or in any way reduces the effectiveness of measures taken to secure a biosecurity holding area, or any regulated article or other item in the area, commits an offense.

(e) A person who removes or attempts to remove from a biosecurity holding area any regulated article without obtaining biosecurity clearance in respect of it, unless for the purpose of biosecurity measures being applied to the article in accordance with this Act, commits an offense.

Section 9. Biosecurity clearance agents.

(a) A person who proposes to import or export regulated articles through a port or airport and who will not be present at the designated port or airport when biosecurity inspection is to take place must:

(1) in writing appoint someone present in the Republic of Palau as biosecurity clearance agent for the purposes of this Act; and

(2) notify the Chief in writing of the appointment before the agent performs any agency functions.

(b) A biosecurity clearance agent appointed under subsection (a) ceases to be an agent for the purposes of this Act if the Chief notifies the importer or exporter in writing that, in the opinion of the Chief, the agent's conduct in the performance of functions under this Act renders the agent unacceptable for purposes of this Act.

(c) Notice under subsection (b) must be given in sufficient time to allow the importer or exporter to appoint another agent.

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

(e) If a person referred to in subsection (a) fails to comply with that subsection, biosecurity clearance will not be granted for any regulated article or consignment which the person seeks to import or export.

PART 3. VESSELS AND AIRCRAFT

Section 10. Biosecurity arrival declaration.

(a) The master or captain of every vessel or aircraft destined for the Republic of Palau must make to the Chief a biosecurity arrival declaration stating:

(1) the destination port or airport in the Republic of Palau and the estimated time of arrival of the vessel or aircraft;

(2) its immediately preceding port or place of call;

(3) the proposed itinerary of the vessel or aircraft until it leaves the Republic of Palau;

(4) the nature and country of origin of its cargo;

(5) the number of passengers and crew;

(6) the presence of any live animal or live plant aboard the vessel or aircraft;

(7) the nature of any illness or malady affecting any live animal, plant, crew member, passenger or other individual aboard the vessel or aircraft; and

(8) any other matter relevant to facilitating biosecurity landing clearance of the vessel or aircraft that is specified by the Chief.

(b) The declaration required by subsection (a):

(1) must be made not less than twelve (12) hours in the case of a vessel, or sixty (60) minutes in the case of an aircraft, before the estimated time of arrival;

(2) may be made by electronic means, in accordance with directions of the Chief issued from time to time; and

(3) may be made through a biosecurity clearance agent.

(c) A master or captain who contravenes a provision of subsection (a) commits an offense.

Section 11. <u>Biosecurity landing clearance.</u>

(a) The master or captain of every incoming vessel or aircraft must:

(1) take the vessel or aircraft directly to a biosecurity port holding area as directed by a biosecurity officer;

(2) permit a biosecurity officer to board and search the vessel or aircraft in accordance with section 43(a);

(3) provide to the officer the log, cargo manifest, bill of lading, stores list, passenger list, crew list and any other document that is on or in and relates to the vessel or aircraft and that the officer reasonably requests for the purposes of this Act; and

(4) complete an incoming conveyance biosecurity certificate, in the form specified by the Chief, certifying that all garbage, live animals, meat or animal products and plants or plant material on board the vessel or aircraft will be lawfully disposed of.

(b) After inspecting relevant documents and conducting any necessary search of an incoming vessel or aircraft, and if satisfied:

(1) that the vessel or aircraft does not have on board any regulated article that might pose a biosecurity threat to the Republic of Palau; and

(2) that the prescribed fee, if any, has been paid, a biosecurity officer may grant biosecurity landing clearance to the vessel or aircraft.

(c) Biosecurity landing clearance means that a vessel or aircraft may land crew members and any cargo or passengers on board, but the crew and any cargo or passengers remain subject to biosecurity control under this Act.

(d) Biosecurity landing clearance must be refused if a biosecurity officer orders the vessel or aircraft into port quarantine pursuant to section 12(b).

(e) A master or captain who contravenes a provision of subsection (a) commits an offense.

(f) A master or captain who lands any crew, cargo or passengers from a vessel or aircraft without biosecurity landing clearance, except with the permission of a biosecurity officer, commits an offense.

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

Section 12. <u>Biosecurity port quarantine of vessels and aircraft.</u>

(a) The Minister may by order designate:

(1) any territorial waters or any part of a port as a biosecurity port quarantine area for vessels;

(2) any part of an airport as a biosecurity port quarantine area for aircraft.

(b) If a biosecurity officer reasonably suspects that an incoming vessel or aircraft is:

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

(2) carrying any regulated article which might pose a biosecurity threat to the Republic of Palau, the officer may order the vessel or aircraft into biosecurity

port quarantine.

(c) If a vessel or aircraft is ordered into biosecurity port quarantine under subsection (a), a biosecurity officer may:

(1) order the master or captain to remove the vessel or aircraft to quarantine in a biosecurity port quarantine area; or

(2) if necessary, arrange for the vessel or aircraft to be removed to the biosecurity port quarantine area.

(d) The cost of removal of a vessel or aircraft to biosecurity port quarantine is to be borne by the owner or charterer.

(e) The owner or charterer and master or captain must each be given written notice stating the reasons for an order under this section in respect of the vessel or aircraft and, if it was removed under subsection (c), the whereabouts of the vessel or aircraft.

(f) If the Chief reasonably believes that a vessel or aircraft poses a serious biosecurity threat to the Republic of Palau which cannot adequately be dealt with by appropriate biosecurity measures, the Chief may order the vessel or aircraft to leave the Republic of Palau.

Section 13. Management of biosecurity port quarantine areas.

(a) No person, other than the person in charge of the area or a biosecurity officer acting in the course of duty, may enter a biosecurity port quarantine area without the written permission of the Chief or of the person in charge of the area.

(b) A person who:

(1) enters a biosecurity port quarantine area without permission; or

(2) damages, interferes with or in any way reduces the effectiveness of measures taken to secure a biosecurity port quarantine area, or any regulated article or other item in the area, commits an offense.

Section 14. Conduct of vessels and aircraft in biosecurity port quarantine.

(a) The Chief may give written directions to the master of a vessel or captain of an aircraft in biosecurity port quarantine:

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

(2) as to the movement of passengers, crew and cargo while the vessel or aircraft is in quarantine; and

(3) as to any treatment or other biosecurity measure that must be applied to the vessel or aircraft.

(b) The cost of keeping a vessel or aircraft in biosecurity port quarantine is to be borne by the owner or charterer.

(c) A master or captain who fails to take all reasonable steps to ensure that the vessel or aircraft and its cargo, crew and passengers conform to directions given under subsection (a) commits an offense.

Section 15. Biosecurity port quarantine clearance of vessels and aircraft.

(a) If satisfied:

(1) that a vessel or aircraft in biosecurity port quarantine is substantially free from regulated pests and diseases;

(2) that any potential biosecurity risk from ships' stores and other regulated articles on the vessel or aircraft is suitably contained; and

(3) that the prescribed fee, if any, has been paid, a biosecurity officer may grant biosecurity port quarantine clearance for the vessel or aircraft to unload passengers and cargo.

(b) Biosecurity port quarantine clearance of a vessel or aircraft may be granted unconditionally, or conditioned on entry into a bond to the Government, in the form specified by the Chief, by the master of the vessel or captain of the aircraft, for compliance with any requirements imposed pursuant to this Act in respect of the vessel or aircraft or cargo.

(c) Biosecurity port quarantine clearance of a vessel or aircraft has the same effect as biosecurity landing clearance granted under section 11.

Section 16. Outgoing vessels and aircraft.

(a) If a biosecurity officer has reason to believe that there is on board an outgoing vessel or aircraft any regulated article that requires biosecurity export clearance and that has not been cleared, the officer may:

(1) board and search the vessel or aircraft in accordance with section

43(a);

(2) request the master or captain to produce for inspection the cargo manifest, bill of lading, stores list, passenger list, crew list and any other document that is on or in and relates to the vessel or aircraft and that the officer reasonably requires for the purposes of this Act;

(3) direct the master or captain not to move the vessel or aircraft unless permitted by the officer, and then only as directed by the officer;

(4) direct the vessel or aircraft to be subjected to any treatment or other biosecurity measure that is prescribed or specified; or

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

(b) A master or captain who:

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

(2) fails to comply with a request or direction given under subsection (a)(2) to (5), commits an offense.

Section 17. Environmental obligations of masters and captains.

(a) The master of every incoming vessel must, while the vessel is in the Republic of Palau:

(1) take all necessary steps to prevent any animal on board the vessel from making contact with any animal on shore unless permitted by a biosecurity officer, and then only as directed by the officer;

(2) seal all hatches and holds and cargo areas during the hours of darkness, except as needed for the working of the vessel or its cargo.

(b) The master of every incoming vessel must take all reasonable steps to ensure that:

(1) no garbage containing any animal, plant, animal product or plant product; and

(2) no bilge water or ballast water, is discharged from the vessel into the sea while the vessel is in the Republic of Palau.

(c) The master of every incoming vessel and captain of every incoming aircraft must, while the vessel or aircraft is in the Republic of Palau, take all reasonable steps to ensure that:

(1) all garbage generated on the vessel or aircraft is placed in a suitable leak-proof container, with a lid, and the container is securely fastened at all times and kept within the vessel or aircraft;

(2) garbage is only removed from the vessel or aircraft under and in accordance with the directions of a biosecurity officer.

(d) The master of every incoming vessel and captain of every incoming aircraft must take all reasonable steps to ensure that no ships' stores are removed from the vessel or aircraft while it is in the Republic of Palau, except under and in accordance with the directions of a biosecurity officer.

(e) A biosecurity officer may lock or seal the stores of any incoming vessel or aircraft while it is in the Republic of Palau.

(f) The cost of disposal of garbage under this section is to be borne by the owner or charterer of the vessel or aircraft.

(g) A master who contravenes subsections (a), (b), (c) or (d) or a captain who contravenes subsection (c) or (d) commits an offense.

(h) An incoming vessel must comply with any de-ratting requirements prescribed by regulations.

Section 18. <u>Passengers and crew members.</u>

(a) In accordance with, and in the form prescribed by Regulations, every passenger or crew member who arrives in the Republic of Palau on board a vessel or aircraft must make a passenger arrival biosecurity declaration containing the specified particulars relating to the person and any baggage that accompanies the person.

(b) When a declaration is tendered under this section, a biosecurity officer may:

(1) question the passenger or crew member;

(2) inspect the baggage to which it relates; and

(3) if necessary, question a spouse or family member included on the declaration.

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

(1) detain the passenger or crew member for further questioning and search; and

(2) detain the baggage and other articles in the possession of the passenger or crew member for further inspection and application of other biosecurity measures as the officer considers appropriate.

(d) A person who fails:

(1) to make a declaration as required by subsection (a); or

(2) to submit baggage for inspection when so directed; commits an offense.

(e) Section 53 applies to the questioning, detention and searching of persons under this section.

PART 4. BIOSECURITY IMPORT PROCEDURES

Section 19. Biosecurity entry inspection of incoming articles.

(a) Every incoming article or consignment of articles is subject to biosecurity entry inspection by a biosecurity officer at the biosecurity point of entry to ascertain whether it is or includes a regulated article.

(b) If an importer of goods fails to make the goods available for biosecurity entry inspection at the biosecurity point of entry at the request of a biosecurity officer,

(1) the importer commits an offense; and

(2) the goods may be reconsigned or destroyed as if they were a regulated article for which biosecurity entry clearance had been refused.

(c) If, after inspecting an incoming article or consignment, a biosecurity officer is satisfied:

(1) that it is or includes a regulated article, the provisions of this Part apply to it; and

(2) that it is not or does not include a regulated article, the article or consignment may be released from the biosecurity point of entry upon payment of

the prescribed fee, if any.

(d) If an incoming article or consignment is not inspected under this section, a biosecurity officer is deemed to be satisfied that it is not or does not include a regulated article, and subsection (c)(2) applies to it.

(e) Section 45 applies to an inspection under this section.

(f) The opinion of a biosecurity officer under this section as to whether an article or consignment is or includes a regulated article is conclusive for the purposes of this Act.

(g) This section does not apply to baggage accompanying passengers or crew members.

Section 20. Biosecurity import clearance of regulated articles.

(a) Every incoming article or consignment of regulated articles,

(1) is subject to biosecurity import clearance inspection by a biosecurity officer; and

(2) for that purpose must be taken to or retained in a biosecurity holding area for inspection.

(b) An application for biosecurity import clearance of an article or consignment must be made to a biosecurity officer in accordance with, and in the form specified by the Chief, and be accompanied by the prescribed fee, if any.

(c) The importer of a regulated article or consignment must, on the request of a biosecurity officer:

(1) if the article or consignment is in a container, open the container or enable the officer to do so;

(2) allow the officer to inspect the article or consignment in accordance with section 45;

(3) allow the officer to take samples and conduct tests in accordance with Part 7 to enable the officer to determine whether biosecurity import clearance should be granted;

(4) if the article or consignment requires biosecurity measures to be applied to it, submit the article or consignment to such measures.

(d) The cost of taking an article to a biosecurity holding area, and of keeping it

there, is to be borne by the importer of the article.

(e) If the importer of a regulated article or consignment fails to comply with any of the requirements of subsection (c):

(a) the person commits an offense; and

(b) a biosecurity officer may refuse to grant import clearance for the article or consignment, and may order the article or consignment to be reconsigned or destroyed.

(f) This section does not apply to passengers or crew members.

Section 21. Grant and refusal of biosecurity import clearance.

(a) Before granting biosecurity import clearance of an article or consignment, a biosecurity officer must be satisfied that the article meets the biosecurity import requirements in relation to it, that is to say:

(1) if a biosecurity import permit is required, it has been obtained for the article or consignment and the conditions of the permit have been complied with;

(2) if a sanitary or phytosanitary certificate is required for an article, the relevant certificate has been issued by the country of origin, and any requirement in it complied with;

(3) if any other biosecurity measures are specified under section 22(a)(3), they have been applied to or in respect of the article or consignment.

(b) If satisfied in respect of an article or consignment of the matters mentioned in subsection (a), and that all prescribed fees and charges relating to the article or consignment have been paid, a biosecurity officer shall grant biosecurity import clearance for the article or consignment.

(c) If the biosecurity risk presented by an incoming regulated article or consignment so requires, a biosecurity officer may refuse to grant biosecurity import clearance for the article or consignment, or may require additional biosecurity measures to be applied to it, even if the article or consignment meets the biosecurity import specifications in relation to it.

(d) Biosecurity import clearance may be made conditional on the article performing biosecurity quarantine if:

(1) quarantine is a biosecurity import requirement for the article; or

(2) during biosecurity entry inspection or biosecurity import clearance inspection the article is found to be, or is suspected to be, infested, infected or contaminated.

(e) Biosecurity import clearance shall be refused for an incoming article which is a prohibited import.

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

Section 22. <u>Biosecurity import specifications.</u>

(a) The Chief may specify in respect of incoming regulated articles:

(1) whether a sanitary or phytosanitary certificate from the biosecurity authority in the country of origin is required for an article and if so the matters that must be certified;

(2) whether a biosecurity import permit must be obtained for the article and if so the conditions to be attached to the permit;

(3) what biosecurity measures, if any, must be applied to the article on arrival in the Republic of Palau before biosecurity import clearance can be granted.

(b) Specifications under subsection (a):

(1) may be different for different types and quantities of regulated article;

(2) may be by reference to the country or area of origin of the article; and

(3) must only be those reasonably necessary to reduce or eliminate the biosecurity risk to the Republic of Palau presented by the article.

(c) Specifications made under subsection (a) in respect of an article may be changed at any time before biosecurity import clearance is obtained in respect of the article if the biosecurity risk presented by the article or consignment changes.

(d) Notice of a change in an import specification in respect of an article should be given to intending importers as soon as practicable but no liability arises from a failure to

do so.

(e) Specifications made under this section must be published in the biosecurity register.

Section 23. Biosecurity access arrangements.

(a) A person proposing to import a regulated article:

(1) that is not the subject of a biosecurity import specification; or

(2) from a country that is not the subject of a biosecurity import specification, must apply in writing to the Chief for a specification under section 22 in respect of the article.

(b) An application under subsection (a) in respect of an article must give such information about the biosecurity procedures of the country of origin, the nature of the article and the proposed importation as is needed to enable the Chief to make a biosecurity risk assessment in relation to the article.

(c) Upon receipt of an application under subsection (a), and on payment of the prescribed fee, if any, the Chief must as soon as practicable, unless the article is or becomes a prohibited import under section 5, make a specification in respect of it in accordance with section 22.

Section 24. Application for a biosecurity import permit.

(a) If a biosecurity import permit is required under section 22(a) in respect of a regulated article or consignment, an application for a permit must:

(1) be made before the article or consignment leaves the country of origin or, in the case of re-exported goods, the re-exporting country;

(2) be made to the Chief in the specified manner; and

(3) be accompanied by the prescribed fee, if any.

(b) A decision on an application for a biosecurity import permit must be communicated to the applicant as soon as reasonably practicable after the application is received duly completed.

(c) If the decision is not to grant the biosecurity import permit, the applicant must be notified in writing, with brief reasons.

Section 25. Issue of a biosecurity import permit.

(a) If satisfied of the matters set out in section 24, the Chief, or a duly authorized biosecurity officer, may issue a biosecurity import permit.

(b) The form of a biosecurity import permit is as specified by the Chief.

Section 26. <u>Revocation of a biosecurity import permit.</u>

(a) The Chief may at any time, on written notice to the holder of a biosecurity import permit, revoke the permit, or vary the conditions of the permit, if a change in the biosecurity risk to the Republic of Palau presented by the article or consignment to which the permit relates so requires.

(b) Biosecurity import clearance must be refused for an article or consignment in respect of which a biosecurity import permit is revoked, but section 22(d) applies to a revocation as it does to the change of a biosecurity specification.

(c) When a biosecurity import permit is revoked, the holder of the permit must surrender it to a biosecurity officer as soon as practicable.

(d) A person who contravenes subsection (c) commits an offense.

Section 27. <u>Exemption from biosecurity import requirements.</u>

(a) The Chief may in writing exempt any regulated article, class of regulated articles or consignment of regulated articles:

(1) from any or all of the biosecurity import specifications that would otherwise apply to the article or class of articles; and

(2) from a requirement for a biosecurity import permit that would otherwise apply to the article or consignment, or both.

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

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

(d) The Chief may grant an exemption under subsection (a) if satisfied that the biosecurity risk to the Republic of Palau is not increased as a result.

(e) Articles exempted from biosecurity import specifications or the requirement for an import permit under this section are not exempt from the requirement for biosecurity import clearance.

(f) The Chief should only grant an exemption under subsection (a) if satisfied that the biosecurity risk to the Republic of Palau is not increased as a result.

Section 28. Articles and passengers in transit.

(a) Regulated articles in transit are subject to biosecurity import control, and require biosecurity import clearance at a biosecurity holding area.

(b) The Chief or a duly authorized biosecurity officer may in writing waive any requirement for a sanitary or phytosanitary certificate or biosecurity import permit which would otherwise apply to articles in transit.

(c) If a waiver is granted under subsection (b), the Chief or officer may attach conditions to the waiver.

(d) A person who:

(1) deals with articles to which this section applies other than by way of transit; or

(2) contravenes a condition specified under subsection (c) in relation to them, commits an offense.

(e) A request for a waiver under this section must be:

(1) made in writing to the Chief;

(2) accompanied by the prescribed fee, if any, and the specified documents; and

(3) made in sufficient time to allow the Chief or a biosecurity officer to give due consideration to the request.

(f) In the case of regulated articles which accompany a crew member or passenger in transit,

(1) subsection (e) is deemed to have been complied with if the passenger or crew member complies with other requirements for regulated articles in transit; and

(2) the requirement in subsection (b) for a waiver to be in writing does not apply.

(g) A biosecurity officer may at any time inspect an article in transit if the officer reasonably suspects the article might pose a biosecurity threat to the Republic of Palau or

a receiving country.

(h) A person in charge of an article in transit who refuses to comply with a request for inspection under subsection (g) commits an offense.

PART 5. BIOSECURITY EXPORT PROCEDURES.

Section 29. Biosecurity export inspection of outgoing articles.

(a) Every outgoing regulated article or consignment of regulated articles is subject to biosecurity export inspection at the biosecurity point of departure to enable a biosecurity officer:

(1) to ascertain whether it is or includes an article that requires biosecurity export clearance pursuant to section 30; and

(2) if so, to decide whether to grant export clearance under section 34.

(b) An exporter of goods who fails to make the goods available for biosecurity export inspection at the biosecurity point of departure at the request of a biosecurity officer commits an offense.

(c) A biosecurity officer may only request to inspect an outgoing article or consignment if the officer has reasonable cause to suspect that it is or includes a regulated article that requires biosecurity export clearance pursuant to section 30.

(d) If, after inspecting an outgoing article or consignment under this section, a biosecurity officer is satisfied:

(1) that it is or includes an article that requires biosecurity export clearance, the provisions of this Part apply to it;

(2) that it is not or does not include such an article, the article or consignment may be released from the biosecurity point of departure upon payment of the prescribed fee, if any.

(e) Section 45 applies to an inspection under this section.

(f) This section does not apply in respect of baggage accompanying passengers or crew members.

Section 30. Requirement for biosecurity export clearance.

(a) An article intended for export to a receiving country that requires:

(1) a sanitary or phytosanitary certificate for importation into that

country; or

(2) any biosecurity measures to be applied to it under section 32(b) before being exported to that country, must have biosecurity export clearance for export to that country.

(b) A person who exports or attempts to export an article or consignment that requires biosecurity export clearance without such clearance commits an offense.

Section 31. Issue of sanitary and phytosanitary certificates.

(a) A person who wishes to obtain a sanitary or phytosanitary certificate in respect of an article in order to comply with the biosecurity certification requirements of the receiving country must:

(1) apply to the Chief in writing;

(2) pay the prescribed fee, if any; and

(3) submit the article for testing or other biosecurity measures as required by the receiving country.

(b) Upon receipt of an application under subsection (a), the Chief, or a biosecurity officer to whom the function is delegated, must:

(1) ascertain the biosecurity certification requirements of the receiving country;

(2) perform appropriate tests and apply appropriate biosecurity measures to the articles as required by the receiving country; and

(3) if satisfied that the biosecurity certification requirements of the receiving country have been met, issue the appropriate certificate upon payment of the prescribed fee.

(c) A biosecurity certification requirement entered in the biosecurity register,

(1) if certified by or on behalf of the Chief, is conclusive evidence of the requirement for purposes of this Act; but

(2) does not create any liability on the Chief if relied on by an exporter to the exporter's detriment.

Section 32. Biosecurity export specifications.

(a) The Chief may specify in respect of outgoing animals, plants, or animal or

plant products any biosecurity measures, other than a requirement for a sanitary or phytosanitary certificate by the receiving country, which must be applied to the animal or animal product before export.

(b) Specifications under subsection (a) may only be made if required by an international agreement to which the Republic of Palau and the receiving country are party in respect of the movement of animals, plants or animal or plant products, and must conform to any such agreement.

(c) Specifications under subsection (a) in respect of an animal or animal product may be changed at any time before biosecurity export clearance is granted, if there is a change in the relevant international obligations relating to the animal or animal product, and section 22(e) applies to such a change.

(d) Specifications made under this section must be published in the biosecurity register.

Section 33. Application for biosecurity export clearance.

(a) An application for biosecurity export clearance of an article or consignment must be made to a biosecurity officer in the specified manner and be accompanied by the prescribed fee, if any.

(b) An application for biosecurity export clearance for a regulated article or consignment must:

(1) be made before the regulated article or consignment arrives at a biosecurity point of departure; and

(2) allow sufficient time for processing of the application.

(c) An application for biosecurity export clearance for an article or consignment must:

(1) specify the receiving country;

(2) specify the nature and quantity of the article or consignment;

(3) attach any sanitary or phytosanitary certificate issued under section 31(b) in relation to the article or consignment; and

(4) attach documentation relating to any other biosecurity measures required under section 37(a) in relation to animals or plants or animal or plant

products.

(d) If the article or consignment requires biosecurity measures to be applied to it, the person seeking to export it must submit the article or consignment to such measures, failing which biosecurity export clearance will not be granted.

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

(f) This section does not apply to passengers or crew members.

Section 34. Grant of biosecurity export clearance.

(a) Before granting biosecurity export clearance in respect of an article or consignment, a biosecurity officer must be satisfied:

(1) that the biosecurity certification requirements of the receiving country have been complied with;

(2) that any biosecurity measures specified under section 37(a) in respect of an animal or animal product have been applied; and

(3) that the prescribed fee, if any, has been paid.

(b) If an outgoing article that requires biosecurity export clearance is found to be infected, infested or contaminated by a regulated pest or disease, biosecurity clearance will be refused in respect of it.

(c) A decision on an application for biosecurity export clearance must be communicated to the applicant as soon as practicable after the application is received duly completed.

(d) If the decision is to refuse clearance, the applicant must be notified in writing, with brief reasons.

(e) If a biosecurity officer considers it necessary to inspect any outgoing article or consignment for the purposes of this section, section 45 applies.

PART 6. BIOSECURITY QUARANTINE.

Section 35. Biosecurity quarantine of regulated articles.

(a) A biosecurity officer may, by notice in writing to the importer, order into biosecurity quarantine any incoming regulated article if:

(1) the article is a prohibited import and must therefore be reconsigned or destroyed;

(2) quarantine is a biosecurity import requirement for the article; or

(3) during biosecurity entry inspection or biosecurity import clearance inspection the article is found to be, or is suspected to be, infested, infected or contaminated.

(b) If an article is ordered into biosecurity quarantine under this section, a biosecurity officer may:

(1) in writing, direct the importer to remove the article to a specified biosecurity quarantine station; and

(2) if necessary, arrange for the article to be removed to a biosecurity quarantine station.

(c) An importer who refuses to remove an article to biosecurity quarantine as directed under this section commits an offense.

(d) The cost of removal of an article to biosecurity quarantine is to be borne by the importer of the article.

(e) If an article is quarantined under this section, the importer must be given written notice stating the reasons for the quarantine and, if it was removed under subsection (b)(2), the location of the article.

Section 36. <u>Biosecurity quarantine stations.</u>

(a) The Chief may by order designate any public or private land as a biosecurity quarantine station for animals, animal products, plants, plant products, conveyances, containers or other goods for the purposes of this Act.

(b) Before designating any private land as a biosecurity quarantine station, the Chief must consult the owner, and must pay compensation as agreed. If no agreement can be reached, the land may be taken as a public use, in accordance with applicable eminent domain laws. Nothing herein shall be construed to limit the authority of the Chief to take immediate possession of property in cases of Quarantine Emergency.

(c) The Chief must ensure that a biosecurity quarantine station is provided with such buildings and facilities as are needed:

(1) to hold regulated articles in biosecurity quarantine;

(2) to prevent unauthorized persons from entering the station or removing items from the station; and

(3) to enable the Division to perform tests, provide treatment and apply other biosecurity measures as required by or under this Act.

Section 37. <u>Conditions of biosecurity quarantine.</u>

(a) The Chief may issue specifications as to:

(1) the examination, treatment, disposal or destruction of articles while in a biosecurity quarantine station or in transit to or from a quarantine station; and

(2) the period for which different types of regulated articles must remain in a biosecurity quarantine station.

(b) The fees or charges payable for keeping items in biosecurity quarantine are as authorized under this Act.

(c) The cost of keeping an article in biosecurity quarantine is to be borne by the importer of the article.

Section 38. <u>Management of biosecurity quarantine stations.</u>

(a) No person, other than the person in charge of the station or a biosecurity officer acting in the course of duty, may enter a biosecurity quarantine station without the written permission of the Chief or of the person in charge of the station.

(b) A duly authorized biosecurity officer may, in order to reduce a biosecurity threat, lock, seal, or otherwise prevent entry to and exit from a biosecurity quarantine station or any building in it, regardless of the ownership of the station.

(c) A person who:

(1) enters a biosecurity quarantine station without permission pursuant to subsection (a); or

(2) damages, interferes with or in any way reduces the effectiveness of measures taken to secure a biosecurity quarantine station, or any regulated article or other item in the station, commits an offense.

Section 39. <u>Release from biosecurity quarantine.</u>

(a) A conveyance, container or article must not be released from biosecurity

quarantine except upon the authority of a biosecurity quarantine release certificate issued by a biosecurity officer.

(b) Before an article can be released from biosecurity quarantine,

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

(2) all quarantine fees must have been paid.

(c) Once subsection (b) has been complied with, the conveyance, container or article must be released from biosecurity quarantine as soon as practicable and a biosecurity release certificate issued.

(d) A person who releases an article from a biosecurity quarantine station contrary to subsection (a) commits an offense.

Section 40. Biosecurity quarantine notices.

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

(b) A person who removes a notice affixed under subsection (a) without lawful authority commits an offense.

Section 41. No plant or animal to be at large.

(a) No person may liberate or cause to be liberated from a biosecurity quarantine station, biosecurity port quarantine area, or biosecurity holding area or let go at large in the Republic of Palau any animal, plant or organism which is subject to biosecurity control under this Act.

(b) A person who contravenes subsection (a) commits an offense and, in addition to the prescribed maximum penalty, is liable to pay for the cost of recapturing and confining or if necessary destroying the animal, plant or organism.

PART 7. POWERS OF BIOSECURITY OFFICERS

Section 42. General rules as to exercise of powers.

(a) The powers conferred by this Act on biosecurity officers may be exercised only for the purpose of ascertaining whether there is a biosecurity risk presented by a

conveyance, container or item and eliminating or reducing the risk to an acceptable extent.

(b) A biosecurity officer may use only such force as is reasonably necessary when exercising a power under this Act. Where practicable, the officer should obtain the assistance of the Bureau of Public Safety to effect an arrest or enter premises.

Section 43. Entry, search and seizure.

(a) A biosecurity officer may:

(1) search an incoming vessel or aircraft at a biosecurity port holding area to ascertain whether the vessel or aircraft has on board any regulated article that might pose a biosecurity threat to the Republic of Palau;

(2) search an outgoing vessel or aircraft if the officer has reason to believe there are on board any uncleared articles that require export clearance;

(3) at any time enter and search any premises, building or area, including a biosecurity holding area, biosecurity quarantine station or biosecurity approved premises but not a dwelling house or its curtilage or a private office within a building, in order to ascertain the presence of uncleared regulated articles that have not received biosecurity import clearance;

(4) at any time with the consent of the owner, enter and search a dwelling house for purposes of this Act; and

(5) at any time, on a warrant issued under subsection (b), enter and search a dwelling house for uncleared regulated articles that the officer reasonably suspects to be in it.

(b) If the requirements of 18 PNC §§ 303 and 304 are met, a biosecurity officer, in conjunction with the Bureau of Public Safety, may enter into a dwelling or private office, to search for uncleared regulated articles.

(c) A biosecurity officer may at any time enter and search any building, or structure where the general public may enter, in which regulated articles intended for importation to or exportation from the Republic of Palau are kept.

(d) A person who keeps regulated articles in or on any premises, or in a conveyance, prior to importation or exportation of them must make the articles available

for inspection by a biosecurity officer upon request at any reasonable time.

(e) A person who contravenes subsection (d) commits an offense.

(f) During a search of premises or a conveyance under this section a biosecurity officer may seize anything which:

(1) is an uncleared regulated article; or

(2) may be used as evidence of the commission of an offense under this Act.

(g) A biosecurity officer who seizes anything from a person under subsection (f) must:

(1) inform the person of the reason for the seizure;

(2) give the person a receipt for the thing seized; and

(3) remove the thing to a place of safekeeping and deal with it in accordance with this Act.

(h) A biosecurity officer may submit to appropriate biosecurity measures any regulated article seized pursuant to this section.

Section 44. <u>Inspection of packages.</u> A biosecurity officer may:

(a) call for and inspect documents on or in incoming or outgoing vessels and aircraft as provided in sections 11 and 16 respectively;

(b) open and inspect at a biosecurity point of entry any incoming package whether the package contains or relates to a regulated article;

(c) open and inspect at a biosecurity point of departure any outgoing package if the officer reasonably suspects that the package contains or relates to:

(1) an uncleared regulated article that requires biosecurity export clearance; or

(2) a regulated article that could pose a serious biosecurity threat to the country of destination of the document.

Section 45. <u>Inspection of articles.</u>

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

container or baggage.

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

(c) The powers of inspection in subsection (a) and (b) are in addition to the powers of inspection in sections 19 and 29 and any other powers of inspection in or under this Act.

(d) For the purpose of exercising the powers of inspection under this Act, a biosecurity officer may request an importer or exporter to unpack and break up a consignment, or both, or to open a container at the person's risk and expense.

(e) If an importer or exporter refuses to comply with a request under subsection (d),

(1) the person commits an offense;

(2) the biosecurity officer may destroy or seize any item; and

(3) the cost of action under paragraph (2) is a debt owing to the Government by the importer or exporter, as the case may be.

(f) When conducting an inspection under this Act, a biosecurity officer may seek access to, and take photographic, electronic or other copies of any evidence, information, records and things related to the regulated article or consignment that the officer reasonably requires in order to ensure compliance with this Act or to investigate a possible offense under it.

(g) Inspection of articles in transit is governed by section 28(g).

Section 46. <u>Detention of articles.</u>

(a) If an incoming regulated article requires biosecurity measures to be taken in respect of it before biosecurity import clearance can be granted, a biosecurity officer may detain the article, and any conveyance, container or baggage in which the article is carried, for biosecurity measures to be taken.

(b) If an outgoing regulated article that requires biosecurity export clearance has not been cleared, a biosecurity officer may detain the article, and any conveyance, container or baggage in which the article is carried, until clearance or other disposition of the article under this Act.

(c) An article detained under this section must be detained in a place specified by the officer, being a biosecurity holding area, biosecurity quarantine station or biosecurity approved premises.

(d) If an article is to be detained under this section, a biosecurity officer may:

(1) direct the importer or exporter of the item to remove it to the specified place;

(2) if necessary, arrange for the item to be removed to the specified place.

(e) If an article is detained under this section, a biosecurity officer must give to the importer or exporter a notice in writing stating the reasons for the detention and, if it was removed under subsection (d)(2), the specified place.

(f) The cost of removal of an article to and its detention in a specified place is to be borne by the importer or exporter.

Section 47. Taking of samples.

(a) A biosecurity officer may, with the consent of the importer, owner or custodian, take samples from:

(1) any part of an incoming vessel or aircraft that has on board regulated articles;

(2) any warehouse containing regulated articles intended for importation;

(3) any consignment of incoming regulated articles, wherever located; and

(4) any incoming container, baggage or thing that the officer reasonably suspects to be or include a regulated article.

(b) If an importer refuses consent under subsection (a), the biosecurity officer may require the person to provide appropriate samples.

(c) An importer who refuses either to allow samples to be taken or to provide samples, when required to do so under this section, commits an offense.

(d) A biosecurity officer may, with the consent of the person in charge of the article, take samples of any outgoing regulated article if the taking of a sample is necessary for the issuance of a sanitary or phytosanitary certificate.

(e) If the person in charge of a regulated article refuses consent under subsection

(d), the biosecurity officer may require the person to provide a sample, failing which the sanitary or phytosanitary certificate will not be issued.

(f) A biosecurity officer may request the importer or exporter of a consignment to unpack it or break it up to facilitate sampling, at the risk and expense of the importer or exporter.

(g) When exercising the powers under subsection (a) or (b), a biosecurity officer must give the importer or exporter a written notice, identifying the quantity of the sample and the place where the sample is to be analyzed.

(h) In other respects, the procedure for taking and analyzing samples, recording the results and disposing of the samples is as prescribed or specified.

(i) The importer or exporter of a regulated article from which samples are taken under subsection (a) must be notified in writing of the findings in respect of the samples as soon as reasonably practicable.

Section 48. Testing of articles.

(a) A biosecurity officer may test, or cause tests to be conducted on, any incoming regulated article, in order to ascertain whether the article meets the biosecurity import requirements in respect of it.

(b) Following a test of an incoming article, and on payment of the prescribed fee, if any, the article must be either released to the importer, and biosecurity import clearance granted in respect of it, or it must be treated in accordance with section 49 or reconsigned or destroyed.

(c) A biosecurity officer may test, or cause tests to be conducted on, any outgoing regulated article that requires biosecurity export clearance if such tests are a condition for importation into the receiving country.

(d) Following tests on an outgoing article, biosecurity export clearance must either be granted or refused in respect of the article.

(e) Sections 46(c) to (f) apply to articles detained for testing under this section.

(f) The importer or exporter of a regulated article which is tested under subsection (a) or (c) must be notified in writing of the results of the test before the article is released or otherwise disposed of.

Section 49. Treatment of articles.

(a) If an incoming regulated article requires treatment in order to meet the biosecurity import requirements in respect of it, the article must be treated before biosecurity import clearance is granted in respect of it.

(b) If an incoming article is found to be infected, infested or contaminated by a regulated pest or disease, the article may be treated to reduce the biosecurity risk to an acceptable level, whether or not treatment is a specified requirement or a condition of an import permit.

(c) Section 46(c) to (f) apply to articles detained for treatment under this section.

(d) Once treatment has been administered to the satisfaction of the biosecurity officer, and on payment of the prescribed fee, if any, the article must be released to the importer and biosecurity import clearance granted in respect of it.

(e) The cost of treatment is to be borne by the importer of the item, but the importer may instead opt to have the article reconsigned or destroyed.

(f) If an importer fails to have an article which requires treatment under this section treated within a reasonable time, the biosecurity officer may require the article to be destroyed.

(g) If:

(1) appropriate treatment is not available in the Republic of Palau;

(2) in the opinion of a biosecurity officer, there would still be a biosecurity risk after treatment; or

(3) the importer chooses not to have the article treated, the article must be reconsigned or, if the importer chooses, or if section 50(c) applies, destroyed.

(h) Notice of action to be taken under subsection (f) or (g) must be given to the importer in writing before the action is taken, except for articles in passenger baggage which are detained for destruction in the presence of the owner or custodian.

(i) If an outgoing regulated article requires treatment as a condition of importation into the receiving country, the article must be treated at the expense of the exporter before biosecurity export clearance is granted in respect of it.

(j) Treatment of an article may be administered by an appropriately qualified

biosecurity officer, or by any other suitably qualified person at the request of the officer or the importer.

Section 50. Reconsignment of articles.

(a) If an incoming regulated article which requires an import permit or a sanitary or phytosanitary certificate does not have the permit or certificate attached to it, a biosecurity officer may, after informing the importer, detain the article for reconsignment or destruction.

(b) An incoming article that is a prohibited import must be reconsigned or destroyed.

(c) Reconsignment is at the option and cost of the importer, but, reconsignment must be effected within a time specified by the officer, which must be reasonable in the circumstances; if the biosecurity officer considers that the biosecurity risk of reconsignment is unacceptable, the option is not available.

(4) The power to order reconsignment of an article under this section applies also to any container, crate, baggage, package or mail which carries it.

(5) If reconsignment is not effected within the time specified under subsection (c)(1), or is not acceptable, the article or consignment must be destroyed.

Section 51. Destruction of articles.

(a) If this Act requires or authorizes an article to be destroyed, the destruction of the article must be in accordance with this section.

(b) If an incoming article is found to be infected, infested or contaminated by a regulated pest or disease, and:

(1) appropriate treatment is not available in the Republic of Palau;

(2) in the opinion of a biosecurity officer, there would still be biosecurity risk after treatment; or

(3) the importer chooses not to have the article treated, the article must be reconsigned or, if the importer chooses, or if section 50(c) applies, destroyed.

(c) The power of destruction of articles in subsection (b) is in addition to any other power of destruction in or under this Act.

(d) Destruction of an article under this Act may include any container, crate,

baggage, package or mail which carries it.

(e) Packaging of an article may be considered as not part of the consignment and may be destroyed, if considered to pose a biosecurity risk, whether or not the article is destroyed.

(f) If the article to be destroyed appears to be of or above the value of $5,000, a biosecurity officer must obtain the written approval of the Chief, before arranging for its destruction.

(g) The manner of destruction of articles under this section is as prescribed or as specified by the Chief and the importer or owner of the article, if known, must be invited to witness the destruction.

(h) Notice of an intention to destroy any article must be given to the importer or owner in writing before the action is taken, if the importer or owner is known.

Section 52. <u>Post mortem examination of an animal.</u>

(a) If a biosecurity officer examining an animal pursuant to this Act suspects that the animal is diseased and considers a post mortem examination to be necessary to establish a diagnosis, the officer may, on the written authority of the Chief, and without the consent of the owner:

(1) take or cause to be taken the life of the animal;

(2) cause a post mortem examination to be conducted to decide whether the animal is diseased; and

(3) obtain specimens from the animal for laboratory examination and diagnosis.

(b) If an examination is conducted pursuant to subsection (a), the results of the examination and of any laboratory reports resulting from the examination must be provided in writing to the Chief and to the owner of the animal, if the owner can be identified and located.

Section 53. <u>Powers in relation to people.</u>

(a) If a biosecurity officer has probable cause to believe that any person is:

(1) seeking to enter or leave the Republic of Palau;

(2) employed at a biosecurity point of entry or departure, in a designated

area or quarantine station, or at approved premises; or

(3) engaged in importing or exporting regulated articles is in possession or control of an article that poses a biosecurity threat to the Republic of Palau, the officer may detain and question the person in accordance with law.

(b) If a biosecurity officer suspects that there may be upon a person seeking to enter the Republic of Palau an article that would, if imported, constitute an offense under this Act, the officer may cause the person and the person's baggage to be searched.

(c) If a biosecurity officer suspects that there may be upon a person seeking to leave the Republic of Palau an article that would, if exported, constitute an offense under this Act, the officer may cause the person and the person's baggage to be searched.

(d) A search of a person under this section must be carried out by officers of the same sex as the person searched.

(e) A person may be detained under this section only for as long as is required to question and search the person and the person's baggage and to arrange for biosecurity measures to be taken in respect of it.

(f) In this section, "person" means an individual.

PART 8. BIOSECURITY INTERNAL CONTROL

Section 54. Pest and disease surveys.

(a) The Minister may order a survey of any area of the Republic of Palau to be conducted to ascertain the status of pests and diseases in the area and the biosecurity risk of moving animals, plants, humans or organisms into, out of, or through the area.

(b) An order under this section:

(1) must be published as required by section 82; and

(2) does not take effect until so published.

(c) For the purposes of a survey under this section, a duly authorized biosecurity officer may, in the area of the survey:

(1) inspect premises and equipment;

(2) inspect animals and plants and their products;

(3) question persons; and

(4) collect specimens and perform tests relating to animals, plants, animal

and plant products, land, water and the environment.

(d) For the purposes of a survey under this section, the Chief may order the owners of animals or plants in the area of the survey, or persons who have custody or control of them, to make them available for inspection at places designated by the Chief.

(e) A person who refuses, in the course of a survey under this section, to make animals or plants in the ownership, custody or control of the person available as required under subsection (d), commits an offense.

Section 55. <u>Entry, search and seizure.</u> A biosecurity officer may,

(a) If he has reasonable cause to believe that a regulated article is present there, at any time enter and search any premises, building or area, including a biosecurity holding area, biosecurity quarantine station or biosecurity approved premises but not a dwelling house or its curtilage or private office, in order to ascertain the presence of uncleared regulated articles that have not received biosecurity import clearance;

(1) at any time with the consent of the owner, enter and search a dwelling house or private office or private conveyance for purposes of this Act; or

(2) at any time, on a warrant issued under subsection (d), enter and search a dwelling house for regulated articles that the officer reasonably suspects to be in it.

(b) If the requirements of 18 PNC §§ 303 and 304 are met, a biosecurity officer may enter into a dwelling or private office, to search for uncleared regulated articles.

(c) A biosecurity officer may at any time enter and search any building, or structure where the general public may enter to search for the presence of regulated articles.

(d) During a search of premises or a conveyance under this section a biosecurity officer may seize anything which:

(1) is a regulated article which the officer reasonably suspects poses a biosecurity threat to the Republic of Palau; or

(2) may be used as evidence of the commission of an offense under this Act.

(e) A biosecurity officer who seizes anything from a person under subsection (d)

must:

(1) inform the person of the reason for the seizure;

(2) give the person a receipt for the thing seized; and

(3) remove the thing to a place of safekeeping and deal with it in accordance with this Act.

(f) A biosecurity officer may submit to appropriate biosecurity measures any regulated article seized pursuant to this section.

Section 56. Detention and testing of animals and plants and their products.

(a) If an animal or plant or animal or plant product in the Republic of Palau is suspected of being infected or infested by a regulated pest or disease, a biosecurity officer may order the animal, plant or product to be detained and confined in a place specified by the Chief for tests to be conducted.

(b) Following detention under subsection (a), a biosecurity officer may test, or cause to be tested, any animal or plant or animal or plant product. Such tests may include:

(a) the taking of samples in accordance with section 47; and

(b) conducting a post mortem examination in accordance with section 52.

(c) If after testing as in subsection (b) the animal, plant or product is considered to pose a biosecurity threat to the Republic of Palau, the officer may further detain it in the specified place for biosecurity measures to be taken in respect of it, but an animal, plant or product may be detained only for so long as is required for biosecurity measures to be taken in respect of it.

(d) If an animal or plant or animal or plant product is to be detained under this section, a biosecurity officer may:

(1) direct the owner or custodian to remove it to the place specified under subsection (a);

(2) if necessary arrange for the animal, plant or product to be removed to the specified place.

(e) If an animal or plant or animal or plant product is detained under this section, the owner or custodian must be given a written notice stating the reasons for the

detention and, if it was removed under subsection (d)(2), the specified place.

(f) The cost of removal of an article to and its detention in a specified place under this section is to be borne by the Government.

(g) Section 8 applies to places specified under this section as it applies to biosecurity holding areas, except that section 36(b) and (c) do not apply.

Section 57. <u>Treatment or destruction of animals and plants and their products.</u>

(a) If treatment is available to eliminate or reduce to an acceptable level the biosecurity threat posed by an animal or plant or animal or plant product that has been detained under section 56, a biosecurity officer may:

(1) with the consent of the owner or custodian of the animal, plant or product, administer such treatment, or cause it to be administered;

(2) after treatment, release the animal, plant or product to the owner or custodian.

(b) If:

(1) in the opinion of a biosecurity officer, appropriate treatment is not available in the Republic of Palau;

(2) in the opinion of a biosecurity officer, there would still be a biosecurity risk after treatment; or

(3) the owner or custodian does not consent to the treatment being administered, a biosecurity officer may order the animal or plant or product to be destroyed.

(c) Notice of action to be taken under subsection (b) must be given to the owner or custodian in writing before the action is taken.

(d) Section 50 applies to the destruction of animals and plants and their products under this section, replacing references to the importer of an article by references to the owner or custodian of it.

Section 58. <u>Infested biosecurity controlled areas.</u>

(a) If:

(1) an animal or plant on land or premises in any area of the Republic of Palau is found to be infested by a pest or disease; and

(2) the powers in sections 55 to 57 are inadequate to control the outbreak, the Minister may by order declare the land or premises to be an infested biosecurity controlled area in respect of that pest or disease.

(b) An order under this section:

(1) must be published as required by section 82; and

(2) does not take effect until published.

(c) In an infested biosecurity controlled area, the Chief or any biosecurity officer may enter upon any land at any time in order to ascertain the status of a regulated pest or disease.

(d) In an infested biosecurity controlled area, pending the making of an order under section 59, no animal or animal product, or plant or plant product, fodder, fitting or other thing as specified in the declaration, may be moved out of, into or within the area except with the permission of a biosecurity officer and in accordance with any conditions reasonably imposed by the officer.

(e) A person who contravenes subsection (d) commits an offense.

Section 59. Regulation of infested biosecurity controlled areas.

(a) In an infested biosecurity controlled area, the Chief may, by order, direct:

(1) the treatment or disposal of diseased animals and plants;

(2) the destocking, cleaning, disinfecting or other treatment of land, premises and conveyances;

(3) the inspection and treatment of regulated articles in or entering or leaving the area; and

(4) any other biosecurity measures the Chief considers necessary to control the infestation.

(b) In respect of an infested biosecurity controlled area, the Chief may, by order, control:

(1) the movement of regulated articles, humans and conveyances into, out of, and within the area; and

(2) any other matter the Chief considers necessary to prevent the movement of host material into and out of the area.

(c) One who fails to comply with an order commits an offense.

(d) An order under this section must be published as required by section 82.

(e) Section 57(d) ceases to have effect upon the coming into force of an order under this section.

Section 60. Pest-free biosecurity controlled areas.

(a) Following a survey conducted under section 54 the Minister may by order declare any area of the Republic of Palau to be a pest-free biosecurity controlled area in respect of a specified pest or disease.

(b) A pest-free biosecurity controlled area is one where the specified pest or disease does not occur, so far as is known, and where incursions of that pest or disease should be prevented.

(c) An order under this section:

(1) must be published as required by section 82;

(2) does not take effect until published.

(d) Following a further survey conducted under section 54, and after receiving appropriate scientific advice, the Minister may amend or revoke an order made under subsection (a).

Section 61. Regulation of pest-free biosecurity controlled areas.

(a) In respect of a pest-free biosecurity controlled area the Chief may, by order:

(1) control the movement of regulated articles, humans and conveyances into, out of, and within the area;

(2) direct the inspection and treatment of regulated articles in or entering or leaving the area; and

(3) establish surveillance procedures for the specified pest or disease in the area.

(b) An order under subsection 1 must only be made for the purposes of preventing incursions of the specified pest or disease into the biosecurity controlled area.

(c) An order under this section:

(1) must be published as required by section 82;

(2) does not take effect until published.

(d) One who fails to comply with an order commits an offense.

Section 62. Destruction of wild animals.

(a) If the Chief has reason to suspect that a wild or feral animal is carrying a regulated pest or disease, the Chief may, in order to prevent the pest or disease from being established or spreading in the Republic of Palau, after consultation with relevant technical section heads, and with the approval of the Minister, cause the animal to be destroyed.

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

Section 63. Notifiable pests and diseases.

(a) The Minister may, by order, declare:

(1) the pests and diseases that are notifiable for purposes of this section; and

(2) the manner of notifying such pests and diseases to the Chief.

(b) An order under this section:

(1) must be published as required by section 82; and

(2) does not take effect until published.

(c) A person who knows of or suspects the occurrence of a notifiable pest or disease on his property must as soon as reasonably practicable notify the Chief in the manner declared under subsection (a), unless the person reasonably believes that the Chief has already been notified of the occurrence.

(d) A person who fails to comply with subsection (c) commits an offense.

(e) The master of a vessel or captain of an aircraft in the Republic of Palau who knows of or suspects the occurrence of a notifiable pest or disease on board the vessel or aircraft must:

(1) as soon as reasonably practicable notify the Chief in the manner declared under subsection (a); and

(2) take such action in relation to the vessel or aircraft as is directed by the Chief or a biosecurity officer.

(f) A master or captain who fails to comply with subsection (e)(1) or (2) commits

an offense.

(g) The Chief must record all occurrences of notifiable diseases which are notified under this section or which otherwise come to the notice of the Chief in a biosecurity register.

Section 64. Beneficial organisms and biocontrol agents.

(a) The Minister, after consulting and receiving appropriate scientific advice may in writing approve the release of beneficial organisms or biocontrol agents that the Minister considers necessary or appropriate for the control or eradication of a particular pest or disease in the Republic of Palau.

(b) An approval under subsection (a) must identify:

(1) the organism or agent;

(2) the pest or disease which it is intended to control;

(3) the area where it may be released;

(4) the period during which it may be released;

(5) the person or persons who may release it; and

(6) any conditions subject to which the approval is granted.

(c) The Chief must keep a biosecurity register of:

(1) the names of any beneficial organisms or biological agents released under this section; and

(2) the place of and extent of release of such organisms and agents.

(d) In this section, "beneficial organism" and "biocontrol agent" mean a natural enemy, antagonist or competitor of a pest or disease, and any other self-replicating biotic entity used for pest and disease control.

Section 65. Ministry plan for the control of simians in the Republic.

Within ninety (90) days from the effective date of this Act the Minister shall submit a plan in accordance with section 82 of this Act, detailing the measures to be taken, including costs associated with such measures, for the control of long-tailed macaques (*Macaca fascicularis*) in all of the islands of the Republic of Palau; the plan shall be implemented thirty (30) days after its submission.

PART 9. BIOSECURITY EMERGENCIES.

Section 66. Declaration of a biosecurity emergency area.

(a) On receiving evidence that a biosecurity emergency has arisen in the whole or any part of the Republic of Palau, the President, upon after consulting with the Minister, may declare a biosecurity emergency in respect of the whole of or that part of the Republic of Palau.

(b) A biosecurity emergency area may include an area where an animal or plant is found to be infested or infected, and adjacent areas to the extent reasonably necessary.

(c) Notice of a declaration under this section must be:

(1) published as required by section 82; and

(2) displayed on notice boards or similar throughout the biosecurity emergency area.

(d) A declaration under subsection (a) must be revoked as soon as the biosecurity threat is removed or reduced to an acceptable degree.

(e) A declaration under subsection (a) expires on the date which is six (6) months after it comes into force, unless it is revoked or extended on or before that date.

Section 67. Response to a biosecurity emergency.

(a) When a biosecurity emergency area is declared under section 66, the Chief must undertake a detailed survey, using the powers in section 54, to ascertain the precise extent and severity of the incursion or other threat and the most appropriate measures to take in response.

(b) In deciding on an appropriate response to a biosecurity emergency, the Chief shall:

(1) be guided by any Biosecurity Emergency Response Plan that has been devised by the Division in consultation with other Ministries; and

(2) as appropriate, consult and liaise with the National Emergency Management Office and other relevant Government Agencies.

Section 68. Action in a biosecurity emergency area.

(a) In respect of a biosecurity emergency area:

(1) the Chief or any biosecurity officer may enter upon any land at any time in order to ascertain the status of a pest or disease;

(2) the Minister may in writing requisition for the use of the Government any conveyance or equipment which the Minister reasonably considers would be useful in preventing, eradicating or limiting the spread of a pest or disease;

(3) the Minister or Chief may appoint temporary additional personnel, whether or not having the powers of biosecurity officers, to effectively respond to the biosecurity emergency.

(b) In a biosecurity emergency area, the Chief may do or cause to be done any of the following:

(1) mark the boundaries of the emergency area;

(2) set up roadblocks at all exits from the area;

(3) set up facilities for the cleansing and disinfection of all persons and conveyances entering or leaving the area and any other thing likely to spread any pest or disease;

(4) disinfect all conveyances, crates, packing, animals, plants and other things which are likely to carry pests or diseases and which are being sent out of the area;

(5) inspect and disinfect all persons and their possessions leaving the area so as to prevent any host material that may be infected from leaving the area; and

(6) for the purposes of subsections (4) and (5), detain persons, animals, plants, animal and plant products, goods and vehicles for as long as is necessary to minimize or eliminate the biosecurity risk presented by them.

(c) A person who:

(1) resists, knowingly obstructs, or knowingly and without reasonable excuse fails to comply with a direction of the Chief, a biosecurity officer or any police officer or other person performing duties under this section;

(2) knowingly enters or leaves a biosecurity emergency area except with and in accordance with the permission of the Chief or a biosecurity officer; or

(3) knowingly moves any article out of or into a biosecurity emergency area, or from one place within the area to another place within that area, except with and in accordance with the written permission of the Chief or a biosecurity

officer, commits an offense.

(d) Articles moved in contravention of subsection (c)(3) may be seized by a biosecurity officer and:

(1) held pending criminal proceedings for the contravention; or

(2) if necessary to remove a biosecurity threat, destroyed as the Chief directs, without a court order.

(e) In respect of action taken under this section the cost of treatment or destruction of any article is to be borne by the Government.

PART 10. THE REPUBLIC OF PALAU DIVISION OF BIOSECURITY.

Section 69. Organization of the Division of Biosecurity.

Within 60 days of the effective date of this Act, the President shall, by Executive Order, provide for the creation and organization of a Division of Biosecurity within the Ministry of Natural Resources, Environment and Tourism in accordance with the requirements and responsibilities outlined in this Act. All personnel and employment matters of the Division, including hiring, promotion, and firing of employees, shall be consistent with the National Public Service System Act in Title 33 of the Palau National Code.

Section 70. Biosecurity registers and records.

(a) The Chief must maintain all registers and records needed for the administration of this Act and the performance of the functions of the Division.

(b) The public biosecurity registers to be maintained include, but are not limited to, registers of:

(1) regulated pests and diseases;

(2) prohibited imports;

(3) biosecurity points of entry and departure;

(4) biosecurity holding areas;

(5) biosecurity clearance agents;

(6) biosecurity port quarantine areas;

(7) biosecurity quarantine stations;

(8) biosecurity approved premises;

(9) biosecurity import permits issued, refused and revoked under Part 4;

(10) exemptions granted under section 27;

(11) transit waivers issued under section 28, other than in-transit passenger waivers;

(12) biosecurity controlled areas declared under section 57 or 59;

(13) occurrences of notifiable pests and diseases notified under section 63;

(14) beneficial organisms and biocontrol agents released under section 64; and

(15) any other public biosecurity register required by or under this Act or considered by the Chief to be necessary or appropriate.

(c) The Chief must keep a register of:

(1) specifications for regulated articles made under sections 21 and 31, including the biosecurity measures appropriate to each type of regulated article;

(2) any other form or matter specified by the Chief or the Minister under this Act.

(d) In respect of the biosecurity requirements of receiving countries, the Chief must keep:

(1) a register of the requirements of those countries for which biosecurity export clearance has been granted in the past twelve (12) months; and

(2) a register of source material for ascertaining the biosecurity requirements of all potential receiving countries.

Section 71. <u>Status of biosecurity registers and records.</u>

(a) The registers kept pursuant to section 70 must be made available for inspection and copying by members of the public during office hours at the main office of the Division on payment of the prescribed fee.

(b) Subject to any other Act, registers and other records kept under this section must only be used for the purposes of this Act

(c) A copy of an entry in a register maintained under section 70 which is certified by the Chief to be an accurate copy may be produced in court as prima facie evidence of the entry.

PART 11. ADMINISTRATION OF THE ACT.

Section 72. Fees, charges and fines.

(a) The Minister, by regulation, shall set forth a schedule of fees to be paid under this Act.

(b) If a fee or charge payable under this Act is not paid,

(1) if the service for which the fee or charge is payable has not been provided, it may be withheld until the fee is paid;

(2) if the service has been provided, the fee or charge may be recovered as a debt owed to the Government;

(3) if the fee or charge is in respect of an item in quarantine, the item may be sold once it has cleared quarantine, or otherwise be treated as abandoned goods.

(c) Fines payable under this Act are to be paid into the National Treasury.

Section 73. Biosecurity advisory committee.

(a) The Minister may appoint an advisory committee for the purposes of providing independent advice on biosecurity matters.

(b) Persons appointed to this committee must have widely recognized expertise and experience directly relevant to biosecurity matters and the operations of an efficient biosecurity Division, and may include persons not in the public service and not citizens or permanent residents of the Republic of Palau.

(c) The composition, functions and procedures of a committee appointed under subsection (a) shall be prescribed by the Minister.

Section 74. Facilities at biosecurity points of entry or departure.

(a) The operator of every biosecurity point of entry or departure in the Republic of Palau must provide facilities that the Chief requests in writing as being needed for the performance of biosecurity functions at the point of entry or departure, and maintain them to the satisfaction of the Chief.

(b) No charge is payable by the Chief for the facilities to be provided under this section. If an operator fails to provide facilities as required by this section they may be provided by the Chief and the cost of such provision is a debt owed by the operator to the

Government.

Section 75. Biosecurity approved premises.

(a) The Chief, on written application by the owner or occupier of any premises and on payment of the prescribed fee, may in writing:

(1) approve the premises as premises where the inspection, testing and treatment of regulated articles can take place; and

(2) approve specified action being taken under this Act in relation to all regulated articles, or specified articles, while they are in the approved premises.

(b) An approval under this section may be cancelled if the Chief is satisfied:

(1) that the premises or facilities or action taken do not comply with this Act or the regulations; or

(2) that the premises are otherwise no longer suitable for approval.

(c) The provisions of this Act relating to biosecurity quarantine stations, other than section 35, apply to premises approved under this section.

PART 12. OFFENSES AND PENALTIES.

Section 76. Obstruction, false information and related offenses. A person commits an offense if they:

(a) willfully fail to comply with a lawful request made or direction given by a biosecurity officer under this Act.

(b) knowingly obstruct a biosecurity officer in the performance of his or her functions under this Act.

(c) assault, or threaten a biosecurity officer performing functions under this Act.

(d) bribe a biosecurity officer in relation to the performance of functions under this Act.

(e) make a false or incomplete statement, whether orally or in writing, in relation to any matter under this Act, intending to mislead a biosecurity officer in the performance of functions under this Act.

(f) knowingly or recklessly make a false or misleading biosecurity declaration.

(g) knowingly or recklessly issue any false or misleading certificate.

(h) knowingly or recklessly give false or misleading information to a biosecurity officer while the officer is performing functions under this Act.

Section 77. Fraudulent use of official documents.

(a) A person to whom a permit or other document is issued under this Act who:

(1) forges or unlawfully alters the document;

(2) allows any other person to use or attempt to use the document for any purpose of this Act, commits an offense.

(b) A person who for the purposes of this Act produces a document which is false or misleading, knowing it to be so, and intends a person to rely on it, commits an offense.

Section 78. Maximum penalties.

(a) Upon first conviction, an individual who commits an offense under any section of this Act may be fined up to $10,000 and imprisoned for up to 6 months.

(b) Upon second conviction, an individual who commits an offense under any section of this Act may be fined up to $20,000 and imprisoned for up to 6 months.

(c) Upon a third or further conviction, an individual who commits an offense under any section of this Act may be fined up to $50,000 and imprisoned for up to 2 years.

(d) The above maximum monetary penalties shall be doubled if the offender is a corporate body or other entity within the definition of "person" but not an individual.

Section 79. Forfeiture.

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

(b) If an article or proceeds are confiscated under subsection (a) they are forfeited to the Government. Proceeds of sale must be paid into the National Treasury, but if an article poses a biosecurity threat it must be destroyed as directed by the Chief.

(c) For the purposes of subsection (a), "article used in committing the offense" includes equipment, a conveyance and any other movable thing owned by the offender which was used directly in the commission of the offense, but does not include real property and or buildings and fixtures on land.

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

PART 13. MISCELLANEOUS PROVISIONS.

Section 80. Abandoned goods.

(a) An article may be treated as abandoned and disposed of under this section if:

(1) any fee or charge payable by a person under this Act or the regulations in respect of the article is not paid within three (3) months of the notice of the fee or charge being served on the person;

(2) the article is in a biosecurity holding area and is not removed from the area within 14 days after biosecurity entry clearance has been granted in respect of it; or

(3) the article is in biosecurity quarantine and is not removed from a biosecurity quarantine station or biosecurity approved premises within fourteen (14) days after the end of the quarantine period in respect of it.

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

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

Section 81. Actions against the Republic of Palau; compensation.

(a) Any action against the Republic of Palau or an officer or employee thereof is subject to 14 PNC §§ 501 – 503. Nothing in this chapter shall be deemed a waiver of sovereign immunity.

(b) Compensation for Destruction or Removal. Where destruction or removal of any article is caused by the Government under this chapter, an owner, custodian, importer, or exporter shall be entitled to compensation therefor if the owner, custodian, importer, or exporter can show that such article became prohibited through no fault of his own. Under no circumstances shall the Government be liable for consequential damages under this chapter.

Section 82. Publication of orders and notices.

(a) Regulations must be promulgated in accordance with the Administrative Procedures Act, 6 PNC § 101, et seq.

(b) Orders made under this Act shall be served upon interested individuals and published in the same manner that regulations are noticed under the Administrative Procedures Act. Orders shall take effect immediately upon compliance with this subsection.

(c) Any notice required to be given by or under this Act to a person may be given by electronic means, provided the intended recipient of the notice is known to the sender to be able to receive notices in that form, but otherwise must be delivered to the intended recipient or posted to the usual or last known address of the intended recipient.

Section 83. Regulations.

The Minister may make regulations not inconsistent with this Act for the effective implementation of this Act.

Section 84. Repeals and savings.

(a) Subject to subsection (b) below, 34 PNC §§ 2001 – 2010 and the regulations made pursuant thereto are repealed, and are referred to in this section as "the repealed laws."

(b) Regulations –

(1) repealed by subsection (a) which could have been made under an equivalent provision of this Act are deemed to have been made under that provision and remain in force as if so made until repealed by regulations made under this Act, unless and to the extent that:

(A) the matter is provided for in this Act; and

(B) the regulations are inconsistent with the provisions of this Act or any other written law.

(2) repealed by subsection (a) do not include the current Plant and Animal Quarantine Regulations. Such regulations shall be repealed only after new regulations regulating the quarantine, possession, and transportation of plants and animals including harmful invasive species are promulgated in accordance

with this Act.

(c) Provisions of regulations made under the repealed laws dealing with the treatment of animals, plants and their products on arrival in the Republic of Palau:

(1) are deemed to have been made by the Chief as specifications under section 22;

(2) may be varied by the Chief under that section; and

(3) if included in a biosecurity register are governed by section 71 as to their evidential status.

(d) Permits equivalent to import permits issued under any provision of the repealed laws remain in force until they expire in accordance with their terms, or until revoked under this Act.

Section 85. Consultation and Coordination.

(a) Before exercising powers under this Act, the Minister and Chief should obtain appropriate technical advice and consult relevant interested parties, including affected agencies of the national and state governments.

(b) Biosecurity officers and other persons administering this Act should, so far as possible, coordinate their functions with those of officers of other government agencies and statutory authorities, in respect of border control, the movement of vessels and aircraft, human health, biosecurity internal control and compliance with the laws of the Republic of Palau generally.

Section 86. International Cooperation.

(a) The President may, in accordance with Palau law and upon consultation with the Minister, enter into bilateral or multilateral agreements with countries and international organizations for effective international control in biosecurity matters.

(b) Agreements under subsection (a) may include agreements on procedures for implementing this Act, but not so as to vary the effect of any of its provisions except as provided by this Act.

(c) The Minister should use his or her best efforts to implement in Palau international standards and requirements relating to biosecurity and to that end should:

(1) designate one or more officers in the Ministry as the enquiry point and

notification authority for purposes of the IPPC, the OIE and the PPPO; and

(2) seek to ensure that notification and reporting requirements of the IPPC, the OIE, the PPPO and any other international agreement relating to biosecurity imposed on Palau are met in a timely manner.

Section 87. Effective date.

This Act shall take effect upon certification by the Ministry of Natural Resources, Environment and Tourism that all steps necessary for implementation have been met, or six (6) months after its approval by the President of the Republic of Palau or after its becoming law without such approval, except as otherwise provided by law, whichever is earlier.

PASSED: February 04, 2016

Approved this 24th day of February, 2016

H. E. Tommy E. Remengesau, Jr.
President of the Republic of Palau