

# **BIOSECURITY ORDINANCE, 2020**

## **ARRANGEMENT OF SECTIONS**

### **PART 1 PRELIMINARY**

1. Short title and commencement
2. Overview and purpose

### **PART 2 ADMINISTRATION**

3. Appointment of Chief Biosecurity Officer and biosecurity officers
4. Functions of Chief Biosecurity Officer

### **PART 3 IMPORTS**

#### **Chapter 1 Prohibition and Control of Imports**

5. Regulatable articles, prohibited imports and controlled imports
6. Prohibition and control of imports
7. Biosecurity import exemptions

#### **Chapter 2 Import Specifications and Licences**

8. Biosecurity import control requirements
9. Import specifications
10. Applications for import licences
11. Import licences
12. Import licences: variation and revocation

#### **Chapter 3 Port Import Controls**

13. Biosecurity import control
14. Import inspections
15. Import clearance: decision-making
16. Conditional import clearance
17. Excluded consignments: destruction
18. Excluded consignments: reconsignment
19. Costs in respect of port import controls

### **PART 4 EXPORTS**

20. Prohibited exports
21. Prohibition and control of exports

22. Export inspections

PART 5  
CONTROL OF VESSELS, AIRCRAFT, PASSENGERS, CREW AND BAGGAGE

23. Application of Part

Chapter 1  
Vessels and Aircraft

24. Vessel and aircraft specifications
25. Biosecurity landing clearance
26. Biosecurity Arrival Declaration
27. Arrival inspection
28. Excluded vessels and aircraft
29. Costs in respect of excluded vessels and aircraft

Chapter 2  
Passengers, crew and baggage

31. Biosecurity entry clearance
32. Biosecurity Personal Declaration
33. Excluded passengers, crew and baggage
34. Costs in respect of excluded passengers, crew and baggage

Chapter 3  
Environmental obligations

35. Environmental obligations in respect of vessels

PART 6  
BIOSECURITY INTERNAL CONTROLS

36. Temporary emergency powers
37. Declaration of biosecurity emergency
38. Biosecurity emergency regulations
39. Humane destruction of wild or feral animals
40. Beneficial organisms and biocontrol agents

PART 7  
GENERAL ADMINISTRATIVE PROVISIONS

41. Biosecurity records
42. Service of notices
43. Administrative review
44. Liability and compensation

PART 8  
OFFENCES

Chapter 1  
Offences and penalties

45. General offences
46. Offences relating to prohibited and controlled imports
47. Offence relating to biosecurity-controlled consignment
48. Offence relating to prohibited exports
49. Offences relating to import or export inspection
50. Offences relating to vessels and aircraft
51. Offences relating to passengers, crew and baggage
52. Offences relating to environmental obligations

Chapter 2  
General provisions relating to offences

53. Offences by corporate bodies
54. Power of a court to order forfeiture

PART 9  
MISCELLANEOUS

55. Interpretation
56. Crown application
57. Exercise of powers subject to Memorandum of Understanding
58. Extra-territorial application
59. Regulations
60. Relationship with other written laws

SCHEDULE 1: Powers of biosecurity officers

SCHEDULE 2: Levels of authority for destructive biosecurity measures

L.S.

Philip Rushbrook  
Governor of Ascension

**ASCENSION**  
**No. 7 of 2020**

Enacted.....27 October 2020  
Date of Commencement.....in accordance with section 1  
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**AN ORDINANCE**

**to control the entry into, introduction or establishment within Ascension of invasive species, pests and diseases of animals and plants and their products, and to make ancillary and related provisions.**

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Enacted by the Governor of Ascension after consultation with the Island Council of Ascension.

**PART 1**  
**PRELIMINARY**

**Short title and commencement**

1. (1) This Ordinance may be cited as the Biosecurity Ordinance, 2020.
- (2) The provisions of this Ordinance come into force on such date or dates as the Governor may appoint by order.
- (3) An order under subsection (2) may—
  - (a) appoint different dates for different purposes;
  - (b) make such consequential, supplementary, incidental, transitional, transitory or savings provisions as are necessary in connection with the coming into force of the provisions of this Ordinance.

**Overview and purpose**

2. (1) This Ordinance establishes a regime of biosecurity control which—

- (a) regulates the import of goods that pose, or may pose, a biosecurity threat to Ascension;
  - (b) controls the arrival of vessels and aircraft, the unloading of cargo and baggage from them, and the disembarkation of passengers and crew members;
  - (c) enables the Government to exercise internal biosecurity controls, including providing powers to respond to biosecurity emergencies.
- (2) The purposes of the biosecurity control regime established by this Ordinance are—
- (a) to facilitate the safe import of goods including animals, plants and animal and plant products;
  - (b) to protect Ascension against the entry of non-native species and of pests and diseases;
  - (c) to prevent the release, establishment and spread of non-native species, and of pests and diseases;
  - (d) to detect, control, contain and eradicate non-native species and pests and diseases already present in Ascension;
  - (e) to facilitate international cooperation to prevent the spread of non-native species and of pests and diseases.
- (3) Any person exercising powers conferred by this Ordinance must do so only for the purposes set out in subsection (2), and a reference to the purposes of this Ordinance is a reference to those purposes.

(4) Where a “precautionary approach” may be taken in respect of a power conferred by this Ordinance, the person exercising that power is entitled to do so in a manner intended to respond to a perceived biosecurity risk or biosecurity threat notwithstanding the absence of relevant scientific information, including a biosecurity risk assessment, as to the likely impact of it.

## **PART 2 ADMINISTRATION**

### **Appointment of Chief Biosecurity Officer and biosecurity officers**

3. (1) The Governor may appoint a Chief Biosecurity Officer and such number of biosecurity officers as the Governor considers necessary or convenient for the administration of this Ordinance.

(2) If no Chief Biosecurity Officer is appointed, the person for the time being fulfilling the role of Director of Fisheries is deemed to have been appointed until an appointment is made under subsection (1).

(3) Schedule 1 makes provision concerning the powers of biosecurity officers.

(4) The Chief Biosecurity Officer may delegate to a biosecurity officer in writing any of the following powers—

- (a) in respect of biosecurity import exemptions, the powers under section 7(4), 7(5), 7(6) and 7(11);
- (b) in respect of biosecurity import licences, the powers in section 10(2), 10(5), 10(6), and sections 11 and 12.

## Functions of Chief Biosecurity Officer

4. (1) The Chief Biosecurity Officer must—
- (a) exercise the powers and fulfil the duties conferred on the Chief Biosecurity Officer by this Ordinance;
  - (b) ensure the efficient and effective operation of the biosecurity control regime established by this Ordinance;
  - (c) recommend to the Governor suitable persons for appointment as biosecurity officers;
  - (d) ensure that persons appointed as biosecurity officers are adequately trained to perform their duties;
  - (e) provide such instructions and guidance to biosecurity officers as may be necessary for the effective performance of their duties;
  - (f) without liability, provide guidance to importers and exporters as to the requirements of this Ordinance, including specifications published under the Ordinance;
  - (g) devise one or more response plans to deal with biosecurity threats;
  - (h) act as the enquiry point and notification authority for purposes of the IPPC and the OIE;
  - (i) seek to ensure that notification and reporting requirements of the IPPC, the OIE and any other international agreement relating to biosecurity that applies to the territory are met in a timely manner;
  - (j) perform such other functions as the Governor may by regulations confer.
- (2) The Chief Biosecurity Officer has all of the powers of a biosecurity officer.

## PART 3 IMPORTS

### Chapter 1 *Prohibition and Control of Imports*

## Regulatable articles, prohibited imports and controlled imports

5. (1) The Governor, on the advice of the Chief Biosecurity Officer, may by regulations under section 59—
- (a) specify an article, substance, goods or thing to be a regulatable article for the purposes of this Ordinance; and
  - (b) specify regulatable articles the importation of which—
    - (i) is prohibited unless an exemption is granted under section 7 (“**prohibited import**”); or
    - (ii) is permitted but must be in accordance with biosecurity import control requirements under Chapter 2 (“**controlled import**”);
- (2) Regulations under subsection (1) may—
- (a) specify regulatable articles—
    - (i) by category or description; and/or
    - (ii) by country or area of origin;
  - (b) make different provision for different cases, in particular, for different—

- (i) kinds of regulatable article;
- (ii) quantities of regulatable articles;
- (iii) circumstances or purposes;
- (iv) times of the year.

(3) In making regulations under subsection (1), the Governor must not discriminate in an arbitrary and unjustifiable manner between countries or areas where the same conditions prevail.

### **Prohibition and control of imports**

6. (1) A person may not import a regulatable article which is a prohibited import, unless an exemption under section 7 has been granted to that person in respect of that article.

(2) A person may not import a regulatable article which is a controlled import, otherwise than in accordance with a biosecurity import control requirement in section 8, unless an exemption under section 7 has been granted to that person in respect of that article.

### **Biosecurity import exemptions**

7. (1) A person who intends to import a prohibited or controlled import and wishes to obtain exemption from the prohibition or control imposed under section 6, must submit a written application to the Chief Biosecurity Officer at the earliest opportunity in order to allow sufficient time for the Chief Biosecurity Officer to give due consideration to the application.

(2) The Chief Biosecurity Officer may grant a written exemption (“**biosecurity import exemption**”) under this section if satisfied that to do so would not pose an unacceptable biosecurity risk to Ascension.

(3) An application under subsection (1) must be in the form approved by the Chief Biosecurity Officer including such information as the Chief Biosecurity Officer may require and be accompanied by the prescribed fee.

(4) The applicant must provide such further information or documents as the Chief Biosecurity Officer requests in writing to enable the Chief Biosecurity Officer to make a determination on the application.

(5) On receipt of a completed application, the Chief Biosecurity Officer may require the applicant to take such steps as the Chief Biosecurity Officer considers necessary for the purpose of determining the application, including—

- (a) to carry out, or cause to be carried out, biosecurity measures on the article to be imported; and
- (b) where such measures are a test or treatment, to provide the results or outcome.

(6) The Chief Biosecurity Officer may reject an application—

- (a) that fails to comply with subsection (3); or
- (b) if the applicant fails to comply with a request under subsection (4) or a requirement under subsection (5);

and any fee paid in respect of the application will not be refunded.

(7) A biosecurity import exemption is valid for a single consignment only and must specify—

- (a) the nature and quantity of goods to which it relates; and
- (b) the country or area of origin of those goods.

(8) A copy of the biosecurity import exemption must accompany the goods to which it relates.

(9) A biosecurity import exemption may be granted subject to such conditions as the Chief Biosecurity Officer considers necessary in the circumstances.

(10) Failure to comply with the conditions attached to a biosecurity import exemption will render the exemption invalid, and the consignment containing the goods to which it relates will be deemed to be a biosecurity-controlled consignment in respect of which Chapter 3 applies.

(11) The Chief Biosecurity Officer may vary or revoke a biosecurity import exemption without prior notice if, in the opinion of the Chief Biosecurity Officer, there is a change to the biosecurity risk posed by the importation of regulatable articles of the kind or from the country or area to which the exemption relates.

(12) In the event that a biosecurity import exemption is varied or revoked, the Chief Biosecurity Officer must take reasonable steps as soon as is practicable to inform the person to whom the exemption was granted, but no liability arises from any failure or delay in doing so.

## *Chapter 2*

### *Import Specifications and Licences*

#### **Biosecurity import control requirements**

8. In respect of controlled imports, a “biosecurity import control requirement” means—
- (a) the requirement to comply with conditions set out in any applicable biosecurity import specifications issued under section 9; or
  - (b) where no issued specification is applicable, the requirement to obtain a biosecurity import licence under section 10, and to comply with the conditions attached to such a licence.

#### **Import specifications**

9. (1) The Chief Biosecurity Officer may issue biosecurity import specifications setting out the conditions that a controlled import must meet as a requirement of being granted biosecurity import clearance under Chapter 3.

- (2) The specifications under subsection (1) may include—
  - (a) the biosecurity measures that must be applied to the controlled import before or after its arrival in Ascension;
  - (b) the documents that must accompany it;
  - (c) its condition on arrival in Ascension, including cleanliness and freedom from pests, diseases, animal and plant products, and other contamination.

- (3) The requirements set out in a specification under subsection (1) must—
- (a) have the purpose of reducing to an acceptable level the biosecurity risk posed to Ascension by controlled imports;
  - (b) impose no greater burden on importers of controlled imports than is necessary for that purpose; and
  - (c) be proportionate to the potential biosecurity risk posed to Ascension by the importation of controlled imports of the kind to which the specification relates.
- (4) Before issuing or amending a specification under this section, the Chief Biosecurity Officer must have regard to—
- (a) any biosecurity risk assessment the Chief Biosecurity Officer considers relevant;
  - (b) the requirements of international standards relating to biosecurity matters;
  - (c) the resources available in or to Ascension for biosecurity control.
- (5) A specification under this section may—
- (a) be expressed to apply to a named controlled import, to a category of controlled imports, to a description of controlled imports, or combination of these;
  - (b) make different provisions for different types and quantities of controlled imports;
  - (c) be by reference to the country or area of origin of a controlled import;
  - (d) specify circumstances in which an importer must apply for a biosecurity import licence under section 10;
  - (e) be in the form of an import health standard.
- (6) Specifications must promptly be published on the Ascension Island Government web site, but any failure or delay in doing so does not affect their validity.
- (7) The Chief Biosecurity Officer may amend or revoke a specification without prior notice if, in the opinion of the Chief Biosecurity Officer, there is a change to the risk posed to Ascension by the importation of a controlled import to which it relates.
- (8) If a specification is amended or revoked, the Chief Biosecurity Officer must take reasonable steps as soon as is practicable to bring the amendment or revocation to the attention of affected importers, but no liability arises from any failure or delay in doing so.

### **Applications for import licences**

**10. (1)** A person who intends to import a controlled import which requires a valid biosecurity import licence in accordance with section 8(b), must apply for, and be granted, a licence before the controlled import leaves the country of export.

(2) The Chief Biosecurity Officer may grant a biosecurity import licence only if satisfied that the importation of the controlled import to which it relates will not pose an unacceptable biosecurity risk to Ascension.

(3) An application under subsection (1) must be in the form approved by the Chief Biosecurity Officer including such information as the Chief Biosecurity Officer may require and be accompanied by the prescribed fee.

(4) The application for a biosecurity import licence must be submitted to the Chief Biosecurity Officer not less than 28 days before the controlled import is due to leave the country of export and must include—

- (a) the name and address of the applicant;
- (b) the nature and quantity of the controlled import;
- (c) the country or area of origin of the controlled import;
- (d) the route by which, and the date on which, the consignment containing the controlled import is expected to arrive in Ascension;
- (e) details of biosecurity measures that have been, or will be, carried out on the controlled import before its arrival in Ascension, including the results or outcome of tests conducted or treatments applied.

(5) The applicant must provide such further information or documents as the Chief Biosecurity Officer requests in writing to enable the Chief Biosecurity Officer to make a determination on the application.

(6) On receipt of a completed application, the Chief Biosecurity Officer may require the applicant to take such steps as the Chief Biosecurity Officer considers necessary for the purpose of determining the application, including—

- (a) to carry out, or cause to be carried out, biosecurity measures on the controlled import; and
- (b) where such measures are a test or treatment, to provide the results or outcome.

(7) The Chief Biosecurity Officer may reject an application—

- (a) that fails to comply with subsection (3) or (4); or
- (b) if the applicant fails to comply with a request under subsection (5) or a requirement under subsection (6);

and any fee paid in respect of the application will not be refunded.

### **Import licences: conditions**

11. (1) When granting a biosecurity import licence, the Chief Biosecurity Officer may attach conditions, which must—

- (a) have the purpose of reducing to an acceptable level the potential biosecurity risk posed to Ascension by the importation of the controlled import to which it relates;
- (b) impose no greater burden on the importer of the controlled import than is necessary for that purpose;
- (c) be proportionate to the potential biosecurity risk posed to Ascension by the importation of that controlled import.

(2) Failure to comply with a condition attached to the grant of a biosecurity import licence will render the licence invalid, and the consignment containing the controlled import will be deemed to be a biosecurity-controlled consignment in respect of which Chapter 3 applies.

### **Import licences: variation and revocation**

12. (1) The Chief Biosecurity Officer may vary or revoke a biosecurity import licence if, in the opinion of the Chief Biosecurity Officer, there is a change to the biosecurity risk posed

by the importation of controlled imports of the kind, or from the country or area, to which the licence relates.

(2) If a biosecurity import licence is varied to impose new or amended conditions, any such condition must comply with section 11(1).

(3) If a biosecurity import licence is varied or revoked, the Chief Biosecurity Officer must take reasonable steps as soon as is practicable to inform the person to whom the licence was granted, but no liability arises from any failure or delay in doing so.

### *Chapter 3* *Port Import Controls*

#### **Biosecurity import control**

**13. (1)** A biosecurity officer may, at that officer's discretion, direct that a consignment bound for or arriving in Ascension is subject to biosecurity import control upon which it is deemed to be a biosecurity-controlled consignment and control of the consignment passes to the biosecurity officer.

(2) A direction under this section may be given before or after a consignment has been landed in Ascension.

(3) A biosecurity-controlled consignment requires biosecurity import clearance and remains under the control of the biosecurity officer until—

- (a) unconditional biosecurity import clearance is granted under section 15(1)(a); or
- (b) biosecurity import clearance under section 15(1)(c) is refused and control of the consignment is transferred to the Chief Biosecurity Officer under section 15(2).

#### **Import inspections**

**14. (1)** The biosecurity officer must, as soon as practicable after giving a direction under section 13, complete or cause to be completed a biosecurity import inspection on the biosecurity-controlled consignment the purpose of which is to assess and manage the biosecurity risk posed by the consignment and to detect and respond to any potential biosecurity threat by—

- (a) establishing whether it contains a prohibited import;
- (b) assessing compliance with any applicable biosecurity import exemption, including conditions attached to the exemption;
- (c) establishing whether it contains a controlled import, and assessing compliance with any applicable biosecurity import control requirements;
- (d) applying such biosecurity measures as may be necessary to comply with the conditions of an applicable biosecurity import exemption or biosecurity import control requirements;
- (e) assessing whether it poses a biosecurity threat;
- (f) applying such biosecurity measures as may be necessary to reduce to an acceptable level any biosecurity threat detected during the inspection.

(2) For the purpose of carrying out a biosecurity import inspection, a biosecurity officer may exercise the powers set out in paragraph 2 of Schedule 1.

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**Import clearance: decision-making**

**15. (1)** If the biosecurity officer, after completing a biosecurity import inspection on a consignment, concludes that—

- (a) the consignment poses an acceptable biosecurity risk to Ascension, the biosecurity officer must grant unconditional biosecurity import clearance as soon as practicable and release the consignment to the importer;
- (b) the consignment poses, or continues to pose, an unacceptable biosecurity risk or biosecurity threat to Ascension but that the risk is capable of being reduced to an acceptable level by the imposition of conditions, the biosecurity officer may grant conditional biosecurity import clearance and the consignment remains a biosecurity-controlled consignment pending the grant of unconditional biosecurity import clearance; or
- (c) the consignment poses, or continues to pose, an unacceptable biosecurity risk or biosecurity threat to Ascension which is not reasonably capable of being reduced to an acceptable level by proportionate means, the biosecurity officer must refuse biosecurity import clearance and the consignment will be a biosecurity-excluded consignment in respect of which section 17 and section 18 apply.

**(2)** The biosecurity officer with control of the biosecurity-excluded consignment under subsection (1)(c) must as soon as practicable inform the Chief Biosecurity Officer whereupon control of the consignment transfers to the Chief Biosecurity Officer.

**(3)** Unless unconditional biosecurity clearance is granted, the biosecurity officer must provide the importer of the consignment with notice in writing of the decision made under this section and including a brief statement of the reasons for that decision.

**Conditional import clearance**

**16. (1)** The conditions attached to the grant of conditional biosecurity import clearance under section 15(1)(b) must—

- (a) have the purpose of reducing to an acceptable level the biosecurity risk or biosecurity threat posed to Ascension by the consignment to which they relate;
- (b) impose no greater burden on the importer of that consignment than is necessary for that purpose;
- (c) be proportionate to the biosecurity risk or biosecurity threat posed to Ascension by the consignment.

**(2)** If a biosecurity officer grants biosecurity import clearance subject to conditions under section 15(1)(b), the biosecurity officer may, as a condition of allowing the importer to take custody of the consignment, require the importer to provide a written undertaking to comply with those conditions.

**Excluded consignments: destruction**

**17. (1)** The Chief Biosecurity Officer, on being informed of the existence of a biosecurity-excluded consignment under section 15(2), must promptly assess the biosecurity threat posed by the consignment and determine whether—

- (a) the biosecurity threat posed by the consignment is such that the immediate destruction of the whole or a part of it is necessary;
  - (b) it is necessary to exercise temporary emergency powers under section 36;
  - (c) to advise the Governor to declare a biosecurity emergency under section 37.
- (2) In making a determination under subsection (1), the Chief Biosecurity Officer—
- (a) must take account of any relevant biosecurity risk assessment, if circumstances permit;
  - (b) may otherwise take a precautionary approach.
- (3) Subject to subsection (4), if the Chief Biosecurity Officer determines that immediate destruction of whole or a part of the consignment is necessary, the Chief Biosecurity Officer—
- (a) may order destruction of the consignment or part thereof, as the case may be;
  - (b) must provide the importer with a written notice of the decision under this section, including what is to be destroyed and a brief statement of the reasons for that decision.
- (4) Schedule 2 makes provision concerning the circumstances in which the Chief Biosecurity Officer must seek authority from the Administrator before ordering destruction of the whole or part of a consignment.

#### **Excluded consignments: reconsignment**

**18. (1)** For any biosecurity-excluded consignment, or part of a such consignment, in respect of which immediate destruction under section 17 is not necessary the Chief Biosecurity Officer must give a written notice to the importer requiring that arrangements be made, within such reasonable period of time as may be specified in the notice, for the consignment, or remaining parts thereof, to be reconsigned.

(2) Pending reconsignment in accordance with a notice issued under subsection (1), the Chief Biosecurity Officer may—

- (a) direct that the consignment be moved to and stored in a location and in such manner; and
  - (b) subject the consignment to such further biosecurity measures
- as the Chief Biosecurity Officer considers necessary for the purpose of containing the biosecurity threat posed by it.

(3) If the importer has not made the required arrangement for reconsignment at the end of the period in the written notice under subsection (1), the Chief Biosecurity Officer may treat the consignment as abandoned and dispose of it or otherwise destroy it.

#### **Costs in respect of port import controls**

**19.** The importer must bear the reasonable costs of, and associated with, the application of biosecurity measures to biosecurity-controlled consignments and biosecurity-excluded consignments in accordance with this Part (including the costs of movement, storage, treatment,

disposal and/or destruction) and these costs may be recovered as a civil debt owed to the Government.

## **PART 4 EXPORTS**

### **Prohibited exports**

**20. (1)** The Governor, on the advice of the Chief Biosecurity Officer, may, by regulations under section 59, specify regulatable articles the export of which is prohibited (“**prohibited exports**”).

**(2)** Regulations made under this section may—

- (a)* specify regulatable articles by category or description;
- (b)* make different provisions for different cases, including for different countries or areas.

### **Prohibition and control of exports**

**21.** A person must not export a regulatable article which is a prohibited export.

### **Export inspections**

**22. (1)** A biosecurity officer may direct that a consignment intended for export be made available by the exporter for biosecurity export inspection for the purpose of enabling the biosecurity officer to establish whether the consignment contains a prohibited export.

**(2)** For the purpose of carrying out a biosecurity export inspection under subsection (1), the biosecurity officer may exercise the powers set out in paragraph 2 of Schedule 1.

## **PART 5 CONTROL OF VESSELS, AIRCRAFT, PASSENGERS, CREW AND BAGGAGE**

### **Application of Part**

**23. (1)** For the purposes of this Part, and any offence in Part 8 relating to this Part,—

- (a)* the term “master” includes references to the captain of an aircraft;
- (b)* the term “vessel” does not include any lighter, barge or other vessel used in Ascension primarily to ferry cargo, passengers, crew or baggage ashore from a larger vessel or for recreational purposes including fishing or diving.

**(2)** This Part, and any offence in Part 8 relating to this Part, applies to a passenger or crew member who wishes to disembark in Ascension (and includes that person’s baggage), even if the passenger or crew member is in transit or is exempt from immigration control.

**Vessel and aircraft specifications**

**24. (1)** The Chief Biosecurity Officer may issue biosecurity vessel and aircraft specifications setting out the conditions that an incoming vessel or aircraft must meet as a requirement of being granted biosecurity landing clearance under section 25.

**(2)** The specifications under subsection (1) may include—

- (a)* biosecurity measures that must be applied to the vessel or aircraft ahead of its arrival in Ascension;
- (b)* any documents that the master must provide if so required by a biosecurity officer.

**(3)** The requirements set out in a specification must—

- (a)* have the purpose of reducing to an acceptable level the biosecurity risk posed to Ascension by incoming vessels and aircraft;
- (b)* impose no greater burden on the owner, operator, charterer or master of an incoming vessel or aircraft than is necessary for that purpose;
- (c)* be proportionate to the potential biosecurity risk posed to Ascension by incoming vessels or aircraft of the kind to which the specification relates.

**(4)** Specifications issued under subsection (1) may make different provision for different cases, in particular—

- (a)* types of vessel or aircraft;
- (b)* types of cargo;
- (c)* pathways, including routes and ports of call.

**(5)** Before issuing or amending a specification, the Chief Biosecurity Officer must—

- (a)* carry out a biosecurity risk assessment in respect of the vessel and aircraft types, cargo, or pathway to which it relates;
- (b)* have regard to the requirements of international standards relating to biosecurity matters;
- (c)* have regard to the resources available in or to Ascension for biosecurity control.

**(6)** Specifications must promptly be published on the Ascension Island Government web site, but any failure or delay in doing so does not affect their validity.

**(7)** The Chief Biosecurity Officer may amend or revoke a specification if, in the opinion of the Chief Biosecurity Officer, there is a change to the biosecurity risk posed by the type of vessel or aircraft, cargo, or pathway to which it relates.

**(8)** If a specification is amended or revoked, the Chief Biosecurity Officer must as soon as practicable bring the amendment or revocation to the attention of affected owners, operators, charterers and masters, but no liability arises from the failure or delay to do so.

**Biosecurity landing clearance**

**25. (1)** The master of an incoming vessel or aircraft who intends to land cargo or baggage, or to permit the disembarkation of passengers or crew members, requires biosecurity landing clearance in order to do so.

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- (2) A biosecurity officer may grant biosecurity landing clearance only if satisfied that—
- (a) the continued presence of the vessel or aircraft in Ascension;
  - (b) the landing of cargo or baggage from the vessel or aircraft; and
  - (c) the disembarkation of passengers or crew members from the vessel or aircraft,
- is unlikely to pose an unacceptable biosecurity risk to Ascension.
- (3) If a biosecurity officer refuses biosecurity landing clearance—
- (a) the biosecurity officer must, if requested, give the master a notice in writing of the decision, including a brief statement of the reasons for it;
  - (b) the vessel or aircraft is deemed to be a biosecurity-excluded vessel or aircraft in respect of which section 28 applies.
- (4) This section does not apply to a vessel or aircraft that is in distress, or which has aboard any person in need of urgent medical attention.

### **Biosecurity Arrival Declaration**

**26. (1)** In order to obtain biosecurity landing clearance, the master must submit, or cause to be submitted, to the Chief Biosecurity Officer a completed Biosecurity Arrival Declaration in such form as the Chief Biosecurity Officer may approve and containing such information as the Chief Biosecurity Officer may require.

(2) A Biosecurity Arrival Declaration must be submitted to the Chief Biosecurity Officer—

- (a) in the case of a vessel, not less than 24 hours before it is due to arrive in Ascension;
- (b) in the case of an aircraft, not less than 2 hours before its scheduled arrival in Ascension .

(3) A Biosecurity Arrival Declaration may be submitted—

- (a) by electronic means;
- (b) in conjunction with or as part of a declaration made for customs, immigration or other border control purposes.

(4) If the master refuses or otherwise fails to provide a Biosecurity Arrival Declaration in accordance with subsection (1), the Chief Biosecurity Officer must direct that the vessel or aircraft be subject to a biosecurity arrival inspection in accordance with section 27 before biosecurity landing clearance can be granted.

### **Arrival inspection**

**27. (1)** A biosecurity officer may direct that an incoming vessel or aircraft that requires biosecurity landing clearance is subject to a biosecurity arrival inspection the purpose of which is to assess and manage the biosecurity risk posed to Ascension and to detect and respond to any potential biosecurity threat by—

- (a) establishing whether the presence of the vessel or aircraft poses a biosecurity threat to Ascension;
- (b) establishing whether cargo on board the vessel or aircraft is likely to pose an unacceptable biosecurity risk to Ascension;

- (c) establishing whether any of the passengers, crew members, or their baggage is likely to pose an unacceptable biosecurity risk to Ascension;
- (d) applying such biosecurity measures as are reasonably necessary to reduce any biosecurity risk or biosecurity threat detected during the inspection to an acceptable level.

(2) For the purpose of carrying out a biosecurity arrival inspection, the biosecurity officer may exercise the powers set out in paragraph 3 of Schedule 1.

(3) If a master refuses or otherwise fails without reasonable excuse to comply with any requirement imposed by virtue of the powers exercised under subsection (2), the biosecurity officer must refuse biosecurity landing clearance.

### **Excluded vessels and aircraft**

**28. (1)** The master of a biosecurity-excluded vessel or aircraft must make arrangements for the vessel or aircraft to depart Ascension at the earliest possible opportunity.

- (2) Pending departure, the master of a biosecurity-excluded vessel or aircraft—
  - (a) must not permit, otherwise than with permission of a biosecurity officer,—
    - (i) the unloading of cargo or baggage; or
    - (ii) the disembarkation of passengers or crew members;
  - (b) must comply with the directions a biosecurity officer may give for the purpose of containing any biosecurity threat posed by the continued presence of the vessel or aircraft in Ascension, including—
    - (i) the application of such biosecurity measures;
    - (ii) the sealing and securing of such hatches or doors or areas of a hold; as the biosecurity officer considers necessary for that purpose.

### **Costs in respect of excluded vessels and aircraft**

**29.** The owner, operator, charterer or master of the vessel or aircraft must bear the costs of complying with a requirement imposed under section 27 or a direction given under section 28(2)(b) in respect of the vessel.

## *Chapter 2*

### *Passengers, crew and baggage*

### **Biosecurity entry clearance**

**31. (1)** A passenger or crew member on board an incoming vessel or aircraft who intends to disembark in Ascension requires biosecurity entry clearance.

(2) Baggage stored in the hold of an aircraft is to be treated as baggage for the purposes of this Chapter, but baggage which is to be landed but does not accompany a passenger or crew member who also intends to disembark, is to be treated as cargo and is subject to port import control under Chapter 3 of Part 3.

(3) A biosecurity officer must grant biosecurity entry clearance only if satisfied that the presence in Ascension of the person and their baggage is unlikely to pose an unacceptable biosecurity threat.

(4) For purposes of granting biosecurity entry clearance, a biosecurity officer may exercise the powers set out in paragraph 4 of Schedule 1.

(5) If a biosecurity officer refuses biosecurity entry clearance—

- (a) the biosecurity officer must, if so requested, give the person a notice in writing of the decision, including a brief statement of the reasons for it;
- (b) the person is deemed to be a biosecurity-excluded person in respect of whom section 33 applies.

(6) This section does not apply to a person who is in need of urgent medical attention.

### **Biosecurity Personal Declaration**

**32. (1)** In order to obtain biosecurity entry clearance, a person must submit to a biosecurity officer a completed Biosecurity Personal Declaration in such form as the Chief Biosecurity Officer may approve and containing such information as the Chief Biosecurity Officer may require, including information concerning the person's baggage.

(2) A Biosecurity Personal Declaration may be submitted—

- (a) by electronic means;
- (b) by a person on behalf of that person's spouse or life partner and any children under the age of 18 years accompanying that person on the same vessel or aircraft;
- (c) by the master of a vessel or aircraft on behalf of the crew of the vessel or aircraft;
- (d) in conjunction with or as part of a declaration made for customs, immigration or other border control purposes.

(3) If a person refuses or otherwise fails without reasonable excuse to provide a Biosecurity Personal Declaration in accordance with subsection (1), or to comply with a requirement imposed by virtue of the powers exercised under section 31(4), the biosecurity officer must refuse biosecurity entry clearance.

### **Excluded passengers, crew and baggage**

**33. (1)** The master of the vessel or aircraft on which a biosecurity-excluded person arrived must make arrangements for the removal of that person and their baggage from Ascension at the earliest possible opportunity.

(2) Pending removal, a biosecurity-excluded person and his or her baggage may only disembark from an incoming vessel or aircraft—

- (a) with the permission of a biosecurity officer; and
- (b) in accordance with conditions that the biosecurity officer may reasonably impose to control the biosecurity threat posed by the continued presence of the person and/or their baggage in Ascension.

(3) A biosecurity officer may, for the purposes of containing a biosecurity threat posed by the continued presence of the person and/or their baggage,—

- (a) require a biosecurity-excluded person who has disembarked to move, with or without their baggage, to a location as the biosecurity officer may direct, and to remain there pending removal;
- (b) apply to the person's baggage such biosecurity measures as are necessary.

(4) Before applying a biosecurity measure to a person's baggage in accordance with subsection (3)(b), the biosecurity officer must seek the person's consent or, if consent is not given, the approval of the Chief Biosecurity Officer to use reasonable force to do so without consent.

(5) For the purposes of this section and section 34, a biosecurity-excluded person who, together with their baggage, has returned to the vessel from which they had previously disembarked is deemed to have been removed from Ascension even if the vessel remains within the territorial waters of Ascension.

#### **Costs in respect of excluded passengers, crew and baggage**

34. (1) The operator, owner or charterer of the vessel or aircraft on which a biosecurity-excluded person arrived must bear the cost of removing that person from Ascension.

(2) Pending removal, the biosecurity-excluded person must bear the reasonable costs associated with being considered a biosecurity-excluded person, including the costs of movement, storage, treatment, disposal and/or destruction of the person's baggage, and these costs may be recovered as a civil debt owed to the Government.

### *Chapter 3* *Environmental obligations*

#### **Environmental obligations in respect of vessels**

35. (1) The master of an incoming vessel must take all reasonable steps to prevent live animals on board the vessel or aircraft from landing, unless permitted by a biosecurity officer, and then only as directed by the officer.

(2) The master of an incoming vessel must take all reasonable steps to ensure that no ships' stores are removed from the vessel while it is in Ascension, except under and in accordance with the directions of a biosecurity officer.

- (3) The master of an incoming vessel must take all reasonable steps to ensure that no—
  - (a) waste containing any animal, plant, animal product or plant product;
  - (b) bilge water, sewage or foul wastewater;
  - (c) ballast,

is discharged from the vessel into the sea whilst the vessel is in Ascension.

(4) The obligations in subsection (3) are in addition to, and do not limit, the obligations of the masters of vessels in respect of discharges from a vessel into the territorial waters of Ascension under—

- (a) the International Convention for the Prevention of Pollution from Ships, 1973 as modified ('MARPOL');
- (b) the International Convention for the Control and Management of Ships' Ballast Water and Sediments, 2004;
- (c) any other written law.

## PART 6 BIOSECURITY INTERNAL CONTROLS

### Temporary emergency powers

**36. (1)** This section applies if, in the opinion of the Chief Biosecurity Officer, there is a biosecurity threat in any part of Ascension which requires an immediate response.

(2) In responding to the biosecurity threat, the Chief Biosecurity Officer may exercise any of the powers in this section for up to 72 hours.

(3) The Chief Biosecurity Officer may issue written directions for—

- (a) the disposal of non-native species;
- (b) the treatment or disposal of infected or infested animals or plants, animal or plant products, or plant material;
- (c) the destocking, cleaning, disinfecting or other treatment of land, premises and conveyances;
- (d) the inspection and treatment of regulatable articles in or entering or leaving the affected area;
- (e) any other biosecurity measures the Chief Biosecurity Officer reasonably considers necessary.

(4) The Chief Biosecurity Officer may issue written directions governing—

- (a) the movement of animals or plants or their products or other regulatable articles into, out of or within the affected area;
- (b) the movement of humans and conveyances into, out of or within the affected area;
- (c) any other activity that the Chief Biosecurity Officer reasonably considers needs to be controlled.

(5) In responding to the biosecurity threat, a biosecurity officer may exercise the powers set out in paragraph 1 of Schedule 1.

(6) If any of the powers in this section are exercised, the Chief Biosecurity Officer must, as soon as practicable, report to the Administrator—

- (a) the fact that the power has been exercised;
- (b) the nature of the biosecurity threat identified;
- (c) the area or areas affected;
- (d) when the 72-hour period expires;

(e) the likelihood that it will be necessary to declare a biosecurity emergency (whether at the expiry of the 72-hour period or sooner).

(7) If the biosecurity threat remains after the expiry of the 72-hour period in subsection (2), the Chief Biosecurity Officer must, if he or she determines it necessary, advise the Governor to declare a biosecurity emergency in accordance with section 37.

(8) For the purpose of this section, “**regulatable article**” includes an article, substance, goods or thing which is not otherwise a regulatable article but which the Chief Biosecurity Officer reasonably suspects to be infested with a pest or infected by a disease.

### **Declaration of biosecurity emergency**

**37. (1)** The Governor, on the advice of the Chief Biosecurity Officer that a biosecurity emergency has arisen in the whole or a part of Ascension, may by order make a biosecurity emergency declaration in respect of the whole of or that part of Ascension.

(2) A biosecurity emergency declaration must state—

- (a) the date and time on which it was made;
- (b) the nature of the biosecurity emergency;
- (c) any area affected, including the boundaries of that area.

(3) The Governor must report the fact and circumstances of a biosecurity emergency declaration to the Island Council either before it is made, if circumstances permit, or otherwise as soon as practicable after it is made.

(4) During the period when a biosecurity emergency declaration is in force—

- (a) the Chief Biosecurity Officer may exercise, or continue to exercise, the powers conferred by section 36(3) and (4); and
- (b) a biosecurity officer may continue to exercise the powers set out in paragraph 1 of Schedule 1.

(5) A biosecurity emergency declaration remains in force for as long as is necessary to respond to the biosecurity emergency, but the Governor must revoke it once the emergency ceases.

(6) In making a decision under this section, the Governor may take a precautionary approach.

(7) In this section, “**biosecurity emergency**” means—

- (a) the incursion or suspected incursion of a non-native species into any area of Ascension;
- (b) the infestation or suspected infestation by a pest in any area of Ascension;
- (c) the existence of some other biosecurity threat,

which requires urgent action, whether by eradication, containment or other response, and for which the powers under this Ordinance are not otherwise adequate.

**Biosecurity emergency regulations**

**38. (1)** This section applies during the currency of a biosecurity emergency declaration.

**(2)** The Governor, acting on the recommendation of the Chief Biosecurity Officer, may make biosecurity emergency regulations to supplement the powers of the Chief Biosecurity Officer and biosecurity officers under this Ordinance.

**(3)** Biosecurity emergency regulations must include a reference to the biosecurity emergency declaration to which they relate.

**(4)** Biosecurity emergency regulations may create offences for breaches of the regulations and prescribe maximum penalties of a fine of £10,000 for an individual or £50,000 for a corporate body.

**(5)** Biosecurity emergency regulations lapse on the revocation of the biosecurity emergency declaration to which they refer.

**(6)** In respect of action taken under biosecurity emergency regulations—

- (a)** the cost of treatment or destruction of an article is to be borne by the Government;
- (b)** compensation (but not for consequential loss) is payable to the owner of any, premises, conveyance or article that is used, lost, damaged or destroyed.

**Humane destruction of wild or feral animals**

**39. (1)** The Chief Biosecurity Officer may cause a wild or feral animal to be humanely destroyed if the Chief Biosecurity Officer—

- (a)** has reasonable grounds to suspect that the wild or feral animal is carrying a non-native species, pest or disease, and its destruction is necessary to prevent the non-native species, pest or disease from being established or spreading in Ascension; or
- (b)** considers that a wild or feral animal poses a threat to the health or safety of other animals or to humans, or is likely to adversely impact native flora and habitats, whether or not it is carrying a non-native species, pest or disease.

**(2)** The Chief Biosecurity Officer must cause the carcass of an animal destroyed under this section to be disposed of in a manner that will not create the risk of the spread of a non-native species, pest or disease.

**(3)** This section applies to all wild and feral animals, including those that may belong to a species protected by law, and no prosecution may be brought against a person who lawfully destroys a protected animal in accordance with this section.

**Beneficial organisms and biocontrol agents**

**40. (1)** The Governor, acting on the recommendation of the Chief Biosecurity Officer, may by notice in the *Gazette* authorise the release of a beneficial organism or biocontrol agent if the Governor is satisfied that the proposed release is necessary for the control or eradication of a particular non-native species, pest or disease in Ascension.

(2) Before making a recommendation to the Governor under subsection (1), the Chief Biosecurity Officer must make, or cause to be made, a biosecurity risk assessment as to the probable effects of the release.

(3) A notice published under subsection (1) must state—

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

(4) No liability attaches to the Governor, the Chief Biosecurity Officer or a biosecurity officer or other public officer in respect of the release of organisms or biocontrol agents in accordance with this section, except on proof of negligence or malice.

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

## PART 7 GENERAL ADMINISTRATIVE PROVISIONS

### Biosecurity records

41. The Chief Biosecurity Officer must maintain such records as are necessary for the effective operation of the biosecurity control regime established by this Ordinance, including copies of—

- (a) biosecurity import exemptions granted under section 7;
- (b) decisions to refuse biosecurity import exemptions under section 7;
- (c) biosecurity import specifications issued under section 9;
- (d) biosecurity import licences granted under section 10;
- (e) decisions to refuse biosecurity import clearance under section 15;
- (f) biosecurity vessel specifications issued under section 24;
- (g) decisions to refuse biosecurity landing clearance under section 25;
- (h) decisions to refuse biosecurity entry clearance under section 31;
- (i) in respect of the exercise of emergency powers under section 36—
  - (i) any report made to the Administrator under section 36(6);
  - (ii) any directions issued under section 36(3) or (4);
- (j) biosecurity emergency declarations made under section 37;
- (k) authorisations for the release of beneficial organisms and biocontrol agents under section 40.

### Service of notices

42. (1) A written notice or document may be—

- (a) delivered in person;
- (b) sent electronically; or
- (c) sent by post if the person has not provided an email address and is not in Ascension.

(2) In the case of a corporate body, a notice or document may be served on an officer or employee of that body who is authorised to accept service of notices or documents on its behalf.

(3) A notice sent electronically is deemed to have been given when it is sent in the absence of an error message to indicate that transmission has been unsuccessful.

(4) If a notice or document is sent by post, it must be sent—

(a) in the absence of an address, to a person's last known address or principal place of business;

(b) in respect of a corporate body, to that body's registered address or principal place of business.

(5) If the whereabouts of a person are unknown, then any written notice or document may be placed on file and will be deemed to have been given on that date.

### **Administrative review**

**43.** (1) The following decisions may be challenged by way of an application to the Administrator for an administrative review—

(a) a decision to refuse, impose conditions on, vary or revoke a biosecurity import exemption;

(b) a decision to refuse, impose conditions on, vary or revoke a biosecurity import licence;

(c) a decision to refuse biosecurity import clearance;

(d) a decision to refuse biosecurity landing clearance;

(e) a decision to refuse biosecurity entry clearance.

(2) An application under—

(a) subsection (1)(a) and (b) may be made only by the applicant;

(b) subsection (1)(c) may be made only by the importer of the consignment to which it relates;

(c) subsection (1)(d) may be made by the owner, operator, charterer or master of the vessel to which it relates;

(d) subsection (1)(e) may be made only by the person to which it relates.

(3) An application for administrative review must be received by the Administrator within 7 days of the decision to which it relates.

(4) The making of an application for the administrative review of a decision—

(a) is not suspensive of a requirement for arrangements to be made for—

(i) a biosecurity-excluded consignment to be reconsigned in accordance with a notice given under section 18(1);

(ii) a biosecurity-excluded vessel or aircraft to depart Ascension in accordance with section 28(1); or

(iii) a biosecurity-excluded person and their baggage to be removed from Ascension in accordance with section 33(1);

(b) does not prevent the application of biosecurity measures in the meantime.

(5) An administrative review must be determined—

- (a) on judicial review principles;
- (b) without an oral hearing unless, in the opinion of the Administrator, an oral hearing is necessary in the interests of justice.

(6) At the conclusion of an administrative review, the Administrator may—

- (a) uphold the original decision;
- (b) quash a decision and remit it to the Chief Biosecurity Officer for determination or redetermination as the case may be.

(7) The quashing of a decision does not retrospectively affect the lawfulness or validity of another decision taken or action carried out in reliance on it.

### **Liability and compensation**

**44. (1)** Subject to subsection (3), no compensation is payable for loss (including consequential loss) or damage (including partial or complete destruction) caused by or arising from the lawful exercise of the powers under this Ordinance, including—

- (a) a decision to reject an application for a biosecurity import exemption or a biosecurity import licence;
- (b) a decision to refuse, impose conditions on, vary or revoke a biosecurity import exemption or a biosecurity import licence;
- (c) a decision to refuse biosecurity import clearance, biosecurity landing clearance or biosecurity entry clearance; or
- (d) a delay in reaching any of the above decisions.

(2) No act done by the Governor, the Administrator, the Chief Biosecurity Officer or biosecurity officer, if done *bona fide* in the exercise of the powers, functions and duties conferred or imposed by or under this Ordinance, renders them liable to any action, suit, claim or demand whatsoever.

(3) Compensation for loss (other than consequential loss) or damage may be payable if the plaintiff can prove malice or negligence, but the amount of such compensation must take into account any contributory conduct by the plaintiff, including failure to comply with—

- (a) a requirement in respect of a relevant application;
- (b) a condition attached to a biosecurity import exemption;
- (c) the requirement to apply for a biosecurity import licence;
- (d) a condition attached to a biosecurity import licence;
- (e) a requirement of an applicable specification;
- (f) a lawful direction given by the Chief Biosecurity Officer in accordance with section 36(3) or (4);
- (g) a lawful direction given or a requirement imposed by a biosecurity officer.

## **PART 8 OFFENCES**

### *Chapter 1 Offences and penalties*

**General offences**

**45. (1)** A person who knowingly or recklessly submits a declaration or application, or provides further information, which is materially false or misleading (including by omission), commits an offence.

Maximum penalty: A fine of £5,000, imprisonment for 6 months, or both.

**(2)** A person commits an offence if the person—

*(a)* wilfully obstructs a biosecurity officer in the lawful exercise of the powers set out in paragraph 1 of Schedule 1;

*(b)* refuses or otherwise fails without reasonable excuse to comply with a lawful direction given or requirement imposed under paragraph 1 of Schedule 1.

Maximum penalty: A fine of £5,000, imprisonment for 6 months, or both.

**(3)** A person who refuses or otherwise fails to comply without reasonable excuse with a direction issued in accordance with section 36(3) or (4), commits an offence.

Maximum penalty: A fine of £5,000, imprisonment for 6 months, or both.

**Offences relating to prohibited and controlled imports**

**46. (1)** A person who imports, or attempts to import, an article which is a prohibited import, otherwise than in accordance with a valid biosecurity import exemption, commits an offence.

Maximum penalty: A fine of £10,000, imprisonment for 12 months, or both.

**(2)** A person who imports, or attempts to import, an article which is a controlled import, otherwise than in accordance with the applicable biosecurity import control requirements, or a valid biosecurity import exemption, commits an offence.

Maximum penalty: A fine of £5,000, imprisonment for 6 months, or both.

**(3)** A person who owns or is in possession of a regulatable article the importation of which would, at the time the offence is committed, be prohibited in accordance with regulations referred to in section 5(1)(b), commits an offence.

Maximum penalty: A fine of £5,000, imprisonment for 6 months, or both.

**(4)** A person who releases or allows to escape into the wild an animal the importation of which would, at the time the offence is committed, be prohibited in accordance with regulations referred to in section 5(1)(b), commits an offence.

Maximum penalty: A fine of £5,000, imprisonment for 6 months, or both.

**(5)** A person who plants or otherwise causes to grow in the wild a plant the import of which would, at the time the offence is committed, be prohibited in accordance with regulations referred to in section 5(1)(b), commits an offence.

Maximum penalty: A fine of £5,000, imprisonment for 6 months, or both.

**(6)** It is a defence to a charge under subsection (1) or (2) for the person to prove that the article in question was not, or was no longer, in that person's power, possession or control at the time when the relevant prohibition or biosecurity import control requirement was imposed.

(7) It is a defence to a charge under subsection (3) for the person to prove that the article in question was imported in accordance with a valid biosecurity import exemption,

(8) It is a defence to a charge under this section for the person to prove that he or she took all reasonable steps and exercised all due diligence to avoid committing the offence.

### **Offence relating to biosecurity-controlled consignment**

**47. (1)** A person who without reasonable excuse interferes with a biosecurity-controlled consignment in respect of which section 13 applies, or moves such a consignment after it has been landed in Ascension, otherwise than at the direction, or with the permission, of a biosecurity officer, commits an offence.

Maximum penalty: A fine of £5,000, imprisonment for 6 months, or both.

(2) A person who fails without reasonable excuse to comply with a written undertaking under section 16(2), commits an offence.

Maximum penalty: A fine of £1,000, imprisonment for 3 months, or both.

### **Offence relating to prohibited exports**

**48.** A person who exports, or attempts to export, a prohibited export in contravention of section 20, commits an offence.

Maximum penalty: A fine of £5,000, imprisonment for 6 months, or both.

### **Offences relating to import or export inspection**

**49.** A person commits an offence if, during a biosecurity import inspection under section 14 or a biosecurity export inspection under 22, the person—

- (a) wilfully obstructs a biosecurity officer in the lawful exercise of the powers set out in paragraph 2 of Schedule 1;
- (b) refuses or otherwise fails without reasonable excuse to comply with a lawful direction given or requirement imposed under paragraph 2 of Schedule 1.

Maximum penalty: A fine of £5,000, imprisonment for 6 months, or both.

### **Offences relating to vessels and aircraft**

**50. (1)** A master of a vessel or aircraft who permits the landing of cargo or baggage or the disembarkation of passengers or crew members, without having been granted biosecurity landing clearance as required under section 25, or the permission of a biosecurity officer, commits an offence.

Maximum penalty: A fine of £5,000, imprisonment for 6 months, or both.

(2) A person commits an offence if, during a biosecurity arrival inspection under section 27, the person—

- (a) wilfully obstructs a biosecurity officer in the lawful exercise of the powers set out in paragraph 3 of Schedule 1;
- (b) refuses or otherwise fails without reasonable excuse to comply with a lawful direction given or requirement imposed under paragraph 3 of Schedule 1.

Maximum penalty: A fine of £5,000, imprisonment for 6 months, or both.

(3) A master of a vessel or aircraft who refuses or otherwise fails without reasonable excuse to make arrangements for the vessel or aircraft to depart Ascension in accordance with section 28(1), commits an offence.

Maximum penalty: A fine of £10,000, imprisonment for 12 months, or both.

(4) A master of a vessel or aircraft commits an offence if the master without reasonable excuse—

(a) permits the unloading of cargo or baggage, or the disembarkation of a passenger or crew member in breach of section 28(2)(a); or

(b) refuses or otherwise fails to comply with a direction under section 28(2)(b).

Maximum penalty: A fine of £10,000, imprisonment for 12 months, or both.

### **Offences relating to passengers, crew and baggage**

51. (1) A person commits an offence if the person—

(a) wilfully obstructs a biosecurity officer in the lawful exercise of the powers set out in paragraph 4 of Schedule 1;

(b) refuses or otherwise fails without reasonable excuse to comply with a lawful direction given or requirement imposed under section 33.

Maximum penalty: A fine of £5,000, imprisonment for 6 months, or both.

(2) A master of a vessel or aircraft who refuses or fails without reasonable excuse to make arrangements to remove a person and that person's baggage from Ascension in accordance with section 33(1), commits an offence.

Maximum penalty: A fine of £10,000, imprisonment for 12 months, or both.

(3) A biosecurity-excluded person who refuses or otherwise fails without reasonable excuse to comply with a requirement to move to and remain at a location as directed by a biosecurity officer under section 33(3)(a), commits an offence.

Maximum penalty: A fine of £5,000, imprisonment for 6 months, or both.

### **Offences relating to environmental obligations**

52. A master of a vessel or aircraft who without reasonable excuse fails to comply with an obligation under section 35 commits an offence.

Maximum penalty: A fine of £5,000, imprisonment for 6 months, or both.

## *Chapter 2*

### *General provisions relating to offences*

### **Offences by corporate bodies**

53. (1) If a corporate body commits an offence against this Ordinance, and it is proved that—

(a) the offence was committed with the consent or connivance of a person who was at the time of the offence an officer of the corporate body or purporting to act in that capacity; or

(b) an officer of the corporate body, or a person purporting to act in that capacity, failed to exercise reasonable diligence to prevent the commission of the offence, having

regard to the nature of that person's functions in the corporate body and all the circumstances,  
the person commits the like offence.

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

### **Power of a court to order forfeiture**

**54. (1)** A court convicting a person of an offence under this Ordinance may, in addition to any other penalty imposed, order the confiscation of—

- (a) an article used in commission of the offence; or
- (b) if the article has been sold, the proceeds of the sale.

(2) Anything subject to an order under subsection (1) is forfeit to the Government, and—  
(a) a forfeited article may be sold;  
(b) forfeited proceeds, as well as the proceedings from the sale of a forfeited article, must be paid into the Consolidated Fund.

(3) For the purposes of this section, “**article used in commission of the offence**”—  
(a) includes the package or container in which the goods are contained, but does not include a passengers' baggage, unless it has been constructed or adapted for the purpose of carrying prohibited or controlled imports or exports;  
(b) includes equipment, a conveyance and other movable thing owned by the offender which was used directly in the commission of the offence, but does not include land or buildings and fixtures on land.

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

(5) An order under this section must not be made in respect of a vessel or aircraft owned, operated or chartered by a foreign government.

## **PART 9 MISCELLANEOUS**

### **Interpretation**

**55. (1)** In this Ordinance, unless the context otherwise requires—  
“**animal**” means a mammal (other than a human), bird, amphibian, fish, reptile, invertebrate or other member of the animal kingdom, whether alive or dead, and includes the egg, embryo, ova or semen and any organic animal tissue from which another animal could be produced, and the viscera or other part or portion of the body of an animal;

“**animal product**” means an article or substance derived from an animal, whether or not in combination with another article or substance, and includes—

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

- (b) the dung, urine, faeces, saliva, bone or blood of an animal, or an article or substance derived from the dung, urine, faeces, saliva, bone or blood of an animal;
- (c) the secretions of an animal;
- (d) the hide, skin, hair, feathers, shell, horns or hoof of an animal;
- (e) a product or biological preparation derived from animal tissue or animal secretion;

“**article**” means a single unit of goods;

“**Ascension**” includes the territorial waters of Ascension as defined by the St Helena and Dependencies (Territorial Sea) Order 1989 (SI 1989/1994);

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

“**biosecurity import control requirement**” means a requirement referred to in section 8;

“**biosecurity import exemption**” means exemption granted under section 7;

“**biosecurity measure**” means the detention, inspection, sampling, testing, treatment, or destruction of a regulatable article to eliminate or reduce the biosecurity threat presented by the article, and may include a period of quarantine;

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

“**biosecurity 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 non-native species, pest or disease;

“**Chief Biosecurity Officer**” means the Chief Biosecurity Officer appointed under section 3(1) or the person deemed to have been appointed to that role pursuant to section 3(2);

“**corporate body**” includes a company, partnership or other incorporated body wherever or however incorporated, other than a corporation sole;

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

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

“**controlled import**” means a regulatable article the importation of which is subject to controls in accordance with regulations referred to in section 5(1)(b)(ii);

“**conveyance**” means a vessel, aircraft, vehicle or other means of transporting people, goods or animals from one location to another;

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

“**country of export**” in respect of a consignment means the port at which the consignment was loaded aboard the vessel on which it has arrived, or is due to arrive, in Ascension;

“**country or area of origin**” in respect of an article (including a regulatable article) includes both the country or area from which the article originates and its country of export (to the extent that the two are not the same);

“**Director of Fisheries**” has the same meaning as in the Fisheries (Conservation and Management) Ordinance, 2015;

“**export**” as a verb means to take goods or to cause goods to be taken out of Ascension, and “**exporter**” means the owner of such goods;

“**fittings**” means a stall, box, cage, enclosure, pen, net or other material used for penning, yarding, confining or containing an animal and includes a harness, saddlery, rope, bucket, trough, bedding, utensil or implement used in the handling or keeping of animals or animal products;

- “fodder”** means water, meat, vegetables, grain or material used for the food or litter of animals, or the storage of animal products;
- “genetic material”** means material of plant, animal, microbial or other origin containing functional units of heredity;
- “host material”** means packing material, container, fittings, litter, manure, fodder or similar goods that might have had contact with animals or plants or their products;
- “import”** as a verb means to bring goods or cause goods to be brought into Ascension with a view to the goods being landed and includes the importation of goods for the purpose of re-export or goods that are otherwise in transit, and **“importer”** means owner of such goods;
- “infected”**, in relation an animal or plant, means that the animal or plant is diseased or may have been exposed to the risk of infection by disease during the preceding six months;
- “infested”**, in relation an item or area, means that there is present in the item or area a living pest or disease;
- “IPPC”** means the International Plant Protection Convention of the Food and Agriculture Organization of the United Nations;
- “living organism”** means an organism capable of transferring or replicating genetic material, including sterile organisms, viruses, viroids, plasmids, bacteriophages and prions;
- “non-native species”**, in relation to plant or animal, means a species, subspecies or lower taxon, introduced outside its natural past or present distribution, and includes a part, gamete, seed, egg or propagule of such species that might survive and subsequently reproduce;
- “OIE”** means the Organisation Internationale Epizoötique or World Organisation for Animal Health;
- “organism”** means a biotic entity capable of reproduction or replication, other than a human;
- “owner”** in respect of any goods means a person having legal ownership of, or a beneficial interest in, those goods;
- “packing material”** means fabric, paper, cardboard, plastic, wood, straw, grass or leaves used in packing goods, and any other type of material in which goods are covered, enclosed, contained or wrapped;
- “prohibited export”** means a regulatable article the exportation of which is prohibited in accordance with regulations referred to in section 20;
- “prohibited import”** means a regulatable article the importation of which is prohibited by regulations referred to in section 5(1)(b)(i) in respect of which no exemption has been granted under section 7;
- “plant”** includes seeds, germplasm, any other part of a plant and a dead or preserved plant, including a marine plant;
- “plant material”** means unmanufactured material of plant origin, including grain;
- “plant product”** means—
- (a) plant material;
  - (b) timber; and
  - (c) a product manufactured wholly or partly from one or more plants;
- “regulatable article”** means—
- (a) an animal or animal product;
  - (b) a plant, plant product or plant material;
  - (c) a living organism, whether modified or not;
  - (d) soil, sand, gravel and aggregate;
  - (e) genetic material;
  - (f) human remains;

- (g) host material;
- (h) clothing, machinery or other article that may contain, or have adhering to it, anything mentioned in paragraph (a), (b), (c) or (d);
- (i) garbage;
- (j) any other article, substance, goods or thing specified in regulations under section 5(1)(a);

“**timber**” includes round wood, sawn wood, wood chips and dunnage, with or without bark;

“**waste**” means waste material derived in whole or in part from plants, fruit, vegetables, meat or other plant or animal material, or other refuse of a kind that has been associated with plants, fruits, vegetables, meat or other plant or animal material.

### **Crown application**

**56.** This Ordinance binds the Crown in right of the Government of Ascension, save that no provision of, or made under, the Ordinance renders the Crown liable to prosecution for any offence or the payment of a fee.

### **Exercise of powers subject to Memorandum of Understanding**

**57.** The exercise of powers conferred by this Ordinance within the sites, as defined by Article IV of the Bahamas Long Range Proving Ground Agreement dated 25 June 1956, may be subject to a memorandum of understanding between the Administrator and the Commanding Officer of United States Forces in Ascension.

### **Extra-territorial application**

**58. (1)** This Ordinance applies to persons, conveyances, containers and goods outside Ascension to the extent needed for its effective operation.

**(2)** A person or authority outside Ascension may, at the request of the Chief Biosecurity Officer, carry out the inspection, testing and treatment of conveyances, containers, baggage and regulatable articles.

### **Regulations**

**59. (1)** The Governor may make regulations for the effective implementation of this Ordinance and the performance of the biosecurity functions of the Government.

- (2)** Without limiting subsection (1), regulations made by the Governor may—
  - (a) prescribe forms to be used and fees to be paid which may be non-refundable;
  - (b) prescribe the charges for the biosecurity services provided by the Government;
  - (c) the period for which records must be retained under section 41.
- (3)** In making regulations under this Ordinance, the Governor must take into account—
  - (a) any biosecurity risk assessment the Governor considers relevant;
  - (b) the international obligations applying to Ascension in respect of biosecurity and trade in regulatable articles;
  - (c) the resources available in and to Ascension for biosecurity control.

(4) If regulations under subsection (2) prescribe fees, the Governor must provide a draft to the Island Council before they are made.

(5) Regulations made under this section must be made available on the Ascension Island Government web site.

### **Relationship with other written laws**

**60. (1)** This Ordinance is in addition to, and does not derogate from, any other written law. In particular, but without limiting this rule, this Ordinance does not displace a statutory requirement relating to—

- (a) immigration;
- (b) customs;
- (c) human health on board vessels in Ascension;
- (d) the environmental obligations of masters and owners of fishing vessels in the waters of Ascension;
- (e) trade in endangered species;
- (f) protection of wildlife;
- (g) national and marine protected areas.

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

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

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## **SCHEDULE 1 POWERS OF BIOSECURITY OFFICERS**

### **General powers of biosecurity officers**

**1. (1)** If a biosecurity officer has reasonable grounds to suspect the presence of a biosecurity threat that requires an immediate response, the biosecurity officer may—

- (a) require a person in control of a conveyance to cause it to stop;
- (b) inspect, board and search a conveyance;
- (c) inspect, and if necessary take copies, of such documents as the biosecurity officer may require for the purposes of this Ordinance;
- (d) inspect a container or packaging;
- (e) open a container or packaging, or require the person in possession of it to do so;
- (f) inspect the contents of a container or packaging;
- (g) enter and search premises other than a dwelling house (but including the area adjacent to a dwelling house);
- (h) enter and search a dwelling house—
  - (i) with the occupier's permission; or
  - (ii) in accordance with a warrant issued under sub-paragraph (2).

(2) A biosecurity officer may only enter and search of a dwelling house under paragraph 1(1)(h) in the presence of a police officer.

(3) On application by a biosecurity officer, a justice of the peace may issue a warrant permitting a biosecurity officer to enter and search a dwelling house for any article which is likely to pose an immediate biosecurity threat to Ascension if the justice of the peace is satisfied that—

- (a) there are reasonable grounds to suspect that the dwelling house contains such an article;
- (b) the biosecurity threat requires an immediate response;
- (c) the permission of the occupier to enter and search the premises cannot be obtained or has been refused.

(4) If a biosecurity officer during a search or inspection discovers any article which is likely to pose an immediate biosecurity threat to Ascension then the biosecurity officer may—

- (a) detain it;
- (b) move it;
- (c) where necessary to identify an article, take a sample from it and conduct a test on it;
- (d) apply such biosecurity measures as are necessary to reduce to an acceptable level the biosecurity threat it poses (including partial or complete destruction).

### **Powers in respect of biosecurity import and export inspections**

2. Where this paragraph applies, for the purpose of carrying out a biosecurity import inspection under section 14 or a biosecurity export inspection under section 22, a biosecurity officer may, in respect of—

- (a) a consignment—
  - (i) detain it;
  - (ii) move it;
  - (iii) inspect a container or packaging;
  - (iv) open a container or packaging, or require the person in possession of it to do so;
  - (v) inspect the contents of a container or packaging;
  - (vi) where necessary to identify an article, take a sample from it and conduct testing on that sample;
  - (vii) apply such biosecurity measures as are necessary to comply with an applicable biosecurity import exemption or biosecurity import control requirement;
  - (viii) take such steps as the biosecurity officer considers necessary to reduce to an acceptable level any biosecurity threat detected during the inspection;
- (b) a prohibited import or export including, if necessary, any container or packaging in which it is contained —
  - (i) seize it;
  - (ii) detain it;
  - (iii) move it;
  - (iv) apply such biosecurity measures as are necessary to reduce to an acceptable level any biosecurity threat it poses (including partial or complete destruction);
- (c) the importer, exporter or any person in possession of the consignment (“P”), as the case may be—
  - (i) direct P to cooperate with the exercise of the powers in this paragraph;

- (ii) require P to answer questions about the consignment and articles in it;
- (iii) require P to provide documents or information concerning the consignment and articles in it.

### **Powers in respect of biosecurity arrival inspections**

**3. (1)** Where this paragraph applies, a biosecurity officer may, for the purposes of this Ordinance, require the master of a vessel or aircraft—

- (a) to apply, or cause to be applied, to a part of the vessel or aircraft such treatment as the biosecurity officer may require;
- (b) to permit a biosecurity officer to inspect the exterior of the vessel or aircraft, including a vessel's hull and propeller;
- (c) to permit a biosecurity officer to board and search the vessel or aircraft, and to inspect or cause to be inspected any area of the vessel or aircraft;
- (d) to permit a biosecurity officer to access and, if necessary, take copies of records concerning the cargo, passengers, crew and baggage on board the vessel or aircraft including the log, cargo manifest, bills of lading, stores list, passenger list, crew list or other such document as the biosecurity officer may require for the purposes of this Ordinance;
- (e) to provide information to passengers and crew members concerning biosecurity in Ascension.

### **Powers in respect of passengers, crew and baggage**

**4. (1)** Where this paragraph applies, a biosecurity officer may, for the purposes of this Ordinance,—

- (a) in respect of a person ("P")—
  - (i) stop P;
  - (ii) detain P, but only for so long as is reasonably necessary in the circumstances and in any case for no longer than two hours;
  - (iii) require P to answer questions;
  - (iv) require P to provide such information and documents as the biosecurity officer may specify;
  - (v) search P;
  - (vi) require P to permit the officer to search P's baggage and to cooperate with that search by *inter alia* removing a lock or opening a catch;
  - (vii) require P to surrender items that a biosecurity officer reasonably suspects to be prohibited or controlled imports so that the officer can inspect them;
- (b) in respect of searches of a person—
  - (i) the biosecurity officer may not require a person to remove anything other than their outer clothing;
  - (ii) a person may only be searched by a biosecurity officer of the same sex;
- (c) in respect of baggage—
  - (i) inspect its exterior;
  - (ii) open it if the person to whom it belongs will not do so when asked;
  - (iii) break open a lock or catch if the person to whom it belongs refuses or otherwise fails to remove or open it when required to do so;
  - (iv) apply such biosecurity measures to it as may be necessary for the purposes of this Ordinance.

(2) If a biosecurity officer during a search discovers an article which is likely to pose an immediate biosecurity threat to Ascension, the biosecurity officer may—

- (a) seize it;
- (b) detain it;
- (c) move it;
- (d) where necessary to identify an article, take a sample from it and conduct a test on it;
- (e) apply the biosecurity measures necessary to reduce to an acceptable level any biosecurity threat it poses (including partial or complete destruction).

### Authority to apply biosecurity measures to destructive effect

5. Schedule 2 makes provisions concerning the circumstances in which a biosecurity officer must seek authority before applying a biosecurity measure to destructive effect.

## SCHEDULE 2 LEVELS OF AUTHORITY FOR DESTRUCTIVE BIOSECURITY MEASURES

The following table sets out the levels of authority required before a power in this Ordinance to destroy goods may be exercised in respect of goods identified in it.

Goods	Number of articles	Potential consequential damage to imports	Authorisation
Vertebrate	1-10	None/minimal	Chief Biosecurity Officer
		Destruction of imports	Administrator
	10-100	None/minimal	Chief Biosecurity Officer
		Destruction of imports	Administrator
	>100	None/minimal	Administrator
		Destruction of imports	Administrator
Invertebrate	Any	None/minimal	Biosecurity Officer
		Contamination of non-foodstuffs	Chief Biosecurity Officer
		Destruction of imports or contamination of foodstuffs	Administrator
Plant	Any	None/minimal	Biosecurity Officer
		Destruction of imports	Administrator
Seeds	Any	None/minimal	Biosecurity Officer
		Destruction of imports	Administrator
Soil/hay straw	Any	None/minimal	Biosecurity Officer
		Destruction of imports	Administrator

### EXPLANATORY NOTE

*(This explanatory note does not form part of the Ordinance)*

This Ordinance establishes a regime of biosecurity control. The purposes of the biosecurity control regime, as reflected in Part 1 are: to facilitate the safe import of goods including animals, plants and

animal and plant products; to protect Ascension against the entry of non-native species and of pests and diseases; to prevent the release, establishment and spread of non-native species, and of pests and diseases; to detect, control, contain and eradicate non-native species and pests and diseases already present in Ascension; and to facilitate international cooperation to prevent the spread of non-native species and of pests and diseases.

Part 2 deals with the appointment of officers necessary to give effect to the regime, including a Chief Biosecurity Officer.

Part 3 regulates the import of goods that pose, or may pose, a biosecurity threat to Ascension by establishing a system of controls, including a licensing regime for higher risk imports and standards to be met for lower risk imports. This Part also establishes port import controls, including inspections.

Part 4 provides for limited powers in respect of exports.

Part 5 concerns the arrival of vessels and aircraft, the unloading of cargo and baggage from them, and the disembarkation of passengers and crew members. It creates the concept of biosecurity-related landing and entry clearance, along with Biosecurity Vessel Arrival Declarations and Biosecurity Personal Arrival Declarations. It also deals with environmental obligations in relation to ballast water and other sources of potential biosecurity damage.

Part 6 enables the Government to exercise internal biosecurity controls, including providing powers to respond to biosecurity emergencies. There is a power to make regulations which may also include additional criminal offences.

Part 7 deals with general administrative matters, including record keeping, service of notices and a mechanism for administrative review of decisions.

Part 8 deals with criminal offences, and related provisions.

Part 9 contains final provisions about interpretation and application, as well as a power to make regulations.

Schedule 1 contains the powers that biosecurity officers may exercise. Schedule 2 provides for levels of authorisation necessary where powers under Schedule 1 are to be exercised to destructive effect.