

No. of 2022

VIRGIN ISLANDS

**VIRGIN ISLANDS FOOD SECURITY AND SUSTAINABILITY ACT,
2022**

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SCHEDULE I
SCHEDULE II

No. of 2022

**Virgin Islands Food Security and
Sustainability Act, 2022**

**Virgin
Islands**

I Assent

Governor.

, 2022

VIRGIN ISLANDS

No. of 2022

A Bill for

An Act to establish an effective mechanism to promote food security and sustainability in the Territory, and to provide for the establishment, powers and functions of the Agriculture and Fisheries Management Unit and the Virgin Islands Agriculture and Fisheries Authority, and respecting the effective administration and management of agriculture and fisheries resources of the Territory, and for matters related thereto.

[Gazetted , 2022]

ENACTED by the Legislature of the Virgin Islands as follows:

**PART I
PRELIMINARY**

1. This Act may be cited as the Virgin Islands Food Security and Sustainability Act, 2022 and shall come into force on such date as the Minister may, by Notice published in the *Gazette*, appoint. Short title and commencement.

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

“animal” for the purposes of Part IV means an animal of any kind, including cattle, buffaloes, horses, goats, dogs, cats, monkeys, birds, fowls (poultry and domestic), pigeons, turkeys, geese, ducks and guinea fowl, rabbits, guinea pigs, fish, crustacea, turtles, reptiles and insects are members of the class insect and of the class *Arachnida*, and includes any domestic, captive or wild animal;

“animal organism” means any animal organism in whatever stage of existence such organism may be;

“Authority” means the Virgin Islands Agriculture and Fisheries Authority established under section 19;

“biological products” means any hormones, vaccines, sera, toxins, anti-toxins, antigens and micro-organisms living or dead, intended for use in the practice of veterinary medicine and includes semen of animal for artificial insemination;

“Board” means the Board of Directors of the Authority established pursuant to section 23;

“brand” means a letter, sign or numeral, or any combination of them;

“butcher” means a person who slaughters and handles meat for sale;

“carcass” means the carcass of any animal and includes any part of the carcass or of the meat, bones, hide, skin, hooves, horns, offal or other parts of an animal;

“cold storage” means any premises used for keeping and preserving fresh meat for sale for human consumption;

“commercial farm” means any land utilised for

- (a) the production of crops or plants;
- (b) the rearing of livestock;

sale or distribution to wholesalers, retail outlets, hotels, restaurants, food vendors, businesses, or to the public;

“cruelty” means cruelty within the meaning of this Act;

“dangerous dog” means a dog which is declared under section 76(1) to be a dangerous dog;

“dog” means any dog of or above the age of three months;

“Director” means a member of the Board of Directors of the Authority appointed pursuant to section 23;

“disaster” means a progressive or sudden, widespread or localised natural or human occurrence which

- (a) causes
 - (i) death, injury or disease;

- (ii) damage to property, infrastructure or the environment; or
 - (iii) disruption of life to a community; and
- (b) is of a magnitude that exceeds the ability of natural ecosystems and those affected by the disaster to cope with its effects using only their own resources;

“disease” in regards to

- (a) any plant means and abnormal conditions of plants, communicable or believed to be communicable by the transfer of a causative agent or by the propagation of the affected plants, which the Minister may by Order from time to time declare to be a disease within the meaning of this Act;
- (b) any animal means anthrax, brucellosis, contagious bovine pleuropneumonia, equine encephalomyelitis, equine infectious anemia, epizootic lymphangitis, epizootic abortion, foot and mouth disease, glanders or haemorrhagic septicaemia, infectious laryngo-tracheitis, mange ovine (commonly called sheep scab), blue tongue, vesicular stomatitis, scabies, paratuberculosis, virus pneumonia, atrophic rhinitis, vesicular exanthema, African horse sickness, Newcastle disease, fowl cholera, psittacosis ormithosis, rabies, rinderpest, sarcoptic mange in horses, swine erysipelas, swine fever (commonly called hog cholera), African swine fever, swine vesicular disease, tuberculosis, trypanosomiasis (including dourine, mal de caderas, surra and trypanosome vivax infection) pox, bubonic plague, leptospirosis, leukosis, Marek’s disease, chronic respiratory disease, salmonellosis, yellow fever, shigellosis, bovine viral diarrhoea, malignant catarrhal fever, theileriasis and such other diseases as the Minister may from time to time by Order in the *Gazette* declare to be diseases for the purposes of this Act;

“disease” and “diseased” means, as appropriate, affected or infected with disease;

“disinfection” means the utilisation of any substance or process designed to prevent, eliminate or reduce any disease or pest with which plants or parts of plants may be affected;

“fish” means any aquatic animal, whether piscine or not and includes any shellfish, turtle, mollusc, crustacean, coral, sponge, echinoderm, its young and its eggs;

“fish aggregating device” means any man-made or partly man-made floating or submerged device, whether anchored or not intended for the purpose of aggregation of fish, and includes any natural floating object on which a device has been placed to facilitate its location;

“Fisheries Advisory Committee” means the Unit established under section 106(1);

“fishery” means one or more stocks of fish or fishing operations based on such stocks which can be treated as a unit for purposes of conservation and management and which are identified on the basis of geographical, scientific, technical, recreational and economic characteristics;

“Fishery resources” means living resources (animals and plants) found in marine or freshwater environments that is exploited by humankind;

“fishery waters” means the waters of the fisheries zone contiguous to the territorial sea of the Virgin Islands established by Proclamation made by the Governor on 9th March, 1977, and any other waters over which the Virgin Islands, by enactment, Proclamation or any other form claims fisheries jurisdiction;

“fishing” means fishing or searching for or catching, taking, disabling, killing or destroying fish by any method or placing any fish aggregating device;

“foreign fishing licence” means a licence issued in respect of a foreign fishing vessel under Part IV;

“foreign fishing vessel” means a fishing vessel other than a local fishing vessel;

“firearm” includes an air gun or other kind of small calibre gun from which a shot, bullet or other missile can be discharged, but does not include a gun or pistol from which a missile is discharged by the force of a spring alone;

“fodder” means grass, hay, or any other substance commonly used for the food of animals;

“food safety” means the processing, handling, preparation, and storage of food in a manner that prevents food-borne illness in humans or livestock;

“food security” means a situation that exists when all people especially the most vulnerable, at all times, have physical, social and economic access to sufficient, safe, nutritious and culturally relevant food that meets their dietary needs and food preferences for an active and healthy life in order for them to develop and fully maintain their physical and mental faculties;

“food sovereignty” means the right of the population of the Virgin Islands to healthy and culturally appropriate food produced through ecologically sound and sustainable methods, and their right to define their own food and agriculture systems;

“fresh meat” the meat of any animal freshly slaughtered for sale and includes imported fresh meat whether frozen or not;

“Fund” means the Fund of the Authority as established under section 30;

“genetically modified organism” means micro-organisms, plants and animals whose genetic composition has been modified by the use of gene or cell technology, more specifically

- (a) an organism derived from the formation of a combination of genetic material by artificial techniques;
- (b) an organism inheriting such combination of genetic material, or
- (c) an organism that results from the replication of an organism described in paragraph (a),

and includes living modified organisms, or such other matter as may be prescribed by the Minister;

“high water mark” means the level reached by the sea at high tide;

“Information registry” means an accessible register of information established by the Ministry of Natural Resources, Labour and Immigration;

“import” with its grammatical variations and cognate expressions means to bring or cause to be brought within the Territory of the waters thereof;

“impound” means to deliver to a pound;

“impounded animal” means an animal that has been delivered to, and has not been released from a pound;

“land” includes any plantation and nursery;

“Lease” means the grant, with or without consideration, by the proprietor of land of the right to the exclusive possession of his or her land, and includes the right so granted and the instruments granting it, and also includes a sublease, but does not include an agreement for lease;

“Licence” means a permission given by the proprietor of land or a lease which allows the licensee to do some act in relation to the land or the land comprised in the lease which would otherwise be a trespass, but does not include an easement or a profit;

“litter” means straw or any other substance commonly used as the bedding for, or otherwise used for or about animals and includes such substances used as packing materials;

“livestock” means cattle, horse, mule, donkey, sheep, goat, pig or the young of the same;

“living modified organism” means any living organisms that possesses a novel combination of genetic material obtained through the use of modern biotechnology;

“local fishing licence” means a licence issued in respect of a local fishing vessel under Part IV;

“local fishing vessel” means a fishing vessel wholly owned

- (a) by the Government of the Virgin Islands or by any public corporation established by or under any enactment;
- (b) by one or more persons who are belongers of the Virgin Islands; or
- (c) by any company, partnership, society or other association or persons incorporated or established in accordance with the laws of the Virgin Islands of which at least fifty-one per cent of the voting shares are held by belongers of the Virgin Islands;

“locally based foreign fishing vessel” means a foreign fishing vessel based in the Virgin Islands which lands all its fish catch in the Virgin Islands;

“Managing Director” means the Managing Director appointed pursuant to section 24(1)(c);

“master” means the person having control of a fishing vessel at any given time and includes a fishing master, fleet commander or pilot of such vessel;

“member” means any person mentioned in section 22(2);

“Minister” means the Minister assigned the responsibility for the management and administration of the agricultural and fisheries sectors;

“Ministry” means the Ministry assigned with responsibility for the management and administration of the agricultural and fisheries;

“modern biotechnology” means the application of

- (a) in vitro nucleic acid techniques, including recombinant deoxyribonucleic acid (DNA) and direct injection of nucleic acid into cells or organelles; or
- (b) fusion of cells beyond the taxonomic family, that overcomes natural physiological reproductive or recombination barriers and that are not techniques used in natural breeding and selection;

“notifiable disease” means any disease which the Minister may by Order, from time to time, declare to be a notifiable disease within the meaning of this Act;

“notifiable pest” means any pest which the Minister may by Order, from time to time, declare to be a notifiable disease within the meaning of this Act;

“nursery” means any land or place whereon is grown or kept any plant intended for sale or distribution;

“occupier” in relation to any land or building means the person in actual occupation thereof or, if there is no such person, the owner of such building or land;

“officer of the Authority” means an officer appointed under section 44;

“owner”, in relation to

- (a) an animal, means the person who is the actual owner of the animal or who, not being the actual owner, has charge over the animal;

- (b) any land, means the person who is for the time being entitled to receive the rent or any land, or who, if the same were let to a tenant at a rack rent, would be entitled to receive such rent;
- (c) any dog, means the person who has charge over a dog, and includes the occupier of the house or premise where the dog is kept or permitted to live or remain, or where there are more occupiers than one in the house or premises, the occupier of that particular part of the house or premises in which the dog is kept or permitted to live or remain;

“package” includes any container, box, covering, wrapper, or anything whatsoever in which plants are, or have been, imported, kept or conveyed;

“person” includes any individual or any firm, business, company, enterprise, body corporate, trust, un-incorporated association, partnership, or governmental entity, however constituted;

“pest” means any parasitical, epiphytal or other animal or vegetable organism inimical to the growth or existence of living plants or injurious to plant products, and any agent capable of producing a communicable disease of plants, which the Minister may by proclamation, from time to time, declare to be a pest within the meaning of this Act;

“plant” includes

- (a) any tree, shrub, herb, or vegetable;
- (b) any cutting, bulb, seed, bud or graft;
- (c) the fruit or any other part of a plant;
- (d) the whole or any part of any growing, dying, or dead plant, including any pod, husk or skin;

“poultry” means domestic fowls, turkeys, geese, ducks and guinea fowls;

“pound” means any premises, land or enclosure provided in pursuance of this Act for, or in connection with, the impounding of animals;

“public place” includes any public highway, street, road, thoroughfare, square, court, alley, lane, bridleway, footway, pavement, parade, plaza, wharf, dock, jetty, foreshore or passage, any curtilage of a public building, any privately owned open space to which the public is granted access either generally or conditionally, any land

occupied by the Crown and any other open place used or frequented by the public or to which the public have or are permitted to have access;

“quarantine station” means such places as the Minister may appoint for such purposes under section 64;

“Register” means the Pounds and Livestock Brands Register established under section 71;

“registered dog” means a dog that is registered under section 83 and whose registration has not expired;

“related activities,” in relation to fishing, means

- (a) trans-shipping fish to or from a fishing vessel;
- (b) storing, processing or transporting fish taken from the fishery waters up to the time it is landed;
- (c) refuelling or supplying other things to a fishing vessel or performing other activities in support of fishing operations; or
- (d) attempting or preparing to do any of the things mentioned in paragraphs (a) to (c);

“standard, guideline or operational procedure” means any standard, guideline or operational procedure established pursuant to section 11;

“slaughter house” means a place that slaughters animal by way of business, whether operated by the Authority or not;

“test fishing operations” means any fishing operations undertaken over a limited period of time with the approval of the Managing Director of the Authority for the purpose of testing the feasibility of fishing operations;

“Unit” means the Agriculture and Fisheries Management Unit established under section 6;

“vegetable organism” means any vegetable organism in whatever stage of existence such organism may be; and

“vessel” includes a local fishing vessel and foreign fishing vessel, including small craft and dinghies used for fishing.

Act binds the Crown.

3. This Act binds the Crown.

Statement of Purpose.

4. The purposes of this Act are to

- (a) establish the legal and administrative framework to regulate food safety and promote food security in the Territory;
- (b) establish the institutional structure to promote and sustain agriculture and fisheries as key economic sectors in the Territory;
- (c) rationalise and standardise the allocation and use of agricultural and fishery resources within the context of the overarching sustainable development goals of the Virgin Islands;
- (d) enhance the management and administrative framework related to the development and conservation of the Territory's agricultural and fishery resources;
- (e) ensure that Virgin Islanders, residents and visitors may benefit from sound and sustainable access to food produced in the Territory;
- (f) include disaster risk reduction and climate change considerations into the decision-making framework related to the use of agricultural and fishery resources.

Scope and Application.

5. Where any law in force is inconsistent with the provisions and purposes of this Act, it shall, as of the date of the coming into force of this Act, cease to apply to the extent of any such inconsistency the provisions of this Act shall prevail.

PART II ADMINISTRATION

Establishment of Agriculture and Fisheries Management Unit.

6. For the administration of this Act and regulations made thereunder, there is hereby established the Agriculture and Fisheries Management Unit in the Ministry responsible for agriculture and fisheries.

Duties and Responsibilities of Agriculture and Fisheries Management Unit.

7. (1) The duties and responsibilities of the Agriculture and Fisheries Management Unit established under section 6 shall be to

- (a) advise the Minister on matters of policy relating to the development and management of agriculture and fisheries as viable industries in the Virgin Islands;

- (b) review the plans for the management and development of agriculture and fisheries which are developed pursuant to sections 51 and 83;
- (c) consider and advise the Minister on the adequacy of the plans for the management and development of agriculture and fisheries developed pursuant to sections 51 and 83;
- (d) advise the Minister on any initiative for the regional harmonisation of food production and fisheries regimes, including any regional licensing scheme for food safety and foreign fishing vessels;
- (e) consider and review guidelines and advise the Minister on matters of conservation of agricultural and fishery resources;
- (f) advise the Minister on the co-ordination of the policies and activities of Government ministries, departments and the Authority with respect to any of the matters referred to in paragraphs (a) to (e);
- (g) undertake, in collaboration with the Agriculture and Fisheries Authority, within a year of this Act coming into effect an inventory of
 - (i) historical farm areas;
 - (ii) watersheds;
 - (iii) soils;
 - (iv) land suitable for aquaculture, fish landing sites, and fisheries areas;
 - (v) markets for agricultural and fisheries products including a monthly summary of market prices (wholesale and retail) and food imports;
- (h) establish, maintain and regularly update a database containing information on
 - (i) registered farmers and fisherfolk;
 - (ii) areas under agricultural production;
 - (iii) agricultural production costs;
 - (iv) fish landings, including volumes, species, sizes and location of the landings;

- (v) imports of agricultural and fisheries products, including volumes and costs;
- (i) advise the Minister on any matter that he or she may refer to the Authority;
- (j) advise the Minister and undertake such other duties and responsibilities as may be required by the Minister for the purpose of giving effect to the requirements of the Act.

(2) While not in any manner detracting from the requirements contained in subsection (1), the Agriculture and Fisheries Management Unit in collaboration with the Agriculture and Fisheries Authority shall, within three months of this Act coming into effect, undertake an inventory of Crown Lands that are used for agriculture and fisheries production, which shall include the following:

- (a) identification and registration of tenants and lessees which shall be undertaken with the active participation of current land users;
- (b) parcel identification and registration;
- (c) soil categorisation and soil chemistry analysis;
- (d) evaluation of water availability and supply, including percolation tests;
- (e) climate assessment (rainfall, temperature, evaporation, humidity) presented on a month-by-month basis;
- (f) pests and disease assessment;
- (g) land use and agricultural production assessment;
- (h) assessment of pesticides and fertilizer use; and
- (i) assessment of the status of fisheries landing sites, fishing vessels, docking facilities and sites used for fisheries processing and production.

(3) Upon completion of the inventory pursuant to the requirements of subsection (2), the Agriculture and Fisheries Unit in collaboration with the Agriculture and Fisheries Authority and the Ministry responsible for natural resources and the environment shall, develop a Master Plan for Crown lands used for agriculture and fisheries that, amongst other matters, will

- (a) determine best use of available land and soils to maximise agricultural diversity, productivity and opportunities for value added agricultural production;
- (b) define a marketing plan for agricultural production from the Paraquita Bay Estate;
- (c) regularise tenure on Paraquita Bay Estate through the establishment of an appropriate licencing and leasing program that will impose and enforce quota requirements for agricultural production from parcels within the Estate;
- (d) re-allocate available land through the issue of licenses and leases to support implementation of the Master Plan;
- (e) identify lands suitable for
 - (i) fishery landing sites, fishing vessel docking facilities, and sites for fishery processing and production;
 - (ii) agricultural production, processing, storage and marketing, that can be transferred to the Authority pursuant to the provisions of section 49.

(4) Any Master Plan for Agriculture and Fisheries Production on Crown lands that has been submitted under the provisions of subsection (3) shall be developed through the broadest possible consultation, and shall be submitted for consideration by the Minister in consultation with the Minister responsible for natural resources and the environment.

(5) Upon reviewing any Master Plan for Agriculture and Fisheries Production on Crown lands that has been submitted under the provisions of subsection (4), the Minister in consultation with the Minister responsible for natural resources and the environment may:

- (a) require the Agriculture and Fisheries Management Unit to correct any deficiency or provide additional information;
- (b) endorse the Master Plan which shall be transmitted to Cabinet for consideration and approval.

(6) Any Master Plan for Agriculture and Fisheries Production on Crown Lands that has been approved by Cabinet pursuant to subsection (5) (b) shall be maintained in an Information Registry.

Chief
Technical
Officer of the
Agriculture
and Fisheries
Management
Unit.

8. (1) The Chief Technical Officer of the Agriculture and Fisheries Management Unit may order any assessment, inspection, report, audit or monitoring activity that may be required to enforce or give effect to the requirements of the Act or regulations made hereunder, and for this purpose may, pursuant to the provisions of section 9, appoint inspectors, officers or auditors.

(2) Pursuant to the provisions of subsection (1), the Agriculture and Fisheries Management Unit shall

- (a) establish standards, guidelines or codes of practice to give effect to any requirement under the Act;
- (b) establish any alternate dispute resolution process to resolve any dispute under the Act, and for this purpose may appoint any qualified person to act as a mediator, arbitrator or facilitator;
- (c) in collaboration with the Ministry of Health and the Ministry responsible for natural resources and the environment establish criteria for the licensing of agricultural and fishery production and processing facilities;
- (d) in collaboration with the Ministry responsible for natural resources and the environment establish climate change vulnerability assessment and risk management protocols to determine and address impacts from climate change on agricultural and fisheries industries and food security in the Territory.

Appointment
and Powers of
Officers of the
Agriculture and
Fisheries
Management
Unit.

9. (1) The Minister may, on the recommendation of the Chief Technical Officer of the Agriculture and Fisheries Management Authority, appoint by Notice published in the *Gazette*, any officer of the Agriculture and Fisheries Management Unit to be an inspector, officer or auditor for the enforcement and implementation of the Act and Regulations made thereunder.

(2) Any officer within a Government ministry, department, council or statutory agency may be appointed as an inspector, officer or auditor pursuant to the provisions of subsection (1), and shall assist the Agriculture and Fisheries Management Unit in the enforcement and implementation of this Act.

(3) The Chief Technical Officer of the Agriculture and Fisheries Management Unit shall be responsible for co-ordinating and directing the activities of inspectors, officers and auditors appointed under the provisions of this section.

(4) The Minister shall issue each inspector, officer and auditor appointed under the provisions of this section with a certificate of appointment which shall be produced

- (a) whenever the inspector, officer or auditor performs any function or undertakes any responsibility under the Act; or
- (b) on demand.

(5) Any person who forges an identification card for an inspector, officer, or auditor or who makes use of any such card, or impersonates the inspector or officer named in an identification card, commits an offence and is liable on summary conviction to a fine of two thousand dollars or to a term of imprisonment not exceeding one month, or to both such fine and imprisonment

(6) An inspector, officer or auditor appointed under the provisions of subsection (1) may undertake any assessment, inspection, audit or monitoring activity that may be required to enforce and give effect to the provisions of the Act.

(7) In furtherance of the requirements under subsection (6), an inspector, officer or auditor appointed under the provisions of subsection (1) shall enforce compliance with criminal provisions under the Act, and for this purpose may investigate and initiate a prosecution for any offence under the Act.

(8) An inspector, officer or auditor appointed under the provisions of subsection (1) may, for the purposes of enforcing this Act

- (a) enter any premises for the purpose of investigating any offence under this Act;
- (b) carryout any examination, inquiry, inspection, audit or monitoring, including the examination of any machinery, equipment, substances or document to determine whether there has been compliance with this Act;
- (c) take or remove samples, documents or records that may be required to prove any violation under this Act, or for the purposes of investigating any violation under the Act;
- (d) undertake the transportation and analysis of samples that have been acquired for the purpose of investigating any violation under this Act;
- (e) take photographs or measurements, or make sketches or notes;

- (f) require the production of any material, document, or record;
- (g) direct that any part of a facility or premises remain undisturbed until further examination can be undertaken, and for this purpose may seal of or restrict entry to any such area;
- (h) interview any person in the course of an examination, inquiry, inspection or audit;
- (i) require any person to provide proof of identity;
- (j) require any person to render assistance for the purpose of performing appointed duties under the Act;
- (k) require any person to produce information for the purpose of investigating any violation under this Act; and
- (l) exercise such other powers as may be conferred by Regulations under this Act.

(9) Subject to subsection (5), any inspector, officer or auditor appointed under subsection (1) shall without notice, upon presentation of his or her identity card and reasonable evidence of his or her lawful appointment by the Agriculture and Fisheries Management Unit to the occupier or person in charge of any premises or vehicle, be allowed entry at all reasonable times into such premises or vehicle for the purpose of

- (a) searching for and examining any animal, vegetable, soil, manure, straw or package to detect and control any pest or disease;
- (b) monitoring compliance with any policy, standard, condition, permit, licence or requirement under this Act;
- (c) obtaining information and samples, and confiscating any article relevant to an offence or violation; and
- (d) carrying out any provision or requirement of the Act.

(10) In pursuance of any duties or responsibilities under subsection (9), an inspector, officer or auditor appointed under the provisions of subsection (1) shall not be permitted to enter any premises or vehicle, or obtain any information under this Part, unless

- (a) the occupier or the person in charge of the premises or vehicle consents to the entry; or

- (b) where the occupier or the person in charge of the premises or vehicle does not consent, the inspector, officer or auditor first obtains a warrant issued by a magistrate.

(11) In the course of any entry permitted under subsection (9), an inspector, officer or auditor appointed under the provisions of subsection (1) shall, where necessary and relevant to any policy, standard, condition, permit, license or requirement under this Act, be allowed to review and copy any documents and records, take photographs, inspect any premises or vehicles, and take samples for purposes of laboratory analysis of any air, water, soil or other material from such premises or vehicle.

(12) If any samples are taken pursuant to subsection (11), the owner or operator of such premises or vehicle shall, upon request, be provided with:

- (a) a receipt for the sample collected which identifies the types of analyses to be performed; and
- (b) a portion of the sampled material properly collected in an appropriate container.

(13) In any instance where the Agriculture and Fisheries Management Unit requests any information from a person under this section, and the person asserts a claim that the information provided to the Department should be treated as a trade secret or confidential business information, the Department shall treat such information as confidential unless

- (a) the person does not disclose any valid basis for the confidentiality claim within fourteen days after receipt of a request by the Unit; or
- (b) the Unit determines that the public interest in disclosing the information clearly outweighs any prejudice to the person who has supplied the information to the Department, and the Department provides such person with a reasonable opportunity to contest such determination before any lawfully constituted independent Tribunal prior to any public disclosure of the information.

(14) If the use of force is required in executing a warrant, performing an inspection, obtaining samples or other information, or performing any other function under this Act, an inspector, officer or auditor appointed under the provisions of subsection (1) shall be accompanied by a police officer who shall render such reasonable assistance as may be necessary.

(15) Whenever the Unit reasonably believes that a release or threat of release of any pest or disease affecting livestock or plants presents a threat to human health, plants or livestock, the Unit may, in coordination with other

appropriate governmental entities, undertake such emergency response activities as are required to protect human health, plants or livestock, including

- (a) the containment of any pest or disease; and
- (b) such other appropriate measures as may be necessary to prevent or mitigate adverse effects on human, plants or livestock.

(16) An inspector, officer or auditor appointed under the provisions of subsection (1) shall be empowered to require the assistance of a police officer where necessary to perform any function or duty under the Act.

(17) Any person who

- (a) hinders, impedes or obstructs any inspector, officer or auditor appointed under the provisions of subsection (1) in the performance of any duty or function;
- (b) fails to render assistance to any inspector, officer or auditor appointed under the provisions of subsection (1);
- (c) fails to comply with any direction or order issued by any inspector, officer or auditor appointed under the provisions of subsection (1);
- (d) tampers with or breaks any seal that has been placed by an inspector, officer or auditor appointed under the provisions of subsection (1);

commits an offence and is liable on summary conviction to a fine not exceeding one hundred thousand dollars or to a term of imprisonment not exceeding six months, or to both such fine and imprisonment.

(18) An inspector, officer or auditor appointed under subsection (1) shall not be personally liable in any criminal or civil proceedings for anything done in the exercise of any power under this Act if the act is done in good faith and in performance of any lawful duty or function empowered under the Act.

Development
and review of
Policy for
Sustainable
Agricultural
Production, Food
Security and
Food Safety.

10. (1) The Agriculture and Fisheries Management Unit shall, in collaboration with the Agriculture and Fisheries Authority, the Ministry responsible for natural resources and the environment and the Ministry responsible for health, develop and formulate within one year of this Act coming into force and effect, a Policy and Strategy for Sustainable Agricultural Production, Food Security and Food Safety to ensure the sound and sustainable production, management and use of food for Virgin Islanders, residents and

visitors to the Territory while addressing the impacts from climate change and disasters on food production.

- (2) Any policy formulated under the provisions of this section shall:
 - (a) contain an evaluation of the state of agricultural and fishery resources, food safety and food security in the Territory;
 - (b) provide an assessment of disaster and climate change risks and vulnerabilities affecting food security;
 - (c) evaluate social, human health, economic and ecological considerations and issues in respect of food security;
 - (d) define the national priorities concerning food security;
 - (e) outline the objectives to be achieved by the policy;
 - (f) specify actions, initiatives or activities that shall be implemented to give effect to the objectives of the policy;
 - (g) identify specific legal, financial and institutional aspects that need to be addressed to give effect to the policy;
 - (h) define the strategy and action plan and mechanisms to give effect to the policy, including any financial, legal and administrative requirements;
 - (i) define mechanisms for monitoring the implementation of the policy, and to undertake the periodic review of the policy.

(3) When the Unit initiates the development of any policy pursuant to the provisions of this section, the Unit shall give public notice of the intention to prepare such a policy and shall provide an opportunity for timely public consultation on the proposed policy.

(4) Any Policy formulated under the provisions of this section shall be developed through the broadest possible consultation, and shall be submitted for consideration by the Minister in consultation with the Minister for natural resources and the environment and the Minister of Health.

(5) Upon reviewing any policy that has been submitted under the provisions of subsection (4), the Minister in consultation with the Minister for natural resources and the environment and the Minister of Health may:

- (a) require the Unit to correct any deficiency or provide additional information; and

- (b) endorse the policy which shall be transmitted to Cabinet for consideration and approval.

(6) Any policy that has been approved by Cabinet pursuant to subsection (5)(b) shall be filed with the Information Registry.

(7) The Minister in consultation with the Minister for natural resources and the environment and the Minister of Health shall, in collaboration with the Department, co-ordinate the implementation of all policies approved pursuant to the requirements of subsection (5)(b), and shall ensure the periodic review, at least every five years of such policies.

Establishment of Standards for Food Security and Safety.

11. (1) For the purpose of administering the requirements of this Act, the Unit shall in collaboration with the Ministry of Health, Ministry responsible for natural resources environment establish, monitor, review and regularly update the standards, guidelines and operational procedures concerning:

- (a) the management of animals and plants;
- (b) biosafety and biosecurity management;
- (c) the management of abattoirs and food processing facilities;
- (d) the import and export of foods, plants and livestock and their products; and
- (e) the management of genetically modified organisms.

(2) When the Unit initiates the development of any standards, guidelines or operational procedures pursuant to the provisions of this section, the Unit shall give public notice of the intention to prepare such standards, guidelines or operational procedures and shall provide an opportunity for timely public consultation on the proposed policy.

(3) Any standard, guideline or operational procedure formulated under the provisions of this section shall be developed through the broadest possible consultation, and shall be submitted for consideration by the Minister in consultation with the Minister for natural resources and the environment.

(4) Upon reviewing any standard, guideline or operational procedure that has been submitted under the provisions of subsection (3), the Minister in consultation with the Minister for natural resources and the environment and the Minister of Health may

- (a) require the Unit to correct any deficiency or provide additional information; and

- (b) endorse the standard, guideline or operational procedure which shall be transmitted to Cabinet for consideration and approval.

(5) Any standard, guideline or operational procedure that has been approved by Cabinet pursuant to subsection (4) (b) shall be filed with the Information Registry.

(6) Any license or permit issued pursuant to the provisions of this Act or Regulations made thereunder shall comply with any standards, guidelines and operational procedures established under this Act or Regulations made thereunder.

12. (1) The right to investigate compliance with any standard, guideline or operational procedure established under section 11 shall be exercised on behalf of the Government by the Unit.

Enforcement of Standards.

(2) For the purpose of investigating compliance with any standard, guideline or operational procedure established under section 11, any inspector, officer or auditor appointed pursuant to section 9 may, with a warrant:

- (a) stop, board and search any vessel in the fishery waters, whether or not such vessel is licensed under this Act;
- (b) stop and search any vehicle which he or she has reasonable cause to believe is involved in the breach of any standard, guideline or operational procedure or the commission of an offence under this Act or any Regulations made thereunder;
- (c) require to be produced, examine and take copies of, any licence, permit or other document required under this Act;
- (d) require to be produced and examine any fishing net or other fishing gear, whether in the fishery waters or on land;
- (e) enter and search any premises, other than premises used exclusively as a dwelling, in which he or she has reason to believe that there has been a breach of any standard, guideline or operational procedure or an offence has been committed under this Act or any Regulations made thereunder;
- (f) take samples of any food, plant, livestock or fish found in any vessel, vehicle or premises searched under this section;
- (g) seize any vessel (together with its gear, stores and cargo), vehicle, fishing gear, net or other fishing appliance which he or she has reason to believe has been used in breach of any standard, guideline or operational procedure or in the

commission of an offence has been committed under this Act or any Regulations made thereunder;

- (h) seize any food, plant, livestock or fish which he or she has reason to believe has been caught in breach of any standard, guideline or operational procedure or in the commission of an offence, or is being possessed in contravention of this Act or any Regulations made thereunder;
- (i) seize any speargun, self-contained underwater breathing apparatus (SCUBA) diving equipment, explosive, poison or other noxious substance which he or she has reason to believe has been used in breach of any standard, guideline or operational procedure or is being possessed in contravention of this Act or any Regulations made thereunder.

(3) An authorised officer may, without warrant and whether on board a vessel or otherwise, arrest and detain any person whom he or she has reason to believe has committed or attempted to commit an offence under this Act or any Regulations made thereunder.

(4) A person arrested under subsection (3) shall, as soon as possible, be delivered to a police officer to be dealt with in accordance with this Act.

(5) A vessel seized under subsection (1) shall be taken to the nearest or most convenient port and retained pending the institution of any legal proceedings under this Act or its release on bond or other form of security in accordance with this Part.

(6) Where a foreign fishing vessel is suspected of committing an offence under this Act and the vessel is pursued beyond the limits of the fishery waters, the powers conferred on an authorised officer under this section may be exercisable beyond the limits of the fishery waters to the extent recognised by international law.

(7) In the event of any arrest or detention of a foreign fishing vessel or any person on board the vessel, the Director shall notify that fact and any penalty subsequently imposed to the flag state of the vessel.

13. (1) The Unit shall be responsible for coordinating and instituting measures for the effective monitoring, reporting and verification of any standard, guideline or operational procedure established under section 11.

(2) While not in any manner limiting the generality of subsection (1), the monitoring, reporting and verification measures shall include

Monitoring,
reporting and
verification of
standards by
Department.

- (a) monitoring in the form of direct measurements or estimated calculations concerning compliance with and the effects of any standard, guideline or operational procedure established under section 11;
- (b) reporting in the form of publicly available documentation concerning compliance with and the effects of any standard, guideline or operational procedure established under section 11;
- (c) verification comprising specific procedures or expert reviews used to verify the quality of the data and estimates concerning compliance with and the effects of any standard, guideline or operational procedure established under section 11.

(3) The Unit may require the Authority or any person or facility that is licensed pursuant to the requirement of the Act to establish an approved plan for monitoring and reporting that shall be maintained to document compliance with and the effects of any standard, guideline or operational procedure that forms the condition of the license.

(4) A report submitted by any person or facility pursuant to subsection (3) shall

- (a) be in the form required by the Unit;
- (b) be submitted on an annual basis;
- (c) be prepared and submitted at the expense of the person or facility that is licensed pursuant to the requirement of the Act.

(5) The Unit may, at any time, undertake an independent audit of any report submitted by any person or facility pursuant to subsection (3) in order to verify the accuracy of any information contained in such report.

(6) A person who knowingly makes a false or misleading entry in any report submitted in accordance with the requirements of subsection (3) commits an offence and is liable on summary conviction to a fine of two thousand dollars or to a term of imprisonment not exceeding three months, or to both such fine and imprisonment.

14. The Minister may by Order in consultation with the Unit,

- (a) prohibit, control or restrict the transport of any diseased plant, or of any plant appearing to be affected with any pest or disease, whether of a nature similar to a plant or not, likely to infect any plant with any pest of disease;

Power of
Minister to make
Order.

- (b) prohibit, control or restrict the cultivation and harvesting either throughout the territory, or in any specified area thereof, of any plant when, in the opinion of the Minister, such measures are necessary for the control or eradication of any pest or disease;
- (c) direct, authorise or control the quarantine of areas infected by any pest or disease;
- (d) direct and specify the precautions to be taken to prevent the spread of plant diseases or pests;
- (e) authorise or require the inspection before import or export of any plant or article likely to infect any plant with any pest or disease, and provide for the grant of a certificate as to the results of any such inspection;
- (f) direct or authorise the disinfection or treatment of any plant and of any article likely to infect any plant with a pest or disease;
- (g) authorise the immediate destruction without compensation of any plant or article which on inspection appears to be infested or infected with any pest or disease;
- (h) direct or authorise the detention of classes of imported plants in any specified place and specify the precautions to be observed during such detention;
- (i) require plants, or any class or classes of plants to be accompanied on importation by a plant certificate issued by a competent person or persons.

Power of Minister to declare fishing priority area and protected area.

15. (1) The Minister may, in consultation with the Unit, by Order published in the *Gazette*

- (a) declare any area of the fishery waters to be a fishing priority area where he or she considers that special measures are necessary to ensure that authorised fishing within the area is not impeded or otherwise interfered with; and
- (b) declare any area of the fishery waters together with any area of land up to high watermark adjacent to the fishery waters to be a protected area.

(2) An Order made under subsection (1)(b) may:

- (a) be for a temporary or permanent period of time, which may be restricted to specific areas;

- (b) prohibit the fishing within the protected area of any fish, otherwise than under the authority, and in accordance with the terms and conditions, of a licence issued under this Act;
- (c) identify a specified area of the protected area to be used as a shelter for such purpose as the Minister may specify in the Order.

(3) Where a person is found within a protected area in possession of fish the fishing of which within that area is prohibited by an Order made under this section he or she shall be presumed, until the contrary is proved, to have taken the fish within that protected area.

Power of Minister to declare fish as protected species.

16. (1) The Minister may, in consultation with the Unit, by Order published in the *Gazette*, declare any type of fish as a protected species.

- (2) An Order made under subsection (1) may
 - (a) prohibit indefinitely the fishing in the fishery waters of any protected species;
 - (b) prohibit, within such period as may be specified in the Order, the fishing in the fishery waters of any protected species; or
 - (c) restrict the fishing of any protected species within such area of the fishery waters as may be specified in the Order.

Local fisheries management.

17. (1) The Minister may, in consultation with the Unit, by Order published in the *Gazette*, designate:

- (a) any area of the fishery waters, including any area of land up to high water mark adjacent to the fishery waters, as a local fisheries management area;
- (b) any local authority, fishermen's co-operative or fishermen's association or other appropriate body representing fishermen as the Local Fisheries Management Authority for the local fisheries management area designated under paragraph (a).

(2) Where there is no appropriate body representing fishermen in a local fisheries management area, the Minister may, by such means as he or she considers fit, require the Authority to form such a body.

(3) The Authority shall, to the extent he or she deems it practicable, provide to any Local Fisheries Management Authority such assistance as may be reasonably necessary for the performance of its functions.

By-laws for local fisheries management areas.

18. (1) A Local Fisheries Management Authority designated under section 17(1)(b) may, after consultations with the Chief Technical Officer and the Agriculture and Fisheries Authority, make by-laws regulating the conduct of fishing operations in a designated local fisheries management area.

(2) Where a Local Fisheries Management Authority makes by-laws under subsection (1), it shall submit the by-laws to the Minister who shall, on the advice of the Chief Technical Officer and the Agriculture and Fisheries Authority, approve the by-laws and cause them to be published in the *Gazette*.

PART III

VIRGIN ISLANDS AGRICULTURE AND FISHERIES AUTHORITY

Establishment of Virgin Islands Agriculture and Fisheries Authority.

19. (1) For the purposes of this Act, there is hereby established an Authority to be known as the Virgin Islands Agriculture and Fisheries Authority.

(2) The Authority shall be a body corporate and shall have perpetual succession and a common seal and may sue and be sued in that name and perform such other acts as bodies corporate perform.

(3) Subject to the provisions of section 22, the Authority established under subsection (1) shall be a “member owned” corporation model, with the majority portion of shares in the corporation allocated to or purchased by locally licensed fishers and farmers, with shares apportioned according to, as applicable:

- (a) fish catch landed at and sold by;
- (b) agricultural produce and livestock brought to and sold by,

any agriculture and fishery complex established pursuant to section 22(3) and any other recognised and approved fish processing establishment approved by the Authority.

Functions of the Authority.

20. (1) The functions of the Authority shall be to

- (a) support the sustainable and economically viable development of the agriculture and fisheries business in the Territory;
- (b) promote, organise and develop fishing, fishing industries, fisheries businesses and fishing resources in the Territory;
- (c) coordinate and develop agricultural production, agricultural marketing and agricultural businesses in the Territory;
- (d) assist the Agriculture and Fisheries Authority in the formulation of the national policy and plans with respect to the sustainable and economically viable development of the

agriculture and fisheries business in the Territory and in the implementation of that policy;

- (e) develop and implement a business plan to support the implementation of the Policy and Strategy for Sustainable Agricultural Production, Food Security and Food formulated under section 10(1);
- (f) conduct negotiations, or engage in meetings, seminars or discussions, with regard to the sustainable and economically viable development of the agriculture and fisheries business in the Territory, whether at a national or international level, on behalf of the Territory or otherwise;
- (g) in conjunction with the Ministry responsible for natural resources and the environment and the Unit, promote, organise and develop fishing, fishing industries and fishing resources in the Virgin Islands, and for this purpose facilitate and coordinate the registration and licensing of vessels and fishers, and the promotion of Local Fisheries Management Groups;
- (h) maintain and make available to government agencies and the public, information concerning marine ecosystems, fish catches, fish stocks, fishing vessels, and licenses issued under this Act and Regulations;
- (i) provide support and assistance to local licensed farmers and fishers in the development and operation of farming and fishing industries, including the provision of financing for the procurement of farm equipment and livestock, fishing vessels and equipment, and to support the establishment and delivery of microfinance and micro-insurance schemes to address risk from extreme events, disasters and climate change;
- (j) manage any incentives provided by Government to assist farmers and fishers, especially in times of emergency or disaster, and in this regards the Authority shall have the capacity and ability to receive and manage disaster related assistance and to dispense items at preferential rates/discounted such as, but not limited to, farm equipment, seedlings, livestock, fuel, gear, engines, engine parts, and boats;
- (k) identity and undertake the manpower training requirements with regard to the sustainable and economically viable development of the agriculture and fisheries business in the Territory;

- (l) provide, operate, and maintain services and facilities in the Territory for the rearing, processing and sale of domestic livestock and locally reared fish;
- (m) provide for the sound management of domestic animals, pests and diseases;
- (n) take such action in relation to the exercise of any of its functions mentioned in paragraphs (a) to (n) as are necessary, including but not limited to
 - (i) collaborate, as directed by the Unit, in the implementation of any fisheries conservation measures that are established;
 - (ii) provide food safety inspections at the port and at food production centres including slaughter houses and food processing plants;
 - (iii) the control of pests and diseases;
 - (iv) the control of genetically modified organisms and living modified organisms;
 - (v) controlling the use of pesticides and fertilizers through life cycle management of such substances;
 - (vi) managing abattoirs;
 - (vii) undertaking pre- and post-mortem inspections for livestock;
 - (viii) managing nuisance livestock and domestic animals; and
 - (ix) managing animal welfare; and
- (o) take such action in relation to the exercise of any of its functions mentioned in paragraphs (a) to (n) as are deemed necessary by the Minister.

(2) While not in any manner limiting the generality of subsection (1), the functions of the Authority shall be to provide for the effective management and sustainable development of the fisheries of the Territory in accordance with

- (a) relevant international conventions and treaties to which the Territory is a signatory, to;
- (b) internationally recognised norms, standards and best practices including the Code of Conduct for Responsible Fisheries 1995;
- (c) an ecosystem approach to fisheries which ensures that the development and management of fisheries addresses the multiple needs of society without jeopardising the options

for future generations to benefit from the full range of goods and services provided by the marine ecosystem;

- (d) measures needed to enhance marine ecosystem resilience and manage risks from climate change.

(3) The Authority shall for the benefit of members, as soon as practicable after this Act comes into effect, establish, operate and maintain agriculture and fisheries marketing facilities in population centres as may deemed necessary by the Minister.

(4) It shall be the responsibility of the Authority to purchase fisheries and agriculture produce from any member for sale at the agriculture and fishery complex established pursuant to subsection (3), for which service the Authority shall be entitled to levy and retain 10% of the value of the purchase price as an administration fee that shall be paid into the Fund established under section 30.

Powers of
the
Authority.

21. (1) Subject to this Act, the Authority has power to do all things necessary or convenient to be done for or in connection with, or incidental to, the performance of its functions and, in particular the Authority may

- (a) acquire, purchase, hold and lease land and buildings;
- (b) develop and manage all lands including Crown Lands leased to or vested in the Authority;
- (c) own, lease or dispose of property, both movable and immovable, including any vessel;
- (d) own and manage docks and fish landing sites
- (e) own and manage abattoirs and food processing facilities;
- (f) construct and manage buildings;
- (g) establish, operate and maintain information management system;
- (h) operate seed banks;
- (i) promote and support mixed cropping, organic and other sustainable farming practices;
- (j) promote and support the protection of traditional food production areas;
- (k) form companies, and enter into partnership or joint ventures;
- (l) act as agent for the purpose of the management of any agricultural or fishery business or enterprise, or for any other purpose;
- (m) hold shares in, or debentures of, any company;

- (n) carry on any business or enterprise for or in connection with
 - (i) fishing or fisheries;
 - (ii) processing, transporting, handling, marketing or distributing fish or fish products;
 - (iii) exporting fish or fish products;
 - (iv) the sale of equipment or apparatus to be used for fishing; or
 - (v) any other matter relating to its functions where, in the opinion of the Authority, the carrying on of such a business or enterprise is in the best interest of the Territory;
- (o) conduct surveillance operations, in conjunction with the Unit, in relation to fishing operations in the exclusive economic zone or in the waters super adjacent to the continental shelf;
- (p) negotiate fishery agreements, both domestic and international;
- (q) monitor the catch fishing grounds, catch efforts etc. of all fishing vessels;
- (r) carry out scientific and development research in regards to agricultural or fisheries development;
- (s) determine, impose and levy rates, charges, dues or fees for
 - (i) services performed;
 - (ii) the use by any person of any facilities or services provided by the Authority; or
 - (iii) the grant to any person of a certificate, licence or permit;
- (t) collect the dues and charges authorised by this Act or Regulations made hereunder;
- (u) make rules in relation to officers and other employees of the Authority including their appointment, promotion, remuneration, discipline, conduct, leave, working times, holidays and grant of loans and advances of salary to them;
- (v) make rules and prescribe procedures in respect of the administration of the Authority;
- (w) delegate to the Managing Director or any member of the Authority any such functions as the Authority may consider necessary to delegate for the efficient transaction of business;

- (x) co-ordinate and execute any Government project in any specified land or building that is owned or operated by the Authority;
- (y) control the entry of vehicles, persons, goods and animals within the limits of any specified land or building that is owned or operated by the Authority and to regulate their movements within such limits;
- (z) enter into, and perform, directly or through any officer or agent authorised on behalf of the Authority, all such contracts as may be necessary for the performance of the functions of and the exercise of the powers of the Authority; and
- (aa) perform such acts as the Minister determines and report to the Minister at such times as he or she requires respecting the matters to which this Act relates.

(2) The powers under subsection (1) may be exercised by the Authority acting alone or, where appropriate, by the Authority acting in association with any other person, including the Government, a foreign Government, or any agency or instrumentality thereof.

Membership
of the
Authority.

22. (1) The ownership structure of the Authority is composed of

- (a) the Government of the Virgin Islands, which at the date of the commencement of this Act, owns 51% of the Authority;
- (b) members of the Authority, who collectively own 49% of the Authority,

but subject to the condition that the Government shall progressively transfer the controlling majority interests in the Authority to members once the Authority has demonstrated the attainment of financial and management performance indicators as specified in section 29(2)(i).

(2) Members of the Authority, as provided in subsection (1)(b), shall comprise

- (a) any farmer or person
 - (i) growing any agricultural produce;
 - (ii) rearing any livestock,
 locally, for sale in the Territory who is a citizen or permanent resident of the Virgin Islands;
- (b) any fisherfolk in the business of selling any local fisheries resource in the Territory who is a citizen or permanent resident of the Virgin Islands;

and who has paid the annual membership levied by the Authority in any given year.

(3) Annual membership levied by the Authority on any person pursuant to subsection (2) shall be as provided in the business plan developed under section 29.

(4) A member of the Authority may

- (a) dispose of or sell to the Authority any produce of agriculture, animal husbandry, fisheries or handicraft produced by the member for which the member shall receive fair market value for such produce;
- (b) receive a grant from the Authority to support the sustainable and economically viable development of any agriculture or fisheries business in the Territory;
- (c) be lent monies by the Authority but shall be required to create a charge in favour of the Authority in such form as may be prescribed by the Authority at the time of the loan or the creation of the debt;

(5) A member of the Authority shall nominate any person who is a citizen or permanent resident of the Virgin Islands to or among whom there shall be transferred his or her shares or interests in the Authority at the time of his or her death, or any debt or part thereof as specified in the nomination if the nomination does not comprise the whole.

(6) The share or interest of a member shall not be liable to attachment or sale under any decree or order of a court in respect of any debt or liability incurred by such member, and neither his or her assignee in insolvency nor a receiver duly appointed shall be entitled to, or have any claim on, such share or interest.

(7) On the death of any member, the Authority shall transfer to any person nominated in accordance with the provisions of subsection (5), the property of the deceased member or such property as may be accrued including any annual profit made by the Authority that may be paid as a dividend to members in the year of the death of the member.

(8) The Authority shall maintain a Registry of all members which shall include

- (a) the date at which the person was entered in the Registry as a member;
- (b) the date at which any such person ceased to be a member.

(9) A copy of an entry of the Registry that is maintained pursuant to subsection (7), if certified by the Managing Director of the Authority, shall be received in any legal proceeding, civil or criminal, as prima facie evidence of the existence of such entry and shall be admitted as evidence of the matters, transactions, and accounts therein recorded in every case where, and to the same extent as, the original entry itself is admissible.

Board of the Authority.

- 23.** There shall be a Board of Directors of the Authority which
- (a) shall be responsible for the policy, control and management of the Authority;
 - (b) shall perform the functions and may exercise the powers of the Authority.

Membership of the Board.

- 24. (1)** The Board shall comprise the following persons:
- (a) the Permanent Secretary of the Ministry responsible for agriculture and fisheries, *ex officio*;
 - (b) the Financial Secretary, *ex officio*;
 - (c) the Managing Director of the Authority or his or her designate appointed by the Minister upon the recommendation of the Board and with the approval of Cabinet, *ex officio*;
 - (d) eight other directors appointed with the approval of Cabinet, by the Minister by instrument in writing on recommendation of the Department of Agriculture and Fisheries as follows:
 - (i) two nominated representatives of persons mentioned in section 22(2)(a), one of whom shall be resident in the Sister Islands;
 - (ii) two nominated representatives of persons mentioned in section 22(2)(b), one of whom shall be resident in the Sister Islands;
 - (iii) a private sector representative of the food retail or food wholesale sector operating in the Territory;
 - (iv) a private sector representative of the tourism, hotel and restaurant industry;
 - (v) a private sector representative of the or sport fishing industry;
 - (vi) a representative from non-governmental organisations or community-based organisations domiciled in the Territory.

(2) In appointing persons under subsection (1)(d)(iii) to (vi) the Minister shall be satisfied that such persons have

- (a) the necessary experience and involvement in the sector for which they seek appointment;
- (b) no conflict of interest in regards to their position on the Board, including related to political affiliation.

(3) The Managing Director of the Authority shall serve as the Secretary of the Board but may appoint a Recording Secretary.

Schedule I

(4) Schedule I shall have effect in relation to the procedure for meetings of the Board.

(5) A member of the Board other than a government member shall hold office for a period not exceeding three years, but is eligible for re-appointment, if otherwise qualified.

(6) Notwithstanding the provisions of subsection (5), appointment of non-Government members shall be staggered to ensure that no more than two non-government representatives are re-appointed in any calendar year.

(7) A member of the Board may resign at any time by notice in writing addressed to the Minister, and such resignation becomes effective upon receipt by the Minister, unless specified to take effect at a specified date.

(8) The Minister may, with the approval of Cabinet, revoke the appointment of a member of the Board, other than a government member if the Minister is satisfied that the member

- (a) is guilty of misconduct;
- (b) failed to attend four (4) consecutive meetings of the Board, of which the member had notice except where leave was granted by the Board, or where the member is excused by the Board for having been absent from those meetings;
- (c) knowingly failed to notify the Board of a conflict of interest;
- (d) no longer fulfills the conditions of appointment as set forth in subsection (1)(d)(iii), (iv) and (v); or
- (e) acts in a way that is detrimental to the Authority.

(9) The office of a member of the Board becomes vacant if the member

- (a) dies;

- (b) completes a term of office and is not re-appointed;
- (c) resigns the office by giving written notice addressed to the Minister;
- (d) is removed from office by the Minister for cause; or
- (e) is an undischarged bankrupt or has compounded with his or her creditors;
- (f) has been certified by a medical practitioner to be of unsound mind;
- (g) is convicted of an offence involving dishonesty that is punishable by imprisonment for six months or more, or is convicted of any offence that is punishable by imprisonment for twelve months or more, or is convicted in another country of an offence that, if committed in the Territory, would be an offence so punishable; or
- (h) in the case of a member referred to in subsection (1)(d)(iii), (iv) and (v), ceases to be qualified for appointment.

(10) Where any vacancy occurs in the membership of the Board such vacancy shall be filled by the appointment of another qualified person who shall hold office for the remainder of the period for which the previous member was appointed.

Chairman
and Deputy
Chairman.

25. (1) The Minister shall appoint a chairperson and a deputy chairperson from among the members of the Board appointed pursuant to section 23.

(2) In making appointments under subsection (1), the Minister shall ensure equal representation between governmental and non-governmental members of the Board.

Appointment
of Director
General and
Deputy
Manager.

26. (1) The Board shall appoint a Managing Director on such terms and conditions as the Board may determine.

- (2) The Managing Director appointed pursuant to subsection (1) shall
- (a) be responsible for carrying on the day-to-day affairs of the Authority and implementation of its strategic direction as directed by the Board;
 - (b) be responsible for the economical and efficient administration of the affairs of the Authority;
 - (c) have custody of the seal, records and books of the Authority, other than books of account; and

- (d) exercise all other such authority and perform such functions as may be determined by the Board.

(3) The Board shall, in consultation with the Managing Director appointed pursuant to subsection (1), appoint a Deputy Manager and such number of other staff as it considers necessary and proper for the administration, management and performance of the Authority.

(4) The Managing Director may delegate in writing to the Deputy Manager or to any other employee of the Authority, such of his powers, duties or functions as he or she may from time to time consider necessary and the Deputy Manager or any employee to whom such powers, duties and functions are so delegated shall exercise them subject to the general or special directions of the Managing Director.

(5) Where the Managing Director is temporarily absent from the Territory or is temporarily incapacitated by illness or for other reasons is temporarily unable to perform his duties, the Deputy Manager shall act in the place of the Managing Director until he or she is able to resume duties.

Fees and allowances.

27. The Authority shall pay to Directors such fees and allowances, if any, as the Minister may determine, in writing, either generally or in relation to a particular director or class of directors.

Disclosure of interest.

28. (1) A Director who is directly or indirectly interested in any way in a contract made or proposed to be made by or on behalf of the Authority, or in any other matter whatsoever which falls to be considered by the Board, shall disclose the nature of his or her interest at a meeting of the Board and the disclosure shall be recorded in the minutes of the meeting.

(2) The Director shall not, without the consent of the Board

- (a) in the case of any such contract, take part in any deliberation or decision of the Board with respect to the contract; and
- (b) in the case of any other matter, take part in any deliberation or decision of the Board with respect to the matter if the Board decides that the interest in question might prejudicially affect the member's consideration of the matter.

(3) For the purposes of this section, a notice given by a Director at a meeting of the Board to the effect that he or she is a member of an identified body corporate or firm and is to be regarded as interested in any contract which is made with the body corporate or firm after the date of the notice, and in any other matter whatsoever concerning the body corporate or firm which falls to be

considered by the Board after that date, is sufficient disclosure of his or her interest.

(4) A Director need not attend in person at a meeting of the Board in order to make a disclosure which he or she is required to make under this section, if he or she takes reasonable steps to secure that the disclosure is made by notice that is taken into consideration at such a meeting.

Board to
develop
Annual
Business
Plan.

29. (1) The Board shall conduct its activities, as far as is practicable, in accordance with an annual business plan prepared in accordance with this Act.

(2) The Board shall in consultation with members described in section 22(2), no later than one year after the commencement of the Act, prepare and deliver to the Minister a draft business plan specifying the following:

- (a) projected flow of funds that will accrue to the Authority;
- (b) a summary of assets under the control and management of the Authority, including the current market value of such assets;
- (c) a summary of debts and liabilities owed by the Authority;
- (d) activities to be undertaken to fulfil the functions and responsibilities of the Authority as provided in section 20;
- (e) activities to be undertaken by the Authority to support the implementation of the Food Security Policy developed under section 10, and any standards established under section 11;
- (f) the strategy that the Authority proposes to adopt for the following five years to carry out its functions and responsibilities under the Act;
- (g) the annual budget required for the following three years for the Authority to carry out its functions and responsibilities under the Act;
- (h) proposed investment policy and strategy in order to generate long-term sustainable financing for carrying out the business of the Authority;
- (i) the performance indicators by which the Authority's achievement of its objectives are to be measured; and
- (j) any other matter as directed by the Minister.

(3) The Minister, in consultation with the Minister for Finance shall, within sixty days of receipt of the draft business plan, endorse the draft business plan submitted pursuant to subsection (2) if he or she is satisfied that it complies with the requirements of this Act or refuse to endorse the business plan.

(4) Where the Minister refuses to endorse the business plan under subsection (3), the Minister shall return the plan to the Authority and shall notify the Authority in writing of the refusal, giving reasons for the decision and informing the Authority that the plan may be revised and resubmitted.

(5) Where no decision is made within sixty days of receipt of the draft business plan, the business plan shall be deemed to have been endorsed by the Minister, in consultation with the Minister for Finance.

(6) The Board may amend the business plan with the approval of the Minister, acting in consultation with the Minister of Finance.

(7) The Board shall prepare a new business plan at least three months before the expiry of its existing business plan.

(8) If a new business plan is not endorsed before the expiry of the calendar year to which the business plan under which the Board is conducting its activities relates, the Board shall continue to conduct its activities in accordance with the priorities, activities and strategies specified in that plan, in so far as is practicable, until the priorities and strategies specified in the new plan are endorsed.

Establishment
and
management
of fund.

30. (1) There is established a Fund which shall be under the administration and control of the Authority.

(2) All receipts of the Authority shall be paid into the Fund and all payments made by the Authority shall be paid out of the Fund.

(3) The Authority shall keep proper accounts of the Fund and proper records in relation thereto.

(4) The Authority shall, at least two months before the commencement of each financial year, submit to the Minister in respect of such year and in such form as he or she approves

- (a) estimates of capital expenditure for his or her approval;
- (b) a statement of revenue and other expenditure for his or her information.

(5) The Authority shall within three months from the end of each financial year to which the accounts relate, prepare and submit a statement of accounts in respect of that year.

Application
of monies of
the
Authority.

31. (1) Moneys of the Authority in any financial year shall be applied in payment of the following charges

- (a) the interest and other charges on, on provisions for repayment of, any loan payable by the Authority;
- (b) the sums required to be paid towards the repayment of any loan made to the Authority;
- (c) the remuneration, fees and allowances payable under this Act;
- (d) the salaries, remuneration, allowances, pensions, gratuities, provident fund and other superannuation benefits of the officers and staff, employed in or in connection with the activities carried on by the Authority;
- (e) the working and establishment expenses of, and the expenditure on, or provision for the maintenance of the property and installations of the Authority, and the discharge of the functions of the Authority properly chargeable to revenue;
- (f) such sums as the Authority may deem appropriate to set aside in respect of obsolescence and depreciation or renewal or installations of the Authority;
- (g) the cost, or any portion thereof, of any new agricultural and fisheries complex, works, plant, or appliances not being a renewal of property as the Authority may determine to charge to revenue;
- (h) such sums as the Authority may deem appropriate for the provision of grants, loans and insurance to members as provided under this Act;
- (i) such sums as the Authority may deem appropriate to support training programmes and scholarships on food production; and
- (j) any other expenditure authorised by the Authority and properly chargeable to revenue.

(2) For the purpose of the performance of its functions under this Act, in particular any incentive programme provided by Government to assist fishers and farmers, especially in times of emergency or disaster, the Authority shall conclude an Agreement with Government concerning the management of the incentives programme and any funds or property acquired in trust under such programme.

(3) Any agreement concluded under subsection (2) may be varied from time to time and may provide for the exemption from custom's duty of any goods for the purpose of rendering assistance to fishers and farmers in times of emergency or disaster.

Power to issue debentures or debenture stock or other security for the purpose of raising capital.

32. (1) Subject to subsection (3), the Authority may borrow or raise money by the issue of debentures or debenture stock, or other security

- (a) for the provision of working capital;
- (b) for the provision of capital for the expansion of and additions to its fixed assets;
- (c) for the repayment of any moneys borrowed or raised by the Authority; and
- (d) to meet any other expenditure properly chargeable to capital account.

(2) Without prejudice to subsection (1), the Authority may, borrow by the way of overdraft or otherwise such sums as are required by the Authority for meeting its obligations and discharging its functions under this Act.

(3) The total amount of moneys borrowed or raised under this section shall not at any one time exceed such sum, having regard to the assets of the Authority, as the Minister responsible for Finance determines.

Guarantee of borrowings by Government.

33. (1) The Minister responsible for Finance may with the approval of the House of Assembly guarantee, in such manner and on such conditions as he or she thinks fit, the payment of the principal and of interest and other on any borrowings of the Authority under sections 32 and 34.

(2) Any guarantee given under this section shall be given in writing in the name of the Government, and such guarantee may be signed on behalf of the Government by the Minister responsible for Finance or any person authorised in writing to do so by the Minister responsible for Finance.

(3) As soon as possible after a guarantee is given under this section, the Minister responsible for Finance shall cause to be presented to the House of Assembly a statement of the guarantee.

(4) Where the Government has guaranteed a loan, the Minister responsible for Finance may, from time to time, give general or special directions in writing to the Authority to furnish him or her with such returns and information with respect to the steps being taken to repay the loan and the Authority shall carry out every such direction.

(5) Where it is made to appear to the Minister responsible for Finance that there is reasonable cause to believe that the Government is or may become liable under any guarantee given under this section, the Minister responsible for Finance may give in writing such directions to the Authority to ensure that satisfactory arrangements are made by the Authority to enable it to duly discharge its obligations under this section and the Authority shall comply with such directions.

(6) Where the Minister responsible for Finance is satisfied that there is default in the repayment by the Authority of any principal moneys or interest guaranteed under this section, he or she shall direct that the repayment of such moneys or interest be made out of the Consolidated Fund.

Power to
borrow from
Government.

34. (1) The Authority may by way of advances borrow from the Government such sums as are necessary for carrying out from its functions under this Act.

(2) Notice of advances made to the Authority under this section shall be given to the House of Assembly by the Minister responsible for Finance.

(3) For the purposes of making advances to the Authority, the Minister responsible for Finance may authorise advances out of the Consolidated Fund or from the proceeds of any loan to be raised for the purposes of the Authority.

(4) Where advances are to be met from the proceeds of a loan, the Minister responsible for Finance may, pending the raising of that loan, by warrant under his or her hand authorise the Accountant General to make advances out of the Consolidated Fund to the Authority in such sums and on such terms and conditions as he or she thinks fit.

(5) The repayment of any advances made under this section and the payment of interest and other charges thereon shall, subject to any special terms and conditions which the Minister responsible for Finance stipulates in relation to the repayment, be made by the Authority in like manner and on like conditions as borrowings by the Authority.

Authorised
investments.

35. Any moneys standing to the credit of the Fund which are not immediately required to be expended in meeting the obligations or in the discharge of the functions of the Authority may be invested in securities with the concurrence of the Minister responsible for Finance, for investment by the Authority.

Assets to be interest free.

36. All assets transferred from the Government to the Authority shall be free of interest or any capital obligation except such as are being financed by loans raised by the Government at the commencement of this Act.

Transfer of Government Assets to the Authority.

37. (1) The Minister of Finance, may, by order, direct that the interest, or any part thereof, of any property identified in the order shall be transferred to the Authority and the Minister designated in the order shall take, or cause to be taken, all steps legally necessary to effect the transfer.

(2) The transfer of any asset pursuant to subsection (1) is subject to the provision that in the event that the Authority:

- (a) ceases operations for any reason; or
- (b) wishes to sell or dispose of the asset,

the Minister for Finance shall have the right of first refusal to acquire the asset at a fair market value.

(3) For the purposes of this section

“Government” includes parastatal organisations, statutory corporations and other instrumentalities of the Government;

“interest”, in relation to property, includes ownership;

“property” means movable and immovable property of every description.

Estimates.

38. (1) For

- (a) each financial year of the Authority; and
- (b) any longer period which the Minister may from time to time require,

the Authority shall prepare and submit to the Minister, not later than such date as the Minister directs, estimates of the income and expenditure of the Authority, including its capital budget for the coming financial year or any such longer period.

(2) The financial year of the Authority is a period of 12 months beginning each year on 1st January and ending on the 31st December next following.

Grants for un-remunerative services.

39. (1) Where services are provided by the Authority in any place or places, and the Minister is satisfied that

- (a) those services are un-remunerative; and
- (b) it is desirable for social or economic reasons that the service in question should for the time being continue to be provided either in the same or some different form or manner; and
- (c) because of the un-remunerative nature of the service which the Minister is satisfied is desirable for those reasons (hereafter in this section referred to as “the required service”) the Authority cannot reasonably be expected to provide them without assistance under this section,

then, subject to the provisions of this section, the Minister may from time to time with the concurrence of the Minister responsible for Finance undertake to make grants to the Authority in respect of the provision of the required service during that period not exceeding three years at a time as the Minister may think fit.

(2) The aggregate amount payable by way of grants in pursuance of an undertaking under subsection (1) shall be the amount by which it is estimated, on such basis and in such manner as the Minister, with the concurrence of the Minister responsible for Finance and after consultation with the Authority may determine, that the expenditure properly attributable to the provision of the required service will exceed the revenue properly so attributable.

Rules. **40.** (1) The Authority shall by resolution make rules in respect of the following matters

- (a) the manner in which and the officers by whom payments are to be approved and cheques are to be signed;
- (b) the bank or banks into which the moneys of the Authority are to be deposited, and the title of an account with any such bank and the transfer of funds from one account to another;
- (c) the moneys to be retained by the accountant for the purpose of making petty disbursements or immediate payments, and the maximum amount that may be so disbursed for any one payment;
- (d) the method to be adopted in making payments out of the Fund; and

- (e) generally as to all matters necessary for the proper keeping and control of the accounts and books and the control of the finance of the Authority.

(2) All decisions, orders, rules and regulations relating to the financial operations of the Authority and authorised by this Act shall be made by resolution of the Authority at a meeting thereof and shall be recorded in the minutes of the Authority.

Accounts and operations.

41. (1) The Authority shall, as soon as practicable after the end of every month, make up a statement of the financial condition of the Authority as at the close of business on the last business day of each month, and shall transmit a copy to the Minister.

(2) Within four months of the close of each financial year or such longer period as the Minister allows, the Authority shall

- (a) transmit to the Minister a copy of its annual accounts certified by the auditor;
- (b) submit to the Minister a report on its operations during the year.

(3) The Minister shall lay a copy of the annual accounts of the Authority, together with the certificate of the auditor and the report on the Authority's operations for the year, before the House of Assembly as soon as practicable after he or she has received such accounts, certificate and report.

Exemption from customs duty, stamp duty, income tax and other taxes.

42. Notwithstanding any other enactment the Authority is exempt from

- (a) the payment of customs duties and any other tax and other duties or taxes on goods imported for its own use;
- (b) the payment of any taxes in respect of lands owned or leased by the Authority;
- (c) the payment of stamp duty on its documents; and
- (d) the payment of income tax and any other tax imposed on the income or profits.

Powers of the Minister in relation to the Authority.

43. (1) The Minister may give the Authority directions in writing as to the performance of its powers under this Act on matters which appear to him or her to affect the public interest and the Authority shall give effect to such directions.

(2) The Minister may, from time to time, direct the Authority to furnish to him or her, in such form as he or she may require, returns, accounts and

other information with respect to its property and business, and the Authority shall carry out every such direction.

(3) The Minister may, from time to time, order all or any of the activities of the Authority to be investigated and reported upon by such person or persons as he or she may specify, and upon such order being made, the Authority shall afford all such facilities and furnish all such information, as may be necessary to carry out the order.

Transfer of officers and employees from Government to the Authority.

44. (1) Every officer and employee of the Department responsible for Agriculture and Fisheries, shall, at the commencement of this Act, be deemed to be transferred from the service of Government to service of the Authority upon terms and conditions not less favourable in aggregate than those which are attached to the appointments held by such officers and employees under Government and shall be offered within three months thereafter the alternatives of

- (a) continuing in the service of the Authority whereby such service shall be retrospective from the date of his or her transfer and he or she shall be entitled to such pension, gratuity and other allowances and rights if any as he or she would have received had he or she been retired from the service of Government on the abolition of his or her appointment on the date of his or her transfer to the Authority;
- (b) transferring to the Department or another department of Government, subject to a suitable vacancy existing, with his or her service with the Authority counting as service with Government in respect of his or her pension, gratuity and other allowances and rights if any; or
- (c) being deemed to have retired from the service of Government on the abolition of his or her appointment on the date he or she ceases to be in the service of the Authority.

(2) Any such officer or employee who within one month of the alternatives under subsection (1)(a) being offered him or her fails to indicate which of the alternatives he or she elects to accept shall be deemed to have accepted alternative under subsection (1)(c).

(3) The Authority shall reimburse Government with the cost of the pension, gratuity and other allowance and rights, if any, arising from the period which any such officers or employees who do not elect to continue serving with the Authority did serve with the Authority.

(4) Nothing in this section shall be deemed to affect the right of the Authority to terminate the employment of any such officer or employee transferred to the service of the Authority or to vary his or her rate of pay or conditions of service, in the manner and to the extent that Government could have done had he or she continued in the service of the Government.

(5) Notwithstanding anything to the contrary in this section, where any officer or employee has elected under subsection (1) (a) to continue in the service of the Authority, then, such officer or employee shall not be entitled to be paid any pension, gratuity or other allowances that may have accrued to such officer or employee whilst in the service of the Government until such officer or employee would have qualified for a pension, gratuity or other allowances under the Pensions Act, had such officer or employee continued in the service of the Government.

Power to appoint officers and other employees.

45. (1) Subject to the provisions of this Part, the Authority may appoint on such terms and conditions as the Authority may determine such other officers and employees as are necessary for the proper administration, management and performance of its functions under this Act.

(2) Notwithstanding the provisions of subsection (1), no person shall be appointed a food inspector by the Authority unless he or she holds a food handler's certificate issued by the Public Health Department under Part III of the Public Health (Food Hygiene) Regulations, 1972.

(3) The Authority may, with the approval of and subject to such terms and conditions as may be imposed by the Minister, provide for the establishment and maintenance of a Pension Scheme or Provident Fund Scheme for the benefit of officers and employees of the Authority, and in any such Scheme different provisions may be made for classes of officers and employees.

46. (1) An officer of the Authority may at any time without summons, warrant or other process seize and detain any vessel or thing which is liable to forfeiture under this Act or which he or she has reasonable grounds to believe is so liable.

Powers of officers of the Authority.

(2) An officer of the Authority and any person whom he or she may call to his or her assistance may arrest and detain without warrant any person who such officer has reason to suspect has committed or permitted the commission of any offence against this Act.

(3) Any person who resists or obstructs any officer of the Authority in the exercise of any of his or her powers conferred by this section commits an offence and is liable on summary conviction to a fine not exceeding one thousand dollars, and such person may be detained by the officer.

(4) Where any vessel or thing is seized or detained or any person is detained under this section by an officer of the Authority, the officer shall

- (a) take such vessel, thing or person as soon as may be to the nearest or most convenient place in the Territory and there deliver it or him or her into the custody of the most senior police officer;
- (b) in the case of any perishable matter that has been seized, immediately convey such matter to a place under the control of the Authority where it can be stored in such manner so as to preserve the quality of the perishable matter.

(5) Where on delivering any person into the custody of a police officer in accordance with the provisions of subsection (4)(a) the officer of the Authority makes a complaint to such police officer that such person has committed an offence against this Act, the police officer shall as soon as may be cause such person to be brought before a Magistrate's Court to be dealt with according to law.

(6) Where any vessel or thing is delivered into the custody of a police officer at any place by an officer of the Authority in accordance with the provisions of subsection (1), such vessel or thing shall be detained in the custody of the Commissioner of Police at that place or at such other place as the Commissioner of Police may direct until the same shall be forfeited or released in accordance with the provisions of this section.

(7) Any vessel or thing detained under subsection (1) shall be released upon demand to the owner or his or her duly accredited agent

- (a) within the period of seven days next following the date of delivery of the vessel or thing to the police officer, if no proceedings are instituted within this period against the owner or the master or other person in charge of the vessel or thing in respect of an offence against this Act; or
- (b) in any case where such proceedings are instituted as aforesaid upon the final determination of such proceedings, where the vessel or thing is not liable or ordered to be forfeited under the provisions of this Act, or where a fine has been imposed by the Court in such proceedings upon the payment of such fine within the time prescribed by the Court for such payment.

(8) Any vessel or thing detained under subsection (1) shall be subject to a lien in favour of the Authority for the amount of any fine imposed by the Court upon the owner or the master or other person in charge thereof in any

proceedings in respect of an offence against this Act, and if such fine shall not have been paid by the due date for payment thereof the Registrar may, subject as in this subsection provided, after first serving upon the owner or the master or other person in charge of the vessel or thing, a notice in writing of his or her intention so to do,

- (a) sell the vessel or thing by public auction after the lapse of fourteen days of the service of such notice;
- (b) deduct the amount of the fine or fines unpaid, and the expenses incurred in selling the vessel or thing from the proceeds of the sale; and
- (c) pay the balance to the Authority to be held by the Authority and paid to such person as shall satisfy the Authority that he or she is entitled thereto.

(9) The sale of any vessel by the Registrar pursuant to subsection (8) is subject to the provision that, if within the period of fourteen days next following the date of service of a notice under this subsection upon the owner, master or other person in charge of a vessel or thing, such owner, master or other person pays to the Court the amount of any fine or fines unpaid, and pays to the Registrar the amount of any expenses incurred by the Registrar in respect of the proposed sale, the Minister shall not offer such vessel or thing for sale but shall release the vessel or thing to such owner, master or other person.

(10) No action shall lie at the suit of any person against the Authority in respect of the payment in good faith of any moneys under subsection (8) to any person appearing to him or her to be entitled to the same.

(11) Subject to the provisions of subsection (4)(b), where a vessel or thing is detained under subsection (1), no action shall lie against the Commissioner of Police or the Authority in respect of loss or damage to any perishable marine product.

Inspection powers of Authority officers.

47. While not in any manner detracting from the requirements contained in section 46, any officer of the Authority may, for the purpose of achieving any of the functions and responsibilities of the Authority as provided under the Act, exercise the powers vested in an inspector, officer or auditor appointed under section 9(1).

Authority to establish Information Management System.

48. (1) As soon as possible and no later than two years after this Act comes into force, the Authority shall establish and maintain an Information Management System that shall, amongst other matters include

- (a) on a geographic information storage and retrieval system:

- (i) the inventory of agricultural lands including traditional farming areas as provided in section 51;
 - (ii) the fish stock assessment as provided in section 113;
 - (iii) registered agricultural leases, sharecropping agreements, agricultural permits and licenses that have been issued prior to this Act coming into force;
 - (iv) registered fishing agreements, licences and permits that have been issued prior to this Act coming into force;
- (b) all records of meetings of the Board;
 - (c) any licenses, certificates, permits and applications required or issued by the Authority under the Act;
 - (d) the records, reports or documents pertaining to any policy, standards, guidelines or codes of practices established and implemented by the Authority pursuant to the requirements of the Act;
 - (e) all records, reports and documents of the Authority;
 - (f) all records pertaining to the import, export, transportation and storage of any agricultural or fishery produce undertaken by the Authority; and
 - (g) such other matters as may be required by the Minister.

(2) The Information Management System shall, in regards to the matters mentioned in subsection (1)(a), be linked with and accessed by the Information Registry and the National Geographic Information System (NGIS) maintained by the Town and Country Planning Department and accessed by parties as determined by the Ministry or Authority.

49. The Ministry shall

- (a) collaborate with the Planning Authority established under the Physical Planning Act, 2004 to ensure the sustainable and economically viable development of agriculture resources in the physical planning process;

Ministry to have input into physical development and natural resource management plans.
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- (b) provide input into development of any Local Area Physical Development Plan and development applications under the Physical Planning Act, 2004;
- (c) collaborate with the Ministry of Natural Resources to ensure the promotion of sustainable and economically viable development of agriculture resources in the formulation of any Natural Resource Management Plan that may be formulated from time to time by the Ministry.

Climate change vulnerability and risk assessment.

50. (1) Within one year of this Act coming into force, the Authority shall undertake a climate change vulnerability and risk assessment of existing and proposed physical structures used for and by the fisheries and agriculture sectors.

(2) The climate change vulnerability and risk assessment undertaken by the Authority pursuant to subsection (1) shall

- (a) comply with the International Organisation for Standardisation's Final Draft International Standard ISO/FDIS 14091 Adaptation to climate change - Guidelines on vulnerability, impacts and risk assessment, or other equivalent standard;
- (b) include a management plan to address, within the resources available to the Authority, priority risks to existing and proposed physical structures used for and by the fisheries and agriculture sectors;
- (c) be made available to the public through publication on the website of the Authority; and
- (d) be reviewed and updated no less than every ten years.

(3) Any risk management plan formulated under subsection (2) (b) shall be developed through the broadest possible consultation, and shall be submitted for consideration by the Minister acting in consultation with the Minister responsible for natural resources and the environment and the Minister of Health.

(4) Upon reviewing any risk management plan that has been submitted under the provisions of subsection (3), the Minister in consultation with the Minister responsible for natural resources and the environment and the Minister of Health may require the Authority to

- (a) correct any deficiency or provide additional information;
- (b) have input into physical development and natural resource management plans;
- (c) undertake climate change vulnerability and risk assessments; and
- (d) endorse the risk management plan which shall be transmitted to Cabinet for consideration and approval.

(5) Any risk management plan that has been approved by Cabinet pursuant to subsection (4)(d) shall be filed in the Information Registry.

**PART IV
MANAGEMENT OF AGRICULTURE AND FISHING INDUSTRY**

Authority to develop Food Security Management Plan.

51. (1) No later than twelve months after the Sustainable Agricultural Production Food Security and Food Safety Policy comes into effect, and no more than every five years thereafter, the Authority, in collaboration with the Agriculture and Fisheries Management Unit and the Ministry of Health, shall develop a Food Security Management Plan for the Territory.

(2) While not in any manner detracting from the requirements contained in subsection (1), the Food Security Management Plan shall promote food sovereignty in the Territory and shall include mechanisms to advocate the following:

- (a) the strengthening of support to local agricultural producers so that consumers have access to healthy, fresh, nutritious products, while also recovering access to traditional ancestral foods with cultural relevance;
- (b) the protection of smallholder farms from encroachment;
- (c) the development of family farming through the provision of financial support, technical assistance, access to inputs and the construction of productive infrastructure;
- (d) improved access by local farmers to environmentally-sound agricultural inputs, particularly seeds, pest and disease control mechanisms, and fertilizers;
- (e) the proper application of best agricultural and veterinary practices during the primary phase of production;

- (f) the development and training of farmers in processes and strategies for the conservation of harvest products, particularly small-scale agriculture for personal consumption or for sale;
- (g) best manufacturing and hygienic practices in food processing;
- (h) the establishment, maintenance and enforcement of phytosanitary measures and food safety technical standards that are needed to achieve food security and food safety;
- (i) the prevention and management of impacts from climate change and disasters that may affect food availability including the establishment and maintenance of early warning systems for disasters of socio-natural origin that may affect food availability;
- (j) the establishment and maintenance of food stocks in order to ensure adequate access to food in emergency situations;
- (k) the marketing of food produced in the domestic market, through appropriate public procurement as well as through the promotion of public-private partnerships with the Authority to improve the food supply, food processing and the income of domestic farmers;
- (l) the strengthening of the link between public food procurement and family farming;
- (m) the advertising of healthy foods and restriction of the sale of unhealthy food in educational spaces, so as to promote healthier consumption habits;
- (n) improved clarity of food labeling in terms of expiration date, storage requirements and food nutrition;
- (o) the development of and access to equipment, new technology and innovation that contributes to reducing food losses and waste in all stages of the food chain;
- (p) the ability of any agricultural and fisheries complex established under section 20(2) to serve as a national food supply center and mechanisms for providing access to food for the general population;

- (q) the strengthening of labor relations in the agricultural sector by fostering access to improved contractual conditions for agricultural workers;
- (r) the promotion of intergenerational incentive schemes for incorporating youth into the rural labor market in order to strengthen family agriculture;
- (s) the strengthening of agricultural production training and formal technical agricultural education and trades.

(3) When the Authority initiates the development of any Food Security Management Plan pursuant to the provisions of this section, the Authority shall give public notice of the intention to prepare such a plan and shall provide an opportunity for timely public consultation on the proposed plan.

(4) Any Plan formulated under the provisions of this section shall be developed through the broadest possible consultation, and shall be submitted for consideration by the Minister in consultation with the Minister responsible of environmental matters and the Minister of Health.

(5) Upon reviewing any policy that has been submitted under the provisions of subsection (4), the Minister in consultation with the Minister responsible of environmental matters and the Minister of Health may

- (a) require the Authority to correct any deficiency or provide additional information; and
- (b) endorse the Plan which shall be transmitted to Cabinet for consideration and approval.

(6) Any Food Security Management Plan that has been approved by Cabinet under subsection (5)(b) shall be filed in the Information Registry.

52. At least once in every five years after the date on which Cabinet approves the Food Security Management Plan under section 51(5)(b), the Authority shall conduct a full review of the Plan and submit to the Minister in consultation with the Unit, the Minister responsible of environmental matters and the Minister of Health a report on the review together with proposals for any amendments to the Plan which are required.

Review of Food Security Management Plan.

53. (1) No later than two years after this Act comes into effect, and no less than every five years thereafter, the Authority, in conjunction with the Unit, shall undertake an agricultural census.

Authority to undertake agricultural census.

(2) While not in any manner detracting from the requirements contained in subsection (1), the agricultural census shall include the following:

- (a) the identification of agricultural lands in the Territory which shall be undertaken with the active participation of current land users, including a catalogue of the structure of agricultural holdings;
- (b) the identification of traditional farming areas and lands and a description of the current use of such lands;
- (c) the identification of Crown Lands that are suitable for agricultural production and which are, at the time of the census and inventory, not under lease;
- (d) a soil categorisation and soil chemistry analysis of agricultural lands;
- (e) a map showing water availability, supply and percolation tests on agricultural lands;
- (f) a climate assessment (rainfall, temperature, evaporation, humidity) presented on a month-by-month basis;
- (g) a climate vulnerability assessment (by crop, livestock production and location) pertaining to agricultural lands and production;
- (h) an assessment of farm management practices including
 - (i) crop and livestock production methods and costs;
 - (ii) pests and disease management practices;
 - (iii) costs and volumes of agricultural inputs including water, energy, labour, pesticide and fertilizer use;
- (i) an agro-biodiversity, land use and agricultural production assessment including an inventory of livestock and crop production, post-harvest losses, and assessment of invasive species, pests and diseases;
- (j) an assessment of domestic food production and consumption patterns and prices, food chain and food sale protocols, household income and expenditures, agricultural labour force availability, and food prices (wholesale and retail, domestic and imported).

(3) Information provided by any person pursuant to the performance of the agricultural census and inventory under subsections (1) and (2) shall be

confidential and shall not be disclosed in any manner that will identify a farmer or agricultural holding either directly or indirectly.

(4) Information provided by any person pursuant to the performance of the agricultural census and inventory under subsections (1) and (2) shall not be used as evidence in any court or for any other purpose other than statistical enquiries.

(5) Any person who, pursuant to the performance of the agricultural census and inventory under subsections (1) and (2)

- (a) refuses to be interviewed or to supply the data needed;
- (b) gives false or incomplete information;
- (c) delays in submitting census questionnaires without reasonable excuse;
- (d) hinders, obstructs, threatens or assaults any person retained by the Authority to undertake the census and inventory,

commits an offence and is liable on summary conviction, to a fine not exceeding one thousand dollars or to a term of imprisonment not exceeding one month, or both.

(6) In the performance of the agricultural census and inventory under subsections (1) and (2), the Authority shall

- (a) demonstrate neutrality and objectivity in the presentation and interpretation of census results;
- (b) ensure transparency and disseminate the census results on an impartial basis in order to honour the entitlement of the public to information.

(7) Upon completion pursuant to the requirements of subsection (1) and (2), the agricultural census and inventory shall be lodged with the Information Registry.

54. (1) Upon the commencement of this Act, all property including lands and buildings, and all interest therein of whatever nature, belonging to the Crown and used exclusively for the purposes of

- (a) agricultural production;
- (b) the rearing of livestock;

Power of Authority to acquire Crown land for food production.

- (c) the slaughtering of livestock;
- (d) the control of pests and diseases;
- (e) the landing, processing or storage of fishery resources,

shall, with the approval of Cabinet, be transferred to and be vested in the Authority.

(2) The Authority may, with the approval of Cabinet acquire, hold, manage and lease Crown Land for the production, storage, processing, inspection, treatment or sale of food.

(3) Where a question arises as to whether any property lands or buildings to which subsection (2) applies was used exclusively for the purposes mentioned in subsection (1)(a) to (e), a certificate under the hand of the Minister shall be conclusive.

(4) All works, capital or otherwise, negotiation of any kind, or any matter incomplete at the time of transfer from the Crown to the Authority shall be continued as if there had been no transfer from one body to the other.

(5) All equipment in use immediately before the commencement of this Act exclusively for the purposes mentioned in subsection (1) (a) to (e) shall, upon such commencement, be transferred to and be vested in the Authority.

Power of Authority to issue leases on Crown land acquired for food production.

55. (1) The Authority may, with the approval of the Board, issue to any person a lease for the purposes of food production on any land acquired under section 52.

(2) In issuing any lease pursuant to subsection (1), the Authority may impose such conditions as may be deemed necessary, including compliance with any standards established under section 11.

PART V PLANT PROTECTION

Control of pests and diseases.

56. (1) The occupier of any land on which any notifiable disease or notifiable pests occurs shall, as soon as practicable, give notice thereof to an officer of the Authority.

(2) Any occupier who fails to give notice required under subsection (1) commits an offence and is liable on summary conviction, to a fine not

exceeding one thousand dollars, or to a term of imprisonment not exceeding one month, or both.

(3) In any proceedings under subsection (2), it shall be no defence that the occupier was not aware of the occurrence of such disease or pest unless it is shown to the satisfaction of the Court that he or she took all reasonable steps to discover such occurrence.

Procedure for eradication of diseases and pests.

57. (1) An officer of the Authority may, by notice in writing served upon the occupier of any land, require him or her to take at his or her own expense and within a time specified in the notice, running from the date of service, all such measures as may be necessary for the eradication or prevention of the spread of any pest or disease.

(2) Any measure specified under subsection (1) may include the total destruction if necessary of any plant whether infected by any disease or infested with any pest or not.

Non compliance with order

58. (1) Where an occupier fails to take any measure which by a notice under section 57(1) he or she is required to take, an officer of the Authority may, on the expiration of the time specified in such notice, enter upon the land and cause such measures to be taken.

(2) Any expenses incurred by the officer of the Authority in connection with measures undertaken pursuant to subsection (1) shall be paid by the occupier in default, and any such expenses shall be recoverable as a civil debt by the Authority.

(3) Notwithstanding the provisions of subsection (2), it shall be lawful for the Minister to dispense with the payment of such expenses in cases where, owing to the person in default being in needy circumstances, or for any other reason deemed necessary by the Minister.

Quarantine of nurseries.

59. (1) Where any officer of the Authority finds any plant on any land or nursery to be affected by any pest or disease he or she may by notice in writing served on the occupier declare such land or nursery or part thereof to be under quarantine.

(2) Any notice provided pursuant to subsection (1) shall remain in force until an officer of the Authority shall have given the occupier or owner of the land or nursery affected a certificate in writing that the land or nursery is free from pests and diseases.

(3) While the notice given under section 56(1) is in force no person shall remove or allow or cause to be removed any plant or any soil, manure, packages, or any vegetable or animal organism from the area under quarantine.

(4) Any person who undertakes any activity prohibited under subsection (3) commits an offence and is liable, on summary conviction, to a fine not exceeding one thousand dollars, or to imprisonment for a term not exceeding one month, or both.

(5) Any occupier having his or her land or nursery, or any part of his or her land or nursery thereof, placed under quarantine pursuant to subsection (1) may, upon application to the Authority, have his or her nursery examined free of charge to determine whether or not the pest or disease has been eradicated.

(6) If there is no person in actual occupation of any land, or if the occupier cannot be found, service of any notice under this Act may be made by affixing the same in some conspicuous place on the land and such affixing shall be deemed to be good and sufficient service.

Compensation.

60. It shall be lawful for the Minister, out of moneys provided for that purpose, to make grants by way of compensation to occupiers and owners (according to their respective interests) in respect of healthy plants destroyed in order to prevent the increase of any pest or disease or the spread of any pest or disease into adjoining land.

Orders
controlling
importation.

61. The Minister may, wherever he or she deems it expedient so to do, by Order published in the *Gazette*

- (a) prohibit the landing of animal generally or of any specific kind thereof or of carcasses, biological products, animal products for veterinary purposes, fodder, litter, dung or other thing brought from any country or any specified part of any country; and
- (b) specify the conditions under which animals, or any specified kind thereof, or of any of the items listed in paragraph (a), may be imported.

Import
permit.

62. (1) No animal, biological product, carcass, fodder or litter may be imported save under, and in accordance with, an import permit which shall be in such form as the Authority may prescribe, and granted by the Authority upon payment of the prescribed fee.

(2) The provisions of subsection (1) shall not apply to any carcass or any part thereof not exceeding forty pounds in weight imported into the Territory directly from the United States Virgin Islands or Puerto Rico, or to any biological product imported from any United Kingdom, United States or Canadian territory where said carcass or biological product is imported into the territory as part of the accompanied baggage of any bona fide traveller directly from such place.

(3) Every person desirous of applying for an import permit shall make application to the Authority.

(4) An application made under subsection (3) shall be made in the manner prescribed by the Authority, and shall include the application processing fee prescribed by the Authority.

(5) No person shall remove any animal, biological product, carcass, fodder or litter from, as applicable, the bonded warehouse, store or building at the port of entry unless and until the animal, biological product, carcass, fodder or litter has been examined by a duly qualified officer of the Authority and certified to be free from any pest or disease and fit for import.

(6) Any person who undertakes any activity prohibited under subsections (1) or (5) commits an offence and is liable, on summary conviction to a fine not exceeding five thousand dollars, or to imprisonment for a term not exceeding six months, or both.

(7) Any animal, biological product, carcass, fodder or litter in respect of which any offence under subsection (6) is alleged to have been committed may be seized and on conviction shall be disposed of in such manner as the Authority may direct.

PART VI POUNDS AND LIVESTOCK

63.(1) Any officer of the Authority or district medical officer who has satisfied himself or herself by personal inspection that an animal has, or may have been infected by Pounds.

- (a) a highly contagious disease that is likely to spread rapidly to other animals,
- (b) a zoonotic disease that is likely to endanger the health of humans, or
- (c) a disease specified in the Schedule II, Schedule II

shall report the matter immediately to the Managing Director of the Authority.

(2) Where the Managing Director has reason to believe that an animal has, or may have been infected by, a disease referred to in subsection (1)(a) to (c), the Managing Director shall authorise a suitably qualified officer of the Authority to enter on any land or premises for the purposes of ascertaining whether the animal has, or may have been infected by, the disease, and if so, the action that, in his or her opinion, needs to be taken to prevent

- (a) the spread of the disease to other animals;

- (b) the disease from endangering the health of humans; and
- (c) the disease from endangering the health of the animal.

(3) On being satisfied that an animal has, or may have been infected by, a disease referred to in subsection (1)(a) to (c)

(a) the Chief Veterinary Officer shall, by any means practicable, immediately notify the Minister, the Director of Health Services and the owner of the animal of that fact and the action that, in his or her opinion, needs to be taken to prevent

- (i) the spread of the disease to other animals;
- (ii) the disease from endangering the health of humans; and
- (iii) the disease from endangering the health of the animal; or

(b) an officer of the Authority shall, by any means practicable, immediately notify the Managing Director of the Authority, the Minister, the Chief Medical Officer and the owner of the animal of that fact and the action that, in his or her opinion, needs to be taken to prevent

- (i) the spread of the disease to other animals;
- (ii) the disease from endangering the health of humans; and
- (iii) the disease from endangering the health of animal.

(4) The action specified in a notification under subsection (3) may include

(a) the destruction of animals in the most humane manner possible;

(b) the removal or disposal of the carcasses of animals;

(c) the quarantining of

(i) animals on an owners premises, or at an approved facility;

(ii) premises or land,

until such time as it is, in the opinion of the Managing Director of the Authority, safe for such animals, premises or land to be released from quarantine;

- (d) the destruction of any infected or potentially infected thing;
- (e) the manner in, or time within, which any action shall be carried.

(5) Where a notification under subsection (3) is not given in writing, it shall be confirmed in writing within twenty-four hours.

(6) Where an owner of an animal receives a notification under subsection (3), he or she shall carry out the action specified in the notification as soon as practicable, and in an event, within three days of receiving the notification in writing, unless otherwise specified in the notification.

(7) A person who fails to carry out any action required pursuant to subsection (6), commits an offence and is liable on summary conviction to imprisonment for a term not exceeding two years or to a fine not exceeding two thousand dollars, or both.

(8) Where an owner of an animal fails to comply with a notification under subsection (3), the Managing Director of the Authority or an officer of the Authority may enter on any land or premises for the purposes of carrying out the action specified in the notification and the cost of carrying out the action may be recovered summarily from the owner of the animal as a civil debt.

(9) For the purposes of this section, where an officer of the Authority is of the opinion that a person may have been in contact with an animal that is infected with a disease and the disease is the type that can

- (a) be spread to other animals;
- (b) endanger the health of humans; or
- (c) endanger the health of the animal

the Managing Director of the Authority may take such steps as are necessary to isolate the person for a period not exceeding twenty-four hours within which he or she must notify the Director of Health Services.

64. (1) The Minister may appoint quarantine stations in such places as he or she deems necessary and all animals required to be quarantined under this Act or any Regulations made hereunder or under the terms of any import permit granted shall be placed within such stations in accordance with the requirements and conditions imposed by the Authority.

Quarantine stations.

(2) The owner or person responsible for any animal placed in a quarantine station pursuant to the provisions of subsection (1) shall pay to the Authority such fees and costs as may be prescribed by the Minister by Order in the *Gazette*.

Supervision of pounds.

65. (1) For the purposes of this Act, pounds shall be established at such places as may be prescribed.

(2) The Managing Director of the Authority shall be responsible for the general supervision of pounds in the Territory.

Procedures of pounds.

66. (1) Every pound shall

- (a) be provided with sufficient and adequate enclosures in which animals may be safely kept without being tied;
- (b) be properly cleaned at least one time a day; and
- (c) have conspicuously displayed
 - (i) at its entrance, a sign with the words “Public Pound” written thereon in large and legible letters; and
 - (ii) in a place that is accessible to the public during normal working hours, a notice board with the advertisements required to be posted under subsection (4).

(2) Within twenty-four hours after an animal is impounded, such animal shall be scanned with a universal micro chip reader to determine whether or not an animal has been microchipped and if microchipped the relevant details regarding the animal.

(3) Where an animal is scanned under subsection (2) and no microchip is found reasonable steps shall be taken to contact the owner including the posting of an advertisement on a notice board of the pound as provided in subsection (1) (c) (ii), containing a photograph of the animal and specifying

- (a) the type, colour, gender, marks, brands, distinguishing features and, if known, reputed owner of the animal; and
- (b) the date on which the advertisement is posted,

shall be posted on the notice board of the pound referred to in subsection (1)(c) (ii).

(3) An animal shall, before the expiration of twenty-four hours after it has been impounded and daily thereafter, be provided with sufficient food and water while it is impounded.

(4) Subject to the provisions of this Act, no impounded animal shall be abused, ill-treated or injured in any way.

(5) An officer of the Authority or any person authorised by the Managing Director of the Authority may, at his or her discretion, cause any impounded livestock to be tethered apart either in or out of the pound as and when he or she may reasonably consider such precaution to be necessary.

67. (1) Where an impounded animal is diseased or injured, the animal shall be kept separately from any other animal in the pound and, if it qualifies to be so dealt with, it shall be dealt with in accordance with section 70(5).

Diseased or injured of impounded animals.

(2) Where an impounded animal is diseased or injured, but is not qualified to be dealt with in accordance with section 70(5), the animal shall be treated for its disease or injury in such manner as the Managing Director of the Authority thinks fit and the owner of the animal shall be liable to pay the cost of such treatment.

(3) The cost of any treatment administered under this section to an impounded animal at any time before it becomes a forfeited animal may be recovered in civil proceedings in the Magistrate's Court.

68. (1) Any animal found straying in a public place may be

Impounding of straying animals.

- (a) captured and impounded by any person; and
- (b) dealt with in accordance with the provisions of this Act and the Regulations.

(2) Any animal found trespassing on any private land may be

- (a) captured and impounded by the occupier of the private land or by any person that the occupier may call upon to assist him or her to capture or impound the animal, including an officer of the Authority; and
- (b) dealt with in accordance with the provisions of this Act and the Regulations.

(3) Where there are cases of animal cruelty, abandonment of animals or welfare concerns, such matters shall be reported to the Authority and a person as

may be authorised by the Authority shall in accordance with Regulations made under section 176 (2) (e) (iii), impound the animal.

(4) For the purposes of subsections (1) and (2), but subject to sections 63(4) and (5), an animal may be captured in any manner that is not reasonably likely to result in the death of, or serious injury to, the animal and, without prejudice to the generality of the foregoing, an animal may be tranquilised in order to facilitate its capture.

(5) For the purposes of subsection (3) an animal may only be tranquilised by an officer authorised by the Authority specially trained for the purposes of doing so.

(6) Where a person captures an animal for the purpose of impounding it, he or she shall impound it as soon as practicable and in any event within thirty-six hours of its capture

(7) Where a person captures an animal and it is not impounded immediately, the person capturing such animal shall be required to provide the animal with nourishment including at the very least water .

(8) A person shall, upon impounding an animal, sign a statement in the prescribed form declaring

- (a) the place and time at which the animal was captured; and
- (b) that the animal being impounded was found straying in a public place or trespassing on private land.

(9) Where a person, other than an authorised person, impounds an animal in accordance with this Act, he or she shall be entitled to claim from, and shall be paid by, the Government, such sum as may be prescribed for the purpose of defraying the cost of transporting the animal to the pound.

Impounding
of livestock.

69. (1) This section applies only to livestock.

(2) Subject to subsection (3), where an authorised person is engaged in the capturing of any livestock under section 68 and the animal goes onto the private land of any person before it is captured, the authorised person, together with any person he or she may choose to accompany him or her, may enter upon that private land for the purpose of capturing and impounding the animal.

(3) Where an authorised person is engaged in the capturing of any livestock under section 68 and the animal goes onto the private land of its owner, or private land occupied by its owner, before it is captured, and the owner of the animal objects to the capture of the animal, the authorised person may

- (a) require the owner to sign a statement in the prescribed form declaring that he or she is the owner of the animal; and
- (b) issue to the owner a notice, in the prescribed form, requiring the owner, within seven days, to pay at a specified pound, the prescribed fine,

except that the authorised person shall capture and impound the animal if the animal is liable to be forfeited to the Crown under section 70(3).

Release and forfeiture of impounded animals.

70. (1) Subject to the provisions of this Act, no impounded animal shall be released to any person other than its owner.

- (2) An impounded animal shall not be released to its owner unless:
 - (a) the particulars required to be registered in accordance with section 71, have been so registered;
 - (b) the owner pays the prescribed fine and fees and the cost of any treatment administered to the animal as provided under this Act;
 - (c) the owner has suitable means of transporting the animal from the pound; and
 - (d) it is not liable to be forfeited to the Crown under subsection (3).
- (3) An animal that is livestock shall be forfeited to the Crown
 - (a) if after the effective date
 - (i) it is impounded by any person or is found straying in a public place, or trespassing on private land, by an officer of the Authority; and
 - (ii) it does not bear the brand of its owner; or
 - (b) if
 - (i) it is impounded by any person or is found straying in a public place, or trespassing on private land, by an officer of the Authority; and
 - (ii) its owner has been liable to pay a fine for straying animals under this Act on at least three previous occasions.

(4) An impounded animal shall, whether it is livestock or not, be forfeited to the Authority if its owner does not claim it, or does not pay the total amount payable for the release of the animal from the pound, within seven days from the date on which it is advertised under section 66(2) as being impounded.

(5) A forfeited animal may, in the discretion of the Managing Director of the Authority

- (a) be sold at a public auction by delivering it to the highest bidder upon receipt of the amount of the bid;
- (b) be sold to any person, other than its former owner, at such price as the Managing Director may determine;
- (c) be slaughtered and sold as meat, in the case of livestock, at such price as the Managing Director may determine; or
- (d) be dealt with in such other manner as the Managing Director considers fit.

(6) The date, time and place of a public auction under subsection (5)(a) shall be determined by the Managing Director of the Authority and shall be advertised in a local newspaper circulating in the Territory at least seven days prior to the date of the public auction.

(7) The proceeds of any public auction under subsection (5) shall be paid into the Fund of the Authority.

Pounds and
Livestock
Brands
Registry.

71. (1) There shall be established and maintained in the Territory a register, which may be in electronic form, to be known as the “Pounds and Livestock Brands Register”, in which shall be recorded

- (a) the name and address of, and any other means of identifying or contacting, any person who impounds an animal;
- (b) the date on, and time at, which an animal is impounded;
- (c) a description of each animal that is impounded, including, in the case of livestock, a description of any brand that it bears;
- (d) the name and address of, and any other means of identifying or contacting,
 - (i) the owner of an animal that is impounded; or

- (ii) a person to whom a notice is issued under section 69(3)(b);
- (e) the date on, and time at, which an animal is released from the pound;
- (f) a description of each brand allotted or transferred under this Act and the name and address of, and any other means of identifying or contacting, the person to whom the brand is allotted or transferred;
- (g) the number of times that an owner of livestock has become liable to pay a fine for any offences involving livestock under this Act;
- (h) any other matter that may be required or prescribed by or under this Act.

(2) The contents of the Register shall be admissible as *prima facie* evidence of the facts stated therein.

Branding
of
livestock.

72. (1) The Managing Director of the Authority shall, upon application in writing, allot a brand to an owner of livestock for the purpose of identifying the livestock of that person and a record of the allotment shall be entered in the Register.

(2) A person to whom a brand is allotted, or his or her personal representative, may apply to the Managing Director of the Authority to transfer the allotment of the brand to another person, and

- (a) the allotment of the brand shall not be transferred unless the Managing Director of the Authority is satisfied that the prescribed requirements have been complied with and approves the transfer; and
- (b) a record of the transfer of allotment shall be entered in the Register.

(3) Upon the entry in the Register of any allotment, or transfer of allotment, of a brand, the person in whose name the brand is last recorded becomes the owner of the brand and of all the rights thereof and therein, and is entitled to a certificate under the hand of the Managing Director of the Authority of the allotment or transfer of allotment and of the recorded entry of the brand, and the production of the certificate is proof, in the absence of evidence to the contrary, of the ownership of the brand.

(4) A person who

- (a) improperly or wrongfully brands, or causes to be branded, with a brand that has been recorded under this Act, any livestock;
- (b) brands, or causes to be branded, with a brand that is not recorded under this Act, any livestock;
- (c) brands or causes to be branded with a brand allotted to him or her, any livestock that he or she is not entitled to brand; or
- (d) removes, defaces, obliterates or otherwise renders illegible any brand on any livestock,

commits an offence and is liable, on summary conviction, to a fine not exceeding three thousand dollars or to a term of imprisonment not exceeding three years, or both.

Owner of livestock.

73. (1) Subject to section 72(3), an owner of livestock shall ensure that all his or her livestock are branded with the brand allotted to him or her under subsection (1) before the effective date.

(2) Subsection (1) does not apply to an animal that is born or acquired by its owner on or after the effective date, but the owner shall ensure that any such animal is branded with the brand allotted to him or her under section 72(1) as soon as reasonably practicable after the animal is born or acquired by him or her.

(3) The fact that an animal is born or acquired by its owner after the effective date shall not prevent the animal from being forfeited under any provision of the Act if, after the effective date, it does not bear the brand of its owner and is impounded by any person or is found straying in a public place, or trespassing on private land, by an authorised person.

PART VII DOGS PREVENTION OF INJURY

Liability of owner of a dog for injury to person, livestock and poultry.

74. (1) The owner of a dog shall conspicuously post at the entrance or entrance of his or her premises a sign to warn visitors to his or her premises of the presence of a dog on those premises.

(2) The sign referred to in subsection (1) shall be in such form and size as the Minister may, by Order in the *Gazette*, determine.

(3) The owner of a dog shall be liable in damages for injury caused to any person, domestic animal, livestock or poultry by that dog, and it shall not be

necessary for the person seeking such damages to show a previous mischievous propensity in the dog, or the owner's knowledge of such propensity, or to show that the injury was attributable to neglect on the part of the owner.

Power to impound and destroy dogs.

75. (1) It shall be lawful for a member of the Police Force or an officer of the Authority or a person designated in writing by the Managing Director of the Authority to impound and destroy either by shooting with a firearm or by killing in some other manner which will cause as little pain and suffering as possible:

- (a) a dangerous dog which has not been destroyed in accordance with section 76(2);
- (b) a dangerous dog which has been imported and which has not been exported as permitted by section 76(5),

or to destroy by shooting with a firearm or by killing in some other manner which will cause as little pain and suffering as possible to a dog whilst it is attacking any person, livestock or poultry at any time or place.

(2) It shall be lawful for a member of the Police Force or an officer of the Authority or a person designated by the Managing Director of the Authority to impound any dog that is found wandering abroad contrary to this Act.

Dangerous Dogs.

76. (1) The Minister may, by Order in the *Gazette*, declare that any type of dog that appears to him or her to be bred for fighting, or to have a characteristic of a type bred for that purpose, is a dangerous dog.

(2) The owner of a dog which is declared by an Order under subsection (1) to be a dangerous dog, shall ensure that the dog is destroyed within thirty days of the making of that Order.

(3) No person shall, after the expiration of thirty days from the making of an Order under subsection (6), have in his or her possession any type of dog specified in the Order except in pursuance of the power to impound and destroy dangerous dogs under section 75(1).

(4) A person who contravenes subsection (2) or (3), commits an offence and is liable, on summary conviction, to a fine not exceeding one thousand dollars or imprisonment for a term not exceeding six months, or both.

(5) No dangerous dog shall be imported into the Territory and any dangerous dog that is imported shall be seized at the port of entry and shall, unless it is exported within three days, be delivered to the Managing Director of the Authority to be impounded and destroyed pursuant to section 75(1)(b).

Penalty on owner whose dog slaughters or injures livestock or poultry.

77. Where, upon a complaint laid by a member of the Police Force on information from a person whose domestic animal, livestock or poultry have been

injured or slaughtered by a dog, it appears to the Magistrate that the owner of the dog was negligent in not exercising proper control over the dog, the Magistrate may

- (a) order the owner of the dog to pay a penalty not exceeding two hundred and fifty dollars; and
- (b) award such compensation to the person whose livestock or poultry have been injured or slaughtered as he or she considers fit.

Dogs restricted during certain hours.

78. (1) Every dog shall be kept tethered or otherwise confined to the premises of its owner between the hours of 8.00 p.m. and 5.00 a.m. of the following day.

(2) Where a dog is found wandering abroad between the hours specified in subsection (1), the owner of the dog commits an offence, and is liable upon summary conviction to a fine not exceeding two hundred and fifty dollars, and in addition the Court may order that the dog be impounded by the Managing Director of the Authority if it appears to the court that the owner of the dog is unwilling or unable to exercise proper control over the dog.

(3) The owner of a dog shall keep the dog on a leash when the dog is outside of his or her premises and if he or she fails to comply with this requirement, he or she commits an offence and is liable on summary conviction to a fine not exceeding one hundred dollars.

(4) No person shall take or keep a dog on a beach outside of the hours of 6.00 a.m. to 8.00 a.m. and 5.00 p.m. to 7.00 p.m. and if he or she contravenes this prohibitions he or she commits an offence and is liable on summary conviction to a fine not exceeding two hundred and fifty dollars.

(5) Without prejudice to subsection (2), a dog found outside of its owner's premises without a leash may be impounded by an officer of the Police Force or an officer of the Authority.

(6) The provisions of subsections (1) to (4) inclusive do not apply to dogs owned by the Fire and Rescue Service or the Royal Virgin Islands Police Force or other legally established body which provides security services and which is approved by the Minister in writing.

Dog shows.

79. (1) Where any person or organisation intends to organise a dog show which will extend or is likely to extend beyond 8.00 p.m., such person or organisation shall apply in writing to the Authority for a permit.

(2) Where the Authority receives an application under subsection (1), the Managing Director of the Authority may issue a permit to hold a dog show beyond 8.00 p.m. and attach to the permit such conditions as he or she considers appropriate.

(3) Where a person or organisation organises a dog show beyond 8:00 p.m. without a permit or fails to comply with any conditions attached to a permit issued under subsection (2), the person or organisation, as the case may be, commits an offence and is liable on summary conviction to a fine not exceeding two hundred and fifty dollars.

80. The owner of a female dog shall ensure that it is kept secured, whether tethered or otherwise, on his or her premises during any period when such female dog is in heat. Female dogs to be kept secure while in heat.

81. No dog shall be allowed to enter the Territory unless the owner of the dog Restrictions on importing dogs.

- (a) has registered the dog in accordance with section 83;
- (b) produces a permit issued by the veterinary authority of the location from which the dog is being imported attesting that the dog is free from any pest or disease and has been vaccinated against rabies;
- (c) complies with all animal import requirements imposed under this Act or regulations hereunder.

82. A member of the Police Force, the Managing Director of the Authority or any officer of the Authority may, between the hours of 8.00 a.m. and 6.00 p.m., enter any household or premises where a dog is kept and there is reasonable belief that an offence is being committed under this Act, in order to ascertain whether the provisions of this Act or any Regulations made thereunder are being complied with. Permission to enter any household or premises.

Registration of dogs.

83. (1) The owner of a dog shall, within seven business days of the date on which

- (a) the dog attained the age of three months;
- (b) the owner acquired the dog,

register the dog with the Authority.

(2) Upon bringing a dog into the Territory, the owner of the dog shall, unless the dog is already registered with the Authority, register the dog with the Authority.

(3) Where the owner of the dog is a visitor to the Territory and does not intend to keep the dog in the Territory for more than twenty-one days, he or she shall state that intention in his or her application to register the dog, and the registration of the dog shall expire at the end of the twenty-first day after the date on which the dog was brought into the Territory.

(4) Where the registration of a dog expires under subsection (3), the owner of the dog shall, if the dog is still in the Territory, register the dog.

(5) The Managing Director of the Authority shall register a dog after receipt from the owner of the dog of

- (a) an application, in writing, for the registration of the dog;
- (b) a certificate issued by a veterinary surgeon that the dog has been vaccinated against rabies;
- (c) a certificate issued by a veterinary surgeon that the dog has been microchipped in accordance with such requirements as prescribed in Regulations under section 176 (2) (c);
- (d) a fee of such amount as the Minister may, by Order in the *Gazette*, fix; and
- (e) such other information pertaining to the identity and address of the owner of the dog as the Managing Director of the Authority may reasonably require.

(6) The owner of a dog shall maintain the registration of the dog by paying to the Authority, not later than one month after each anniversary of the date on which the dog was registered, an annual fee of such amount as the Minister may, by Order in the *Gazette*, fix.

(7) Where a change in the ownership of a registered dog occurs, the new owner shall

- (a) give the Authority written notice of the change within seven days thereof; and
- (b) maintain the registration of the dog by paying the annual fee under subsection (6) beginning with the first annual fee that becomes due after the change of ownership.

(8) The Managing Director of the Authority shall, not more than twenty-one nor less than seven days before the annual fee under subsection (6)

becomes due, send to each owner of a registered dog, a reminder of the date on which the annual fee will become due.

(9) The fees payable under subsection (7) shall not apply in the case of a person who operates an animal shelter approved by the Authority or organisations approved by the Authority for the purpose of fostering animals .

(10) An unpaid annual fee is a civil debt and may be sued for and recovered by the Authority in summary proceedings.

(11) The owner of a dog who fails to comply with the requirements under this section commits an offence and shall be issued an administrative penalty notice to pay a penalty of one hundred dollars.

(12) A taxed penalty notice shall

- (a) set out the particulars of the offence;
- (b) specify the period within which the penalty is to be paid;
- (c) specify the amount of fine;
- (d) specify where the payment is to be made.

Metal disc to be affixed to collar of registered dog.

84. (1) The Authority shall

- (a) issue to the owner of each dog that is registered, a metal disc with the appropriate registration number stamped or engraved thereon, and every such owner shall affix the metal disc to a collar or strap and place the collar or strap around the neck of the dog; or
- (b) ensure that a dog is microchipped in accordance with such conditions and requirements as may be prescribed by Regulations under section 176 (2) (c).

(2) Where a metal disc is issued to a person under subsection (1) and that person fails to place a collar or strap with the metal disc affixed thereto around the neck of the dog in respect of which the metal disc was issued, that person commits an offence and is liable on summary conviction to a fine not exceeding one hundred dollars.

(3) Any dog found wandering around without a collar or strap with a metal disc issued under subsection (1) shall be deemed to be unregistered and may be impounded by an officer of the Police Force or an officer of the Authority.

PART VIII COMMERCIAL FARMS

Licensing of
commercial
farms.

85. (1) Every commercial farm operated by the Authority shall be deemed to be licensed under this Act.

(2) Except as specified under subsection (1), no person shall operate any commercial farm without a licence.

(3) Every licence, permit and right expressly granted by the Crown or relevant authority before the commencement date of this Act, for the construction and operation of a commercial farm, shall be deemed valid, and it shall not be necessary to obtain any licence or permit under the provisions of this Act during the continuance of such licence, permit or right as the case may be, or during the period of any extension of any licence, permit or right in accordance with the provisions of the original grant.

(4) A person wishing to obtain a licence to operate a commercial farm shall apply to the Authority.

(5) An application made under this section shall be made in the manner prescribed by the Authority, and shall include the application processing fee prescribed by the Authority.

(6) The Authority, upon receiving an application under this section, shall cause the farm in respect of which the application is made to be inspected by a duly qualified officer of the Authority to determine their suitability for use in the manner intended.

(7) If after inspection of the premises pursuant to subsection (6), the officer of the Authority shall make recommendations to the Managing Director of the Authority with respect to whether or not the licence should be issued and the Managing Director may, if he or she thinks fit, issue the licence.

(8) No license may be issued under this section unless the facility meets the standards, guidelines and procedures prescribed in section 11 (6) as prescribed by the Minister by notice in the *Gazette*.

(9) Any person who undertakes any activity prohibited under subsection (2) commits an offence and is liable, on summary conviction, to a fine

not exceeding five thousand dollars, or to imprisonment for a term not exceeding six months, or both.

**PART IX
IMPORTATION AND SALE OF FRESH MEAT**

Licensing of
food processing
facilities and
butchers.

86. (1) Every slaughter house operated by the Authority shall be deemed to be licensed under this Act.

(2) Except as specified under subsection (1), no person shall operate any

- (a) food processing facility;
- (b) food production facility;
- (c) slaughter house;
- (d) cold storage,

without a licence.

(3) A person wishing to obtain a licence to operate any facility mentioned in subsection (2) shall apply to the Authority.

(4) An application made under subsection (3) shall be made in the manner prescribed by the Authority, and shall include the application processing fee prescribed by the Authority.

(5) The Authority, upon receiving an application under this section, shall cause the facility in respect of which the application is made to be inspected by a duly qualified officer of the Authority to determine their suitability for use in the manner intended.

(6) If after inspection of the premises pursuant to subsection (5), the officer of the Authority shall make recommendations to the Managing Director of the Authority with respect to whether or not the licence should be issued and the Managing Director may, if he or she thinks fit, issue the licence.

(7) No license may be issued under this section unless the facility meets the standards, guidelines and procedures prescribed in section 11(6) as prescribed by the Minister by notice in the *Gazette*.

Sale and
importation of
fresh meat.

87. (1) Notwithstanding the provisions of section 86(7), no person shall sell, offer or expose for sale the fresh meat of any animal slaughtered in the Territory unless

- (a) he or she has a licence issued by the Authority;
- (b) the animal was examined by a duly qualified officer of the Authority and certified to be fit for slaughter;
- (c) the animal was slaughtered in a slaughter house operated by the Authority or licensed under this section; and
- (d) the fresh meat was approved by a meat inspector as being fit for human consumption.

(2) Any person who undertakes any activity prohibited under section 86(2) and subsection (1) commits an offence and is liable, on summary conviction, to a fine not exceeding five thousand dollars, or to imprisonment for a term not exceeding six months, or both.

88. Without prejudice to any law relating to the approval of buildings, every slaughter house shall Requirements for slaughter house.

- (a) be built according to the Building Regulations, 1999 as amended from time to time and such standards as may be prescribed by the Minister;
- (b) be so located as not to be likely to constitute a hazard to the health of, or a nuisance to, the public; and
- (c) be equipped with such facilities as may be necessary for the treatment and adequate disposal of waste matter as required by the Ministry of Natural Resources and the Ministry of Health.

89. (1) Every slaughter house and cold storage shall be inspected by a qualified officer of the Authority at such intervals as the Managing Director of the Authority may direct. Inspection of slaughter house.

(2) Subject to subsection (3), where an officer of the Authority is satisfied after inspection that a slaughter house or cold storage is not compliant with section 86(7) and section 88, he or she shall so inform the Managing Director of the Authority who may, after giving the operator an opportunity to be heard, orally or in writing, direct that the operations at that slaughter house or cold storage cease until it is declared fit for use, as applicable, as a slaughter house or cold storage.

(3) Where upon receipt of information under subsection (2) the Managing Director is of the view that non-compliance is flagrant, he or she may order closure without granting the licensee a hearing, but such closure shall not exceed fourteen days unless a Magistrate otherwise orders.

(4) Where a slaughter house or cold storage has been closed under subsection (2) or (3), the Managing Director shall write to the operator setting out in detail the matters that need to be rectified before the slaughter house or cold storage can be considered for re-opening.

(5) A closure of a slaughter house or cold storage under subsection (2) or (3) shall be appealable to a Magistrate.

90. (1) For the purposes of section 87(1)(d), fresh meat shall be approved as fit for human consumption if it

Inspection of meat.

- (a) has been inspected by a qualified officer of the Authority; and
- (b) has a stamp of approval imprinted thereon.

(2) The stamp of approval referred to in subsection (1) (b) shall be such stamp as the Managing Director of the Authority shall authorise for the purpose, and the officer of the Authority, in imprinting it on fresh meat, must do so on as conspicuous a part of the meat as possible so as to render it easily recognisable by purchasers of the meat.

91. (1) No person shall carry on the business of a butcher unless he or she has obtained a license issued by the Authority for that purpose.

Licence to carry on the business of a butcher.

(2) A person wishing to obtain a licence to carry on the business of a butcher shall apply to the Authority.

(3) An application made under subsection (2) shall be made in the manner prescribed by the Authority, and shall include the application processing fee prescribed by the Authority.

(4) The Authority, upon receiving an application under subsection (3), shall cause the applicant to be examined to determine his or her suitability for carrying on the business of a butcher.

(5) Upon completion of any examination under the provisions of subsection (4) the Authority may issue the applicant a licence to carry on the business of a butcher, which shall entitle the person so licensed to work in any slaughter house operated by the Authority or licensed under this Act.

92. (1) No person shall be issued a license under section 91(5) unless he or she is in possession of a food handler's certificate of health issued under Part III of the Public Health (Food Hygiene) Regulations 1972.

Food handler's certificate.

(2) The certificate referred to in subsection (1) shall be

- (a) in the prescribed form and be valid for a period of twelve months from the date of issue of a license under section 91(5);
- (b) kept at the premises where such business is carried on and shall be available for inspection by an officer of the Authority or any officer authorised by the Director of Health Services.

(3) Any person who undertakes any activity prohibited under section 91(1) commits an offence and is liable, on summary conviction, to a fine not exceeding five thousand dollars, or to imprisonment for a term not exceeding six months, or both.

Licensing of importers of food, plants, animals and animal products.

- 93.** (1) No person shall, for the purpose of sale, import into the Territory any
- (a) fresh and unprocessed food;
 - (b) fresh or processed fish or meat;
 - (c) fresh and unprocessed fruit;
 - (d) fresh and unprocessed vegetables;
 - (e) plant;
 - (f) animal or animal products;

without a licence issued by the Authority.

(2) A person wishing to obtain a licence to import any food, plant, animal or animal products mentioned in subsection (1) shall apply to the Authority.

(3) An application made under this section shall be made in the manner prescribed by the Authority, and shall include the application processing fee prescribed by the Authority.

(4) The Authority, upon receiving an application under this section, shall cause a duly qualified officer of the Authority to inspect the premises where the food, plant or animal is to be imported to determine their suitability for the handling of imported food, plants and animals.

(5) If after inspection of the premises pursuant to subsection (4), the officer of the Authority shall make recommendations to the Managing Director of the Authority with respect to whether or not the licence should be issued and the Managing Director may, if he or she thinks fit, issue the licence.

(6) No license may be issued under this section unless the premises where the food, plant or animal is to be imported meets, as applicable the standards, guidelines and procedures prescribed in section 11(6) as prescribed by the Minister by notice in the *Gazette*.

(7) Notwithstanding the provisions of subsection (6), no person shall import into the Territory any food, plant or animal mentioned in subsection (1) unless

- (a) he or she has a licence issued by the Authority;
- (b) the food, plant or animal was examined by a duly qualified officer of the Authority and certified to be free from any pest or disease and fit for import.

(8) Prior to or upon the arrival in the Territory of any food, plant or animal mentioned in subsection (1), the person responsible for the importation shall notify the Authority and request an examination pursuant to section 7(b).

(9) An application made under this section shall be made in the manner prescribed by the Authority, and shall include the application processing and examination fee prescribed by the Authority.

(10) No person shall remove any food, plant or animal from, as applicable, the bonded warehouse, store or building at the port of entry unless and until the food, plant or animal has been examined by a duly qualified officer of the Authority and certified to be free from any pest or disease and fit for import pursuant to the requirements of subsection (7)(b).

(11) Any person who undertakes any activity prohibited under subsections (1), (7), (8) or (10) commits an offence and is liable, on summary conviction, to a fine not exceeding five thousand dollars, or to imprisonment for a term not exceeding six months, or both.

94. (1) No person shall, for the purpose of sale, export from the Territory any

- (a) fresh and unprocessed food;
- (b) fresh or processed fish or meat;
- (c) fresh and unprocessed fruit;
- (d) fresh and unprocessed vegetables;
- (e) plant; or
- (f) animal or animal products,

Licensing of exporters of food, plants, animals and animal products.

without a licence issued by the Authority.

(2) A person wishing to obtain a licence to export any food, plant, animal or animal products mentioned in subsection (1) shall apply to the Authority.

(3) An application made under this section shall be made in the manner prescribed by the Authority, and shall include the application processing fee prescribed by the Authority.

(4) The Authority, upon receiving an application under this section, shall cause a duly qualified officer of the Authority to inspect the premises where the food, plant, animal or animal products is to be exported from to verify that there is no pest and disease at the premises.

(5) If after inspection of the premises pursuant to subsection (4), the officer of the Authority shall make recommendations to the Managing Director of the Authority with respect to whether or not the licence should be issued and the Managing Director may, if he or she thinks fit, issue the licence.

(6) No license may be issued under this section unless the premises where the food, plant, animal or animal products to be imported has any pest or disease, or is unfit for export.

(7) Notwithstanding the provisions of subsection (6), no person shall export from the Territory any food, plant, animal or animal product for the purpose of sale unless

- (a) he or she has a licence issued by the Authority;
- (b) the food, plant, animal or animal product was examined by a duly qualified officer of the Authority and certified to be free from any pest or disease and fit for export.

(8) Any person who undertakes any activity prohibited under subsections (1) or (7), commits an offence and is liable, on summary conviction, to a fine not exceeding five thousand dollars, or to imprisonment for a term not exceeding six months, or both.

95. (1) The Authority may, in issuing any licence pursuant to sections 64 to 69, impose such conditions as may be necessary to give effect to

Conditions of licenses.

- (a) the Policy for Sustainable Agricultural Production, Food Security and Food Safety formulated pursuant to section 10;

- (b) any standards, guidelines and operational procedures established pursuant to section 11;
- (c) any Regulations made under this Act.

(2) Every person to whom a license is issued under sections 64 to 69 shall produce it to an officer of the Authority or to a police officer if required to do so by such officer.

(3) Any person who fails to produce any licence pursuant to the requirements of subsection (2), commits an offence and is liable, on summary conviction, to a fine not exceeding one thousand dollars, or to imprisonment for a term not exceeding one month, or both.

Validity of licenses.

96. A license is issued under sections 64 to 69 shall be valid for a period of one year from the date of issue and may be renewed for a like period upon payment of the appropriate fee as prescribed by the Authority.

Suspension and cancellation of licences.

97. (1) Notwithstanding section 96, the Managing Director may, in the interests of public health, suspend or revoke a license issued under sections 64 to 69 and, upon such suspension or revocation shall, within fourteen days, advise the licensee in writing as to the public health consideration that prompted the suspension or revocation of the license.

(2) Any person who undertakes any activity licensed under section 64 to 69 after a suspension or revocation has been issued under subsection (1), commits an offence and is liable, on summary conviction, to a fine not exceeding five thousand dollars, or to a term of imprisonment not exceeding six months, or both.

Appeals for suspension or revocation.

98. A suspension or revocation of a license under section 97 (1) shall be appealable to a Magistrate.

Transitional.

99. (1) A person who, at the date of the commencement of this Act, is operating any business that requires a licence under sections 64 to 69 shall have thirty days from that date in which to apply for a licence under this Act and shall continue to operate until the results of his or her application has been communicated after which he or she shall be governed by the results of his or her application.

(2) Where a person has not made an application within the thirty days prescribed under subsection (1), that person shall, at the expiry of that period, cease to operate such business.

(3) Any person who ceases to operate a business pursuant to the requirements of subsection (2), commits an offence and is liable, on summary

conviction, to a fine not exceeding five thousand dollars, or to imprisonment for a term not exceeding six months, or both.

Management of pesticides. **100.** Within six months of this Act coming into force, the Unit shall, in collaboration with the Ministry of Natural Resources, establish standards, procedures and operational guidelines for the management of pesticides on

- (a) any agricultural lands that are licensed pursuant to this Act;
- (b) any lands that are leased from the Authority pursuant to section 55.

Management of genetically modified organisms. **101.** Within six months of this Act coming into force, the Unit shall, in collaboration with the Ministry of Natural Resources, establish standards, procedures and operational guidelines for the management of genetically modified organisms on

- (a) any agricultural lands that are licensed pursuant to this Act;
- (b) any lands that are leased from the Authority pursuant to section 55.

Inspections by the Authority. **102.** Notwithstanding the provisions of sections 46 and 47, the Authority may undertake, at any reasonable time, any inspection or audit that is necessary to verify compliance with any licence, permit, condition, standard, guideline of operational procedure established under this Act or Regulations made thereunder.

Organic farming. **103. (1)** Within twelve months of this Act coming into force, the Agriculture and Fisheries Management Unit shall, in collaboration with the Ministry of Natural Resources, establish standards, procedures and operational guidelines for organic farming on

- (a) any agricultural lands that are licensed pursuant to this Act;
- (b) any lands that are leased from the Authority pursuant to section 55.

(2) The Authority may, for the purpose of implementing any standards, procedures and operational guidelines for organic farming established pursuant to subsection (1), provide a grant to any member on such terms as conditions as the Board of the Authority may deem appropriate.

Branding and labelling. **104. (1)** Within twelve months of this Act coming into force, the Agriculture and Fisheries Management Unit shall, in collaboration with the

Authority, establish standards for the labelling of food produced in the Territory for sale, which shall, as a minimum cover:

- (a) the prescribed name of the food;
- (b) size and legibility requirements of labelling;
- (c) food expiry dates and recall information to be included on labels;
- (d) ingredient listing of food items where appropriate;
- (e) origin date marking;
- (f) nutrition labelling;
- (g) labelling concerning percentage of ingredients for any processed food;
- (h) direction for use and storage;
- (i) place of origin of the food; and
- (j) mandatory warning and advisory statements and declarations.

(2) Any standard developed pursuant to subsection (1) shall comply with the requirements of the *Codex General Standard for the Labelling of Prepackaged Foods* adopted by the Codex Alimentarius Commission, as amended from time to time.

(3) Within six months of the establishment of any standard pursuant to subsection (1), the Authority shall implement appropriate mechanisms for the enforcement of such standards.

(4) The Authority may, at any time, establish and promote a process for creating, developing, and maintaining a unique brand, identity, image, and value for food products or food business in the Territory.

(5) Pursuant to the requirements of subsection (3), the Authority may, only with the approval of the Minister, use the name “Virgin Islands” in any label, brand or marketing of food produced in the Territory.

- (a) fresh or fresh frozen fish imported into the Territory;
- (b) fresh or frozen fruit, vegetables or meat imported into the Territory,

shall be clearly labelled and marked with the words “IMPORTED” together with the date of importation.

(2) The Minister may, make regulations regarding consumer protection for any food produced for sale in the Territory, including regulations

- (a) respecting, what is or is not false, misleading or deceptive or is or is not likely to create an erroneous impression, concerning any food or quality of food;
- (b) prescribing grades and standards for any food commodity, including standards for the composition, purity or quality of a food commodity;
- (c) prescribing inspection marks and grade names in respect of any food commodity and regulating their application or use;
- (d) respecting or prohibiting the manufacturing, preparing, storing, packaging, labelling, selling or advertising of any food commodity;
- (e) respecting or prohibiting the sending or conveying, from one location to another, or the importation or exportation of any food commodity;
- (f) respecting or prohibiting the purchasing or receiving of any fresh fruit or vegetable that is imported and the labelling of such fruit or vegetable;
- (g) specifying criteria for determining whether any food solely for personal use or use by any animal or class of animal;
- (h) respecting quality management programs, quality control programs, safety programs or preventive control plans or any other similar programs or plans to be implemented by persons who conduct any activity regulated under this Act;
- (i) respecting, in relation to establishments where any activity regulated under this Act is conducted, the equipment and facilities to be used, the procedures to be followed and the

standards to be maintained for the humane treatment and slaughter of animals;

- (j) requiring persons to take or keep samples of any food commodity, or its package or label, and to provide the Minister or an inspector with, or with access to, those samples, and respecting the manner in which those samples are to be taken or kept and the manner in which they are to be provided or access to them is to be provided;
- (k) respecting the issuance of certificates that establish that an item to which this Act applies, or that an establishment where any activity regulated under this Act is conducted, meets the requirements of the regulations;
- (l) respecting the accreditation of persons, bodies, facilities or laboratories in the Territory and elsewhere and the recognition of their activities or findings;
- (m) respecting the recognition of systems of food inspection, certification, manufacturing, preparation, storage, packaging, labelling or testing;
- (n) respecting the certification of any food commodity as having a specified character, quality, value, composition or origin or as having been manufactured or prepared in a specified manner and the establishment and operation of systems for such certification;
- (o) respecting the traceability of any food commodity, including regulations requiring persons to establish systems to identify the food commodity,
- (p) respecting the measures to be taken in respect of items to which this Act applies that present a risk of injury to human health or that are in contravention of any provision of this Act or the regulations, or that are suspected on reasonable grounds of presenting such a risk or being in contravention of any such provision.

PART X FISHERIES

106.(1) There is hereby established a committee to be known as the Fisheries Advisory Committee.

Fisheries
Advisory
Committee.

- (2) The Committee shall comprise

- (a) a Chairman to be appointed by the Minister;
- (b) three representatives of the Fishermen Association, nominated by the Association;
- (c) one representative of the Hotel and Commerce Association, nominated by the Association;
- (d) one person with marine scientific knowledge, appointed by the Minister;
- (e) the Chief Technical Officer;
- (f) Managing Director of the Authority; and
- (g) a representative from the Ministry of Natural Resources.

(3) The Members of the Committee shall be appointed, by instrument under the hand and seal of the Minister.

(4) The Minister shall appoint a public officer from the Ministry to be the Secretary of the Committee.

(5) The functions of the Secretary shall be such as the Committee may determine.

Functions of the Fisheries Advisory Committee.

107. The functions of the Committee are

- (a) to consider and advise the Minister on any proposals of access agreements, joint venture investment in fisheries and development projects in the fisheries sector;
- (b) to co-ordinate the activities of fishing industries and establishments with a view to ensuring the better administration of the fisheries sector;
- (c) to advise the Minister on any initiative for the regional harmonisation of fisheries regimes, including any regional licensing scheme for foreign fishing vessels;
- (d) to consider and review guidelines and advise the Minister on matters of conservation of the living marine resources;
- (e) to advise the Minister on the co-ordination of the policies and activities of Government ministries and departments with respect to any of the matters referred to in paragraphs (a) to (e); and

- (f) to advise the Minister on any matter that he or she may refer to the Committee.

Meetings of Fisheries Advisory Committee.

108. (1) The Committee shall meet at least once in every three months at such place and time as the Chairman may determine.

(2) At every meeting of the Committee the Chairman shall preside, and in his or her absence the members present shall elect one of their numbers to preside.

(3) The Chairman may at any time, and shall, at the written request of at least four members, convene a special meeting of the Committee.

(4) The quorum at every meeting of the Committee shall be four.

(5) The Committee shall take its decisions by a majority vote of the members present and where there is an equality of votes the Chairman shall have a casting vote.

(6) In the conduct of its meetings the Committee shall adopt its own rules of procedure.

109.(1) Every member of the Committee shall hold office for a period not exceeding two years from the date of his or her appointment and shall be eligible for re-appointment.

Tenure, resignation and cessation of members of the Committee.

(2) A member of the Committee may, by writing under his or her hand addressed to the Minister, resign his or her office.

(3) A member ceases to be a member of the Committee if

- (a) he or she resigns;
- (b) he or she is adjudged a bankrupt and has not been discharged;
- (c) he or she is of unsound mind or is certified by a medical practitioner to be so ill as not to be able to properly discharge his or her functions under this Act;
- (d) he or she, without good reason acceptable to the Chairman (in the case of a member) or the Minister (in the case of the Chairman), fails to attend three consecutive meetings of the Committee;

- (e) he or she, being a nominee of an Association under section 4 (1) (c) or (d), ceases to be a member of such Association; or
- (f) the Minister, for any good reason (to be stated by him or her in writing), removes such member.

(4) Where a member of the Committee ceases to be a member under this section before the expiration of his or her term, the Minister may appoint another person to replace such member for the unexpired period of that member's tenure.

(5) Where the member of the Committee who ceases to be a member is a nominee of an Association under section 4(1)(c) or (d), the Minister shall request the Association concerned to nominate another representative to be appointed by the Minister.

110.(1) The Committee may, in the performance of its functions,

Co-opting.

- (a) co-opt any person with a special skill into the Committee for the purpose of that person assisting the Committee in dealing with a specific subject; and
- (b) delegate any of its functions to a sub-committee of the Committee.

(2) A person co-opted under subsection (1)(a) shall not have a voting right or exercise any of the powers of a member of the Committee.

(3) The delegation of functions under subsection (1)(b) shall not prevent the Committee from performing those functions.

Record of Proceedings and Report.

111. (1) The Committee shall, in the performance of its functions, prepare and keep a record of its proceedings.

(2) The Committee shall, within three months of the end of each financial year, prepare and submit a report to the Minister on the performance of its functions for the preceding year and the Minister shall lay the report before the House of Assembly.

(3) The Fisheries Advisory Committee shall develop and monitor measurable indicators for fisheries conservation management performance, and prepare and publish periodic reports on these indicators.

(4) Periodic reports on the indicators specified in subsection (3) will be entered in the Information Registry, and will inform the publication of any

State of the Environment Reports prepared from time to time by the Ministry of Natural Resources.

Principle of the management of fishery resources and protecting marine environment from pollution.

112. (1) In undertaking the responsibilities and functions relating to the management of fishery resources, the Ministry responsible for environmental matters, the Department and the Authority shall ensure adherence to the following principles:

- (a) *Principle 1* - Ownership of fishery resources: Fish resources are a common property resource managed by the Government for the benefit of present and future generations.
- (b) *Principle 2* - Precautionary Principle: Decisions concerning fishery resource use and management must be made on best available information and where this information is uncertain, unreliable, inadequate or not available, a precautionary approach shall be adopted to manage risk to fish stocks, marine communities and the environment. The absence of, or any uncertainty in, information should not be used as a reason for delaying or failing to make a decision.
- (c) *Principle 3* - Sustainable target fish stocks: A fishery must be conducted in a manner that does not lead to population imbalance of the exploited populations and, for those populations that are depleted, the fishery must be conducted in a manner that demonstrably leads to their recovery.
- (d) *Principle 4* - Environmental impact of fishing: Fishing operations should allow for the maintenance of the structure, productivity, function and diversity of the ecosystem (including habitat and associated dependent and ecologically related species) on which the fishery depends. Sustainability is paramount and ecological impacts must be considered in the determination of appropriate harvest levels.
- (e) *Principle 5* - Effective management: The fishery is subject to an effective management system that respects local, regional and international laws and standards and incorporates institutional and operational frameworks that require use of the resource to be responsible and sustainable.
- (f) *Principle 6* - Ecosystem-Based Fisheries Management: An ecosystem approach requires that fisheries management decisions are based on science and consider the impact of the fishery not only on the target species, but also on non-

target species, seafloor habitats, and the ecosystems of which these species are a part. This approach also requires that management decisions take into account changes in the ecosystem which may affect the species being fished. This includes the effects of weather and climate, and the interactions of target fish stocks with predators, competitors, and prey species.

(2) The Ministry responsible for environmental matters, the Department and the Authority shall cooperate directly or through appropriate international organisations with those nations involved in fisheries for highly migratory species with a view to ensuring conservation and shall promote the achievement of optimum yield of such species throughout their range, both within and beyond the exclusive fisheries zone.

(3) The Ministry responsible for environmental matters, the Department and the Authority may, having regard to any other enactment relating to the prevention or control of marine pollution, take such measures as is considered necessary

- (a) to prevent, reduce and control pollution of the fishery waters and the marine environment generally from any source; and
- (b) to ensure that activities in the fishery waters are so conducted as not to cause damage or adversely affect the living resources of the fishery waters or the waters of the other States.

(4) The measures taken under subsection (3) shall include but not limited to those designed to minimise, to the extent possible,

- (a) the release of toxic, harmful or noxious substances, especially those which are persistent, from land-based sources, from or through the atmosphere or by dumping;
- (b) pollution from fishing vessels and preventing intentional and unintentional discharges of waste;
- (c) pollution from installations, devices and other technologies which may be used in the exploration and exploitation of the living resources of the fishery waters and the marine environment generally; and
- (d) the intentional or accidental introduction of species, alien or new, to a particular part of the fishery waters or marine

environment generally, which may cause significant and harmful changes to the living resources of the fishery waters or marine environment.

(5) The Ministry responsible for environmental matters, the Department and the Authority may, for the purpose of keeping the fishery waters pollution-free and promoting sound conservation and management measures, enter into an arrangement or agreement with other States, regional organisations or other bodies concerned in fisheries activities to co-operate

- (a) in undertaking programmes of scientific research and encouraging the exchange of information and data acquired about pollution of the marine environment;
- (b) in establishing appropriate scientific criteria for the formulation and elaboration of rules, standards, practices and procedures for the prevention, reduction and control of pollution of the marine environment; and
- (c) in eliminating the effect of pollution and preventing or minimising damage to the fishery waters and the marine environment generally.

Stock
Assessment.

113. (1) The Authority shall periodically, in collaboration with the Agriculture and Fisheries Management Unit, and the Ministry responsible for natural resources and the environment and no less than every five years, undertake a stock assessment of priority fishery resources, including lobster, conch, tuna, parrot fish, and other commercial and sport fishery resources.

(2) Notwithstanding the provisions of subsection (1), the Minister may at any time require the Authority and the Agriculture and Fisheries Management Unit to participate in a stock assessment of any fishery resource that may be found in the exclusive fisheries zone of the Territory.

(3) The stock assessment undertaken by the Authority pursuant to subsection (1) and (2) shall be:

- (a) in accordance with the procedures published in by the Food and Agriculture Organisation of the United Nations or similar agency;
- (b) presented in a format suitable for the development of a conservation or management plan pursuant to the requirements of this Act;
- (c) presented for consideration by the Minister in consultation with the Minister responsible of environmental matters;

- (d) made available to the public to facilitate consultation concerning any management policy or plan formulated pursuant to the requirements of this Act;

and amongst other matters, shall assess and model the impacts of climate change on fish stocks, marine ecosystems and food security.

(4) Upon review of the stock assessment pursuant to subsection (3)(b), the Minister in consultation with the Minister responsible of environmental matters may require the Authority to address any deficiencies in the assessment, and may specify the date when such deficiencies shall be addressed.

Authority to
develop
Fisheries
Management
and
Development
Plan.

114.(1) Upon completion of any stock assessment under section 113, the Agriculture and Fisheries Management Unit, in collaboration with the Authority, shall coordinate the formulation of a Fisheries Management and Development Plan to guide the conservation and sustainable use of priority fishery resources that are the subject of the stock assessment.

(2) A Fisheries Management and Development Plan formulated pursuant to subsection (1) shall, amongst other matters, contain

- (a) a description of the fishery especially its current status and any established user rights;
- (b) the management objectives;
- (c) the mechanisms whereby the objectives specified in subsection (2)(b) are to be achieved;
- (d) the process for the public review of the plan and/or appealed;
- (e) any legal or policy measures required to ensure the implementation and enforcement of the plan;
- (f) mechanisms for monitoring, reporting and verification of the management plan.

(3) Notwithstanding the provisions of subsection (2), a Fisheries Management and Development Plan prepared pursuant to subsection (1) shall specify:

- (a) the annual Total Allowable Catch; and
- (b) any Ecosystem-Based Management measures, that are required for the conservation and sustainable use of priority fishery resources, taking into consideration the impacts of

climate change on fish stocks, marine ecosystems and food security.

(4) When the Unit initiates the development of a Fisheries Management and Development Plan pursuant to the requirements of subsection (1), it shall give public notice of the intention to prepare such a plan and shall provide an opportunity for timely public consultation on the proposed plan.

(5) Any Fisheries Management and Development Plan formulated under the provisions of this section shall be developed through the broadest possible consultation, and shall be submitted for consideration by the Minister and Cabinet.

(6) Upon reviewing any Fisheries Management and Development Plan that has been submitted under the provisions of subsection (5), the Minister may:

- (a) require the Unit to correct any deficiency or provide additional information;
- (b) endorse the management plan which shall be transmitted to Cabinet for consideration and approval.

(7) Any management plan that has been approved by Cabinet pursuant to subsection (6)(b) shall be filed in the Information Registry.

(8) It is the responsibility of the Authority and the Department to coordinate the implementation of any management plan that has been approved by Cabinet pursuant to subsection (6)(b), and to establish and maintain mechanisms for monitoring, reporting and verification of the management plan.

Authority to comply with Fisheries Management and Development Plan.

115. All activities and fisheries management measures undertaken by the Authority pursuant to requirements of this Act and Regulations thereunder, including any fishing agreements that may be concluded or fishing licenses issued, shall comply with Fisheries Management and Development Plan approved by Cabinet pursuant to section 114(6)(b).

Registry of fishing vessels.

- 116.** (1) The Managing Director of the Authority shall keep a register of
- (a) local fishing vessels;
 - (b) captains of local fishing vessels;
 - (c) persons engaged in the sports fishery; and
 - (d) fisherfolk engaged in commercial fishing activities,

which shall be divided into such parts and contain such particulars of every local fishing vessel as he or she may determine.

(2) Without prejudice to subsection (1), the Managing Director of the Authority shall record in the register of local fishing vessels the place, mooring or beach in which a registered local fishing vessel is to be stationed.

(3) Where a person intends to change the place, mooring or beach at which his or her local fishing vessel is stationed, he or she shall so notify the Managing Director of the Authority who shall make the necessary change in the register of local fishing vessels, unless, for good reasons to be stated by him or her in writing, he or she considers the change undesirable.

(4) The contents of the register of local fishing vessels shall be prima facie evidence of the facts contained in the register in any proceedings under this Act or any Regulations made thereunder.

Change of
ownership
of local
fishing
vessels

117. (1) On the sale or change of ownership of a local fishing vessel, in respect of which a certificate of registration is in existence, the vendor and purchaser of the fishing vessel shall, within seven days of the sale or change of ownership, notify the Managing Director of the Authority of the change of ownership (stating the name and address of the new owner) and return to the Managing Director, the certificate of registration issued for the fishing vessel, for cancellation by the Authority.

(2) The Managing Director of the Authority shall cause the new owner of the local fishing vessel to apply for a certificate of registration in respect of the vessel in accordance with section 118 and shall, without payment of a fee, issue to the new owner of the vessel a new certificate of registration.

Inspection
of local
fishing
vessels.

118. (1) A qualified officer of the Authority may at any time inspect, without notice, any local fishing vessel for the purpose of satisfying himself or herself that the vessel is being maintained in a seaworthy condition.

(2) Where on an inspection pursuant to subsection (1), the officer of the Authority is satisfied that the local fishing vessel is not seaworthy or is unfit for the purpose of fishing, he or she shall so notify the Managing Director of the Authority who shall suspend the certificate of registration of the vessel and require the owner or other person to whom the certificate of registration in respect of the vessel was issued:

- (a) to effect such changes or improvements to the vessel to make it seaworthy or fit for the purpose of fishing as the Managing Director of the Authority may determine; and

(b) to complete the changes or improvements to the vessel within such period as the Managing Director may consider sufficient.

(3) Where the owner, or other person issued with a certificate of registration in respect, of a local fishing vessel required under subsection (2) to effect changes or improvements to the vessel complies with the requirements within the stipulated period, the Managing Director of the Authority shall terminate the suspension and restore the certificate of registration of the vessel.

(4) The Managing Director of the Authority shall cancel the certificate of registration in respect of a local fishing vessel if the person required to effect changes or improvements under subsection (2) fails to do so within the stipulated period, or if the period is extended, within the extended period.

(5) The Managing Director of the Authority may, upon a written application made to him or her by a person required to effect changes or improvements to a local fishing vessel, extend once the period stipulated for the completion of the changes or improvements.

Registration of
local fishing
vessels.

119. (1) A person who owns a local fishing vessel or is desirous of putting a local fishing vessel into the fishery waters shall, before using the vessel for fishing or related activities in the fishery waters, apply for a certificate of registration in respect of the local fishing vessel.

(2) An application for a certificate of registration shall be made to the Managing Director of the Authority in such form and containing such information as may be prescribed.

(3) Upon receipt of an application made under this section, a qualified officer of the Authority shall, as soon as practicable, inspect the local fishing vessel to which the application relates and, If he or she is satisfied that the vessel is seaworthy and fit for the purpose of fishing, recommend to the Managing Director of the Authority for the applicant to be granted a certificate of registration.

(4) Upon receipt of a recommendation under subsection (3), the Managing Director of the Authority may issue to the applicant a certificate of registration in which shall be recorded such particulars as the Managing Director may prescribe.

Local
fishing
licenses

120. (1) Notwithstanding the existence of a certificate of registration in respect of a local fishing vessel, no person shall

(a) catch for the purpose of sale any fish in the fishery waters;

- (b) use a local fishing vessel for fishing or related activities in the fishery waters,

unless he or she applies for and obtains a local fishing licence.

(2) An application for a local fishing licence shall be made to the Authority in the prescribed form and shall be accompanied by the prescribed application fee.

(3) Subject to subsection (4), the Managing Director of the Authority, upon receiving an application under subsection (1) and satisfying himself or herself that the applicant is:

- (a) qualified to carry out the business of fishing;
- (b) in possession of the necessary certification concerning safety and navigation standards which shall be demonstrated through the passing of an annual examination to verify compliance with such standards,

may issue an applicant with a local fishing licence.

(4) No application for a local fishing licence shall be refused except on any of the following grounds

- (a) that it is necessary to do so in order to give effect to any licensing programme specified in the comply with Fisheries Management and Development Plan approved by Cabinet pursuant to section 114(6)(b);
- (b) that the Managing Director of the Authority has a reason to believe that the applicant will not comply with the conditions of the licence;
- (c) that the local fishing vessel in respect of which the application is made
 - (i) does not have a certificate of registration under this Act;
 - (ii) does not have a certificate of inspection where so required under the laws governing merchant shipping; or
 - (iii) is not in compliance with Regulations prescribed under this Act or any other enactment relating to the safety of the vessel; or

- (d) such other grounds as are specified in this Act or any Regulations made thereunder.

121. (1) A local fishing licence shall be in such form as the Authority may prescribe.

Conditions attached to a local fishing licence.

(2) The Managing Director of the Authority, after consultation with the Department, attach such general or special conditions to a local fishing licence or any category of such licence as he or she deems fit, including conditions relating to

- (a) fishing within a specified area and the number of times when such an area may be visited in any given period;
- (b) compliance with open and closed fishing seasons;
- (c) the use of the proper mesh size of net;
- (d) the nature, number, size and type of fishing gear;
- (e) fishing a specified type and size of fish species;
- (f) compliance with prohibited fishing methods;
- (g) the amount of catch per day and the area of landing;
- (h) the duty to keep the beach and any landing site clean and to report any suspected offence under this Act or any Regulations made thereunder;
- (i) the stowage of fishing gear;
- (j) the non-transferability of a local fishing licence without lawful permission;
- (k) the training of persons employed on any commercial or sports fishing vessels;
- (l) the management of waste and pollution from fishing vessels;
- (m) the standards to be maintained concerning the vessel to be used for fishing, training of crew, safety and navigation; and
- (o) the keeping of log-books inclusive of waste record books.

(3) Where the Managing Director of the Authority, after consultation with the Department, is of the opinion that it is expedient for the proper management of fisheries in the fishery waters, he or she may vary any general or special conditions attached to a local fishing licence.

(4) Where the Managing Director varies any general or special conditions attached to a local fishing licence pursuant to subsection (3), he or she shall notify the licence holder of the variation as soon as practicable.

122. (1) There shall be payable in respect of a local fishing licence such fees as may be prescribed and such royalties or other charges as the Authority may, in consultation with the Minister, determine.

Fees.

(2) For the purposes of subsection (1), different fees, royalties or other charges may be fixed for different categories of local fishing vessels.

123. (1) The Managing Director of the Authority may, after consultation with the Department, cancel or suspend a local fishing licence on any of the grounds set out in subsection (2).

Cancellation or suspension of local fishing licence.

(2) Subject to subsection (1) a local fishing licence may be cancelled or suspended if the Managing Director of the Authority is of the opinion that

- (a) it is necessary to do so in order to allow for the proper management of any particular fishery;
- (b) the vessel in respect of which the licence has been issued has been used in contravention of this Act or of any Regulations made thereunder, or of any condition of the licence or in breach of any applicable access agreement; or
- (c) he or she is required or authorised to do so in accordance with the provisions of any arrangement or agreement entered into under sections 131 or 132.

(3) Where a local fishing licence is suspended for any reason stated in subsection (2)(b), the Managing Director of the Authority shall inform the holder of the licence the reason for the suspension and require him or her, within such period as the Managing Director, after consultation with the Department, may determine, to comply with this Act or any Regulations made thereunder or any condition of the licence or rectify or make an undertaking in respect of any breach.

(4) Where a local fishing licence is cancelled or suspended under this section, the Managing Director of the Authority shall notify the fact of the cancellation or suspension to the holder of the licence.

(5) Where a local fishing licence has been cancelled or suspended on the grounds specified in subsection (2)(a), a proportion of any fees paid for the licence representing the unexpired period of that licence or the period of suspension, as the case may be, shall be reimbursed to the licensee at his or her request.

Notification and exemptions.

124. (1) Subject to subsection (2), any notification given under section 124(4) or 123(4) shall be in writing.

(2) In the case of a foreign fishing vessel, a notification referred to in subsection (1) may be in writing or by telex, radio or such other form as the Managing Director deems appropriate.

Period of validity of local fishing licence.

125. (1) A local fishing licence issued in respect of a local fishing vessel shall be valid for a period not exceeding twelve months from the date of its issue and may, upon application, be renewed.

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(2) Upon the coming into force of this Act, all existing licences in respect of fishing boats registered under the repealed Fisheries Act, shall continue in force until the dates of their expiry.

Foreign fishing vessel licences.

126. (1) Subject to this Part, the provisions of sections 116 to 123 and section 125 shall apply mutatis mutandis to the registration of a foreign fishing vessel and the application for a foreign fishing licence, and the references in those sections to "local fishing vessel" and "local fishing licence" shall, for the purposes of this Part, be construed as references to "foreign fishing vessel" and "foreign fishing licence" respectively.

(2) After the date this Act comes into force and effect, no foreign fishing is authorised within the exclusive fisheries zone unless such foreign fishing

(a) is authorised under a permit issued under this Part;

(b) is not prohibited under the Act; and

(c) is conducted under, and in accordance with, a valid and applicable licence issued pursuant to the requirements of this section 127.

127. (1) An application for a foreign fishing licence may be made by any person to the Authority.

Application for foreign fishing vessel licence.

(2) No foreign fishing licence shall be issued by the Authority in respect of a foreign fishing vessel unless there is in force with the Government of the flag state of the vessel or with an association of which the owner or charterer

is a member, or with the owner or charterer, an agreement entered into under section 131 to which the Government of the Virgin Islands is a party.

(3) Subsection (2) shall not apply to a licence issued in respect of

- (a) test fishing operations;
- (b) a locally based foreign fishing vessel.

128. (1) Subject to section 131(2)(c), the Managing Director of the Authority may, after consultation with the Department Officer, attach to a foreign fishing licence additional conditions relating to

Additional conditions.

- (a) the amount of catch to be landed in the Virgin Islands;
- (b) the periodical preparation and submission of reports on fishing or related activities in the fishery waters;
- (c) the placement of
 - (i) remote location sensors; and
 - (ii) observers on board the foreign fishing vessel who shall be paid from funds lodged by the applicant in the Fund maintained by the Authority for this purpose;
- (d) the amount of catch to be trans-shipment of fish from or onto the foreign fishing vessel, and the location of such trans-shipment;
- (e) the amount of catch that may be removed from the Virgin Islands;
- (f) the manner in which bycatch is to be recorded and managed;
- (g) the management of waste and pollution from the foreign fishing vessel;
- (h) the standards to be maintained concerning training of crew, safety and navigation; and
- (i) the keeping of log-books and waste record books.

(2) Any payment for costs of the placement of observers on board foreign fishing vessels pursuant to subsection (1)(c) shall be paid to the Authority, which shall be responsible for ensuring that such observers receive a regular

monthly income for the period that observer services are provided on any foreign fishing vessel.

Stowage of
fishing
gear.

129. The owner, charterer or master of a foreign fishing vessel that is prohibited by this Act from fishing within the fishery waters shall, while the vessel is in the fishery waters, stow the fishing gear of the vessel in such manner as may be prescribed.

Appointment
of local
representative.

130. (1) The owner or charterer of a vessel that is not a locally based foreign fishing vessel, but in respect of which a foreign fishing licence exists shall appoint a local representative in the Virgin Islands.

(2) The local representative appointed under subsection (1) shall act as the agent of the owner or charterer of the foreign fishing vessel and

- (a) any notices or documents required to be served on the owner or charterer may be served on him or her; and
- (b) he or she shall, where legal proceedings are instituted under this Act or any Regulations made thereunder against the owner or charterer who is absent from the Virgin Islands, represent such owner or charterer in the proceedings.

(3) Where a local representative is appointed under subsection (1), the owner or charterer of the foreign fishing vessel shall notify that fact to the Managing Director of the Authority who shall make a record of the fact in such manner as he or she considers fit.

(4) Any record of a local representative made under subsection (3) shall be open for inspection by any person during official working hours.

Regional
agreements

131. (1) The Minister may, in consultation with Managing Director of the Authority, subject to section 60(4) of the Virgin Islands Constitution Order 2007, enter into arrangements with other countries in the region or with any competent regional organisation, providing for:

- (a) the harmonisation of systems for the collecting of statistics and the carrying out of surveys and procedures for assessing the state of the fisheries resources;
- (b) the harmonisation of licensing procedures and conditions in respect of foreign fishing vessels;
- (c) schemes for the issuing of fishing licences in respect of foreign fishing vessels by a competent regional organisation on behalf of the Authority and the recognition

of regional licences issued by such organisation, subject to such conditions as may be specified in the arrangement and to such additional conditions as the Minister may specify from time to time;

- (d) the taking of joint or harmonised enforcement measures in respect of foreign fishing vessels contravening fisheries laws in the region;
- (e) the establishment and operation of joint or regional fisheries management bodies, where appropriate;
- (f) the establishment of a regional register of fishing vessels, where appropriate;
- (g) such other cooperative measures as appropriate, including measures for promoting the welfare of fishermen and the insurance of fishing vessels and gear.

(2) For the purpose of giving effect to any arrangement entered into under this section, the Minister may, by Order published in the *Gazette*,

- (a) authorise the Authority to issue foreign fishing licences in respect of foreign fishing vessels within the limits set out in the Order;
- (b) recognise any foreign fishing vessels holding valid regional fishing licences issued by a competent regional organisation designated in the Order; and
- (c) prescribe the conditions to be observed by foreign fishing vessels in respect of which foreign fishing licences have been issued under paragraph (a) while fishing or navigating in the fishery waters.

(3) Any Order made under subsection (2) shall be subject to a negative resolution of the House of Assembly.

Access
agreements.

132. (1) The Minister may, in consultation with the Managing Director of the Authority, subject to section 60(4) of the Virgin Islands Constitution Order 2007, enter into access agreements with other States and with any association or body representing foreign fishing vessel owners or charterers, providing for the allocation of fishing rights to the owners or charterers of fishing vessels from those states or the association or body.

(2) The fishing rights allocated under agreements entered into under this section shall not exceed those allowed in the appropriate category of foreign

fishing vessels under the Fisheries Management and Development Plan approved by Cabinet pursuant to section 114(6)(b).

(3) Any agreement entered into under this section shall include a provision establishing the responsibility of the State, association or body to take necessary measures to ensure compliance by owners or charterers of foreign fishing vessels with:

- (a) the terms and conditions of the agreement; and
- (b) the laws relating to fishing in the fishery waters.

(4) Where the Minister intends to enter into an access agreement with another State, he or she shall:

- (a) do so on the basis of reciprocity taking into account the interests and requirements of the Virgin Islands and the requirements of this Act;
- (b) adopt necessary measures to prevent or minimise economic dislocation of local fishermen and industries engaged in fishing in the fishery waters.

Matters to be considered in regional arrangements and access agreements.

133. In any regional arrangement or access agreement entered into pursuant to sections 131 and 132, the Minister shall take into account matters relating to the implementation of the Fisheries Management and Development Plan approved by Cabinet pursuant to section 114(6)(b), including but not limited to

- (a) the licensing of fishermen, fishing vessels and equipment and the payment of fees and other forms of remuneration;
- (b) the determination of fish species which may be caught, and the fixing of quotas of catch, whether in relation to particular stocks or groups of stocks or catch per fishing vessel over a period of time and the specification of locations for transshipment;
- (c) the regulation of fishing seasons and areas of fishing, the types, sizes and amount of fishing gear, and the types, sizes and number of fishing vessels that may be used;
- (d) the fixing of the age and size of fish that may be caught;
- (e) the specification of information required of fishing vessels, including catch and effort statistics and vessel position reports;

- (f) the requirement of the conduct of specified fisheries research programmes and regulation of the conduct of such research, including the sampling of catches, disposition of samples and reporting of associated scientific data;
- (g) the placing and continuous transmission of tracking devices and the placing of local observers or trainees on board the fishing vessels while in Territorial waters which shall be at the expense of the foreign fishing vessel;
- (h) the landing of all or any part of the catch by fishing vessels in such area of the Virgin Islands as the Minister may designate;
- (i) the terms and conditions relating to joint fisheries ventures or other co-operative arrangements;
- (j) the requirements for the training of personnel and the transfer of fisheries technology, including enhancement of the Virgin Islands' capability of undertaking fisheries research; and
- (k) the enhancement of enforcement procedures with respect to fishing or related activities in the fishery waters.

Exchanging scientific information and keeping data.

134. (1) The Minister may, in consultation with the Unit, enter into an agreement with other States, regional organisations or other bodies concerned in fisheries activities to exchange scientific information, catch and fishing effort statistics and other data relevant to the conservation of fish stocks.

(2) The Managing Director of the Authority shall collect and keep data relating to fishery or any fishing or related activities in the fishery waters and the conservation measures taken in accordance with the provisions of this Act or any Regulations made thereunder.

(3) Subject to subsection (4), any data collected and kept under subsection (2) shall be open for inspection during official working hours and any person may make copies of the data upon payment of the prescribed fee.

(4) The Managing Director of the Authority may classify in such manner as he or she considers fit, and restrict the inspection of, any data collected and kept under this section, and may charge an appropriate fee for access to and reproduction of such data.

(4) The Authority shall ensure the protection of any personal or confidential information provided to the public under this section.

(5) The Authority may refuse to disclose to the public certain information where necessary for the conservation or protection of any fishery resources or for the protection of any personal or confidential information.

Conservation
of shared
fisheries
species.

135. (1) Where the same fish stock or fish stocks of associated species occur within the fishery waters of the Virgin Islands and those of another State, the Minister may, in consultation with the Managing Director of the Authority, enter into an agreement with that State to adopt measures that are necessary to co-ordinate and ensure the conservation and development of such fish stocks.

(2) Where the same fish stock or fish stocks of associated species occur within the fishery waters and in an area beyond and adjacent to the fishery waters, the Minister may, in consultation with the Managing Director of the Authority, enter into an agreement with any State fishing for such fish stocks in the adjacent area to adopt measures necessary for the conservation of the stocks in the adjacent area.

Promotion
of marine
scientific
research.

136. (1) The Agriculture and Fisheries Management Unit shall take necessary measures to promote and facilitate the development and conduct of marine scientific research relating to fishing in accordance with the provisions of this Part.

(2) A person who intends to undertake marine scientific research relating to fishing shall prepare and submit a marine scientific research proposal to the Unit.

(3) A marine scientific research proposal submitted pursuant to subsection (2) shall contain a full description of

- (a) the nature and objectives of the project;
- (b) the method and means to be used, including the name, tonnage, type and class of vessels and scientific equipment;
- (c) the precise geographical area of the fishery waters in which the project is to be conducted;
- (d) the expected date of first appearance and final departure of the research vessels, or deployment of the equipment and its removal, as the case may be;
- (e) the name of the sponsoring institution, its director (by whatever name called), and the person in charge of the project; and
- (f) the extent to which it is considered that the Virgin Islands should be able to participate or to be represented in the project.

(4) Without prejudice to the requirements of subsection (2), the Unit may require an applicant under this section to furnish such further information as the Unit may request.

(5) Upon the receipt of a marine scientific research proposal under subsection (2), the Unit, in collaboration with the Ministry responsible for the environment and the Authority, shall study the proposal and, if satisfied that the requirements of this section have been satisfied, shall subject to subsection (6), grant a permit to the applicant upon payment of the prescribed fee.

(6) No permit in respect of a marine scientific research shall be granted under subsection (5) unless the person to whom the permit relates makes a written undertaking in the prescribed form that the marine scientific research in the fishery waters shall

- (a) be conducted exclusively for peaceful purposes;
- (b) be conducted with appropriate scientific methods and means;
- (c) not interfere with other legitimate uses of the fishery waters, and the rights of licence and other permit holders under this Act shall be respected; and
- (d) be conducted in such manner as not to interfere with the conservation and management of the fishery waters and the living resources therein, and the marine environment generally,

and makes payment to the Authority of a bond to the satisfaction of the Managing Director to ensure compliance with the provisions of paragraphs (a) to (d).

(7) The Unit may refuse to grant a permit under this section, or withdraw the permit after it has been granted, if he or she considers that the marine scientific research to which the permit relates

- (a) is of direct significance for the exploration and exploitation of natural resources, whether living or non-living;
- (b) involves drilling into the continental shelf of the Virgin Islands, or the use of any prohibited method of fishing referred to in section 156; or
- (c) contains, in its proposal, information which is inaccurate.

(8) The Managing Director may attach to a permit granted under this section such conditions as he or she deems fit, including the duty of the permit holder to:

- (a) ensure the right of the Government of the Virgin Islands, if it so desires, to participate or be represented in the marine scientific research project;
- (b) provide the Managing Director, at his or her request, with preliminary reports, as soon as practicable, and with the final results and conclusions after the completion of the research;
- (c) undertake to provide access for the Managing Director, at his or her request, to all data and samples derived from the marine scientific research project and likewise to furnish him or her with data which may be copies and samples which may be divided without detriment to their scientific value;
- (d) provide the Managing Director, at his or her request, with an assessment of such data, samples and research results or provide assistance in their assessment or interpretation;
- (e) inform the Managing Director forthwith of any major change in the research programme; and
- (f) remove, unless otherwise agreed, the scientific research equipment upon the completion of the research.

(9) The Managing Director may, for any good reason to be stated by him or her in writing, exempt any person from any condition attached to that person's permit.

(10) The Managing Director of the Authority may suspend a permit in respect of marine scientific research activities in progress in the fishery waters if:

- (a) the research activities are not being conducted in accordance with the information provided in the proposal submitted under subsection (3) upon which the permit was granted; or
- (b) the permit holder fails to comply with or breaches any condition of the permit.

(11) The Managing Director of the Authority shall, before suspending a permit under subsection (10), give notice of not less than fourteen days to the

permit holder stating his or her intentions and the reason therefor and affording the permit holder an opportunity to make representations to him or her.

Transfer of
marine
technology
and
conservation
management
measures.

137. (1) The Managing Director of the Authority may, in consultation with the Minister, promote the development and transfer of technology either alone or in co-operation with other States or regional organisations as it relates to

- (a) fisheries and marine resources generally;
- (b) the exploration, exploitation, conservation and management of the fishery waters and marine resources, and the protection and preservation of the marine environment;
- (c) the acquisition, evaluation and dissemination of fisheries and marine technological knowledge;
- (d) the establishment of necessary technological infrastructure designed to facilitate the transfer of marine technology; and
- (e) human resource development through training and other educational programmes.

(2) The Managing Director of the Authority shall, taking into account the best scientific evidence available to him or her, ensure through proper conservation and management measures that the maintenance of the living resources of the fishery waters is not endangered by over-exploitation.

(3) Any conservation and management measures taken under subsection (2) may also be designed to maintain or restore populations of harvested fish species at levels which can produce the maximum sustainable yield, taking into account

- (a) the economic needs of the fishing communities of the Virgin Islands;
- (b) the special requirements of the Virgin Islands; and
- (c) the patterns and interdependence of fish stocks and any generally recommended international minimum standards.

(4) The Managing Director of the Authority shall take into consideration the effects of the conservation and management measures taken by him or her on fish species associated with or dependent upon harvested fish species with a view to maintaining or restoring populations of such associated or dependent fish species above levels at which their reproduction may become seriously threatened.

Aquaculture.

138. (1) No person shall operate an aquaculture establishment for any purpose, unless he or she applies for and obtains a licence in accordance with this Part.

(2) An application under subsection (1) shall be submitted to and be in such form as the Managing Director of the Authority may determine and shall contain such information as he or she may require.

(3) Where the Managing Director of the Authority receives an application to operate an aquaculture establishment, he or she shall, if satisfied that the requirements for such an establishment as prescribed in this Part or any Regulations made under this Act have been met, the Managing Director may issue the applicant with a licence after payment of the prescribed fee.

(4) The Managing Director of the Authority, before issuing any licence under subsection (3), shall ensure

- (a) that an environmental management plan is in place for the management of any pollution or other risks to the environment that are foreseeable during the operation of the aquaculture facility;
- (b) that the area identified for the aquaculture establishment is suitable for that purpose and shall not cause harm to the environment or prejudice the rights of the members of the public.

(5) The Managing Director of the Authority may, after consultation with the Agriculture and Fisheries Management Unit and the Ministry responsible for Natural Resources, attach such conditions to a licence issued under this section as he or she may determine.

(6) A licence issued under this section shall be valid for a period not exceeding twelve months and it may be renewed on application upon payment of the prescribed fee.

(7) The Managing Director of the Authority may, for any good reason to be stated by him or her in writing, suspend or revoke a licence issued under this section.

(8) Before exercising the powers conferred under subsection (7), the Managing Director shall give notice of not less than seven days to the licence holder stating his or her intentions and the reasons therefor and affording the licence holder an opportunity to make representations to him or her.

(9) Any person who, prior to the coming into force of this Act, is operating an aquaculture establishment shall, within six months after the coming into force of this Act, comply with the requirements of this section.

Marine reserve.

139. (1) The Minister may, by Order published in the *Gazette*, declare any area of the fishery waters and, as appropriate, any adjacent or surrounding land, to be a marine reserve where he or she considers that special measures are necessary

- (a) to afford special protection to the living resources of the area and to protect and preserve the natural breeding grounds and habitats of aquatic life, particularly those in danger of extinction;
- (b) to allow for the natural regeneration of aquatic life in areas where such life has been depleted;
- (c) to promote marine scientific study and research in respect of the area; or
- (d) to preserve and enhance the natural beauty of the area.

(2) The Minister may, after consultation with the Authority, give written permission to any person to do any of the things prohibited under section 154(1)(a) where the doing of such things may be required for the proper management of the marine reserve or for any of the purposes referred to in subsection (1).

Application for a fish processing establishment licence.

140. (1) A person who intends to operate a fish processing establishment shall submit an application to the Managing Director of the Authority in such form as may be prescribed.

(2) The Managing Director of the Authority, upon receipt of an application under subsection (1), may require the applicant to provide additional information in respect of his or her application.

(3) Upon receipt of an application under subsection (1), in accordance with section 19(3), the Authority may grant to an applicant a licence to operate a fish processing establishment on payment of such fee and subject to such conditions as may be prescribed.

(4) A licence granted under this section shall be valid for a period not exceeding twelve months and may, upon application, be renewed.

Compliance with this Act and other enactments.

141. A person who is granted a licence under section 140 shall, in carrying out fish processing activities, comply with the provisions of this Act or any Regulations made thereunder and any other enactment on public health and food hygiene.

142. (1) The Authority may suspend or revoke a licence under section 140 if

Power to suspend or revoke a licence.

- (a) the licence holder breaches or fails to comply with any condition attached to the licence;
- (b) there is reasonable cause to believe that the fish processing establishment in respect of which the licence exists is being operated in a manner inconsistent with the purpose for which the licence was issued; or
- (c) the licence holder does anything contrary to any public health or food hygiene provision contained in this Act or any Regulations made thereunder or in any other enactment.

(2) Before exercising the powers conferred under subsection (1), the Authority shall give a notice of not less than fourteen days to the licence holder stating his or her intention and the reasons therefor and affording the licence holder an opportunity to make representations to him or her.

143. (1) The Managing Director of the Authority, may

Test fishing operations licence.

- (a) upon an application made to him or her in the prescribed form, issue an applicant, without payment of a fee, a licence to conduct test fishing operations in the fishery waters; and
- (b) attach to the licence such conditions as he or her may determine.

(2) A licence issued under subsection (1) shall be for a period not exceeding six months and it may be renewed upon application.

PART XI ENFORCEMENT AND EVIDENTIARY MATTERS

144. (1) An owner of an animal that is not livestock, who causes or allows that animal to stray in a public place, or trespass on the private land of any person, commits an offence and is liable, on summary conviction, to a fine not exceeding five hundred dollars and to pay such compensation in respect of any injury, loss or damage arising from the offence as the Magistrate may order.

Offences - straying of livestock.

(2) An owner of an animal that is livestock, who causes or allows that animal to stray in a public place, or trespass on the private land of any person,

commits an offence and is liable, on summary conviction, to a fine not exceeding one thousand dollars and to pay such compensation in respect of any injury, loss or damage arising from the offence as the Magistrate may order.

145. (1) A person who

- (a) insults, hinders, assaults or otherwise prevents, hinders or obstructs an authorised person in the execution of any power or duty conferred on him or her under this Act;
- (b) by offer of a gratuity, bribe or other inducement, prevents or attempts to prevent any authorised officer from performing a duty under this Act or Regulations made thereunder;
- (c) knowingly introduces any pest or disease onto any land or onto any plant;

Offences -
against
authorised
persons,
offering bribe
or inducement
and knowing
introducing
pest or
disease.

commits an offence and is liable, on summary conviction, to a fine not exceeding two thousand dollars or to imprisonment for a term not exceeding two years, or both.

(2) A person who fails to comply with a notice issued to him or her by an authorised person under this Act commits an offence and is liable, on summary conviction, to a fine not exceeding two thousand dollars or to imprisonment for a term not exceeding two years, or both.

(3) A person who, with intent to deceive an authorised person, makes any statement or representation to the authorised person which he or she knows to be false or does not believe to be true, commits an offence and is liable, on summary conviction, to a fine not exceeding three thousand dollars or to imprisonment for a term not exceeding three years.

(4) A person who defaces or destroys any advertisement posted under this Act at a pound commits an offence and is liable, on summary conviction, to a fine not exceeding five hundred dollars.

(5) Notwithstanding any prosecution that may have commenced under this Act in regards to a slaughter house or a cold storage, the Managing Director of the Authority may order the closure of any slaughter house or cold storage that is the subject of any prosecution or, in respect of a butcher, order that he or she cease to carry on business as such.

Cruelty to
animals.

146. (1) Any person who

- (a) cruelly beats, kicks, ill-treats, over-rides, over-drives, over-loads, tortures, starves, infuriates or terrifies any animal or

shall cause or procure being the owner, permit any animal to be so used or shall, by wantonly or unreasonably doing or omitting to do any act, or causing or procuring the commission or omission of any act, cause any unnecessary suffering, or being the owner, permit any unnecessary suffering to be so caused to any animal;

- (b) dumps an animal;
- (c) places poison in any place where the placing of such poison is intended to cause injury to domestic animals or is reckless or negligent as to such injury being caused;
- (d) shall convey or carry or cause or procure, or being the owner permit to be conveyed or carried any animal in such a manner or position as to cause that animal unnecessary suffering or tether, confine or keep any animal on a lead under such conditions or in such manner as to cause unnecessary suffering;
- (e) shall cause, procure, or assist at the fighting or baiting of animal, or shall keep, use or manage or assist in the management of any premises or place for the purpose of fighting or baiting any animal, or breed any animal for dog fighting or baiting or shall permit any premises or place to be so kept, managed or used or shall receive money for the admission of any person to such premises or place;
- (f) shall willfully without any reasonable cause or excuse, administer, cause or procure, or being the owner permit such administration of any poisonous or injurious drug or substance to any animal, or shall without any reasonable cause or excuse cause any such substance to be taken by any animal;
- (g) shall subject, cause or procure, or being the owner, permit to be subjected, any animal to any operation which is performed without due care and humanity; or
- (h) employs, causes or procures, or being the owner, permits to be employed in any work or labour, any animal which in consequence of any disease, infirmity, wound or sore, or otherwise is unfit to be so employed,
- (i) who leaves an animal on premises does not ensure that there is a person on the premises or a person who will visit the premises to maintain that animal, and that the animal is

able to move freely, has adequate shelter & water at all times and food daily,

commits an offence of cruelty and shall be liable upon summary conviction to a fine not exceeding ten thousand dollars or to a term of imprisonment not exceeding two years, or both.

(2) For the purposes of this section, an owner shall be deemed to have permitted cruelty if he or she shall have failed to exercise reasonable care and supervision in respect of the protection of the animal therefrom:

Provided that, where an owner is convicted of permitting cruelty by reason only of his or her having failed to exercise such care and supervision, he or she shall not be liable to imprisonment without the option of a fine.

Power of Court to Order destruction of animal.

147. (1) Where the owner of an animal is convicted of an offence of cruelty, it shall be lawful for the Court, if the Court is satisfied that it would be cruel to keep the animal alive, to direct that the animal be destroyed and to assign the animal to the Managing Director of the Authority for that purpose, and the Managing Director shall as soon as possible cause such animal to be destroyed in his or her presence without unnecessary suffering.

(2) Any reasonable expenses incurred by the Managing Director of the Authority in performance of his or her duties under subsection (1) shall be ordered by the Court to be paid by the owner, and thereupon shall be recoverable summarily by the Authority as a civil debt.

Power of Court to deprive persons of ownership of animal.

148. (1) Upon the owner of any animal being convicted of cruelty, the Court upon conviction thereof may, if it thinks fit, in addition to any other punishment,

- (a) deprive such person of the ownership of the animal; or
- (b) suspend the person from owning an animal for a period of at least 10 years ; and
- (c) may make such order as to the disposal of the animal as it may think fit under the circumstances,

Provided that no order shall be made under this section unless it is shown by evidence as to a previous conviction or as to the character of the owner, or otherwise, that the animal, if left with the owner, is likely to be exposed to further cruelty.

(2) Where a person is suspended from owning an animal under subsection (1) (b) and is caught with an animal during the period of suspension such person commits an offence and is liable on summary conviction to a fine not exceeding

five thousand dollars or a term of imprisonment not exceeding one year or to both.

149. Where any person has been convicted of an offence of cruelty under this section, the Court may order that any animal in respect of which the offence is committed:

Detention of animals.

- (a) shall not be used; or
- (b) shall be removed to and detained for treatment in some place to be specified, for such time as is stated in the order.

(2) If any animal has been detained for treatment in pursuance of an order made under this section, any person who has been convicted of an offence in respect of such animal shall be liable to pay the prescribed fees and costs for its maintenance and treatment for so long as it shall be detained, and such fees shall be recovered as a fine:

150. (1) Any Magistrate, officer of the Authority, veterinary practitioner, district medical officer or police officer who has satisfied himself or herself by personal inspection

Diseased or injured animals.

- (a) that an animal is diseased or injured and that the disease or injury from which the animal is suffering is incurable or that it is cruel to keep the animal alive; or
- (b) that an animal is so diseased or so severely injured or in such a physical condition that, in his or her opinion, having regard to the means available for removing the animal, there is no possibility of removing it without cruelty and that it is cruel to keep it alive,

may by order in writing direct such animal to be destroyed in the most humane manner possible:

Provided that if such animal is in any house, stable, shed or proper enclosure for such animal and not in a street or other public place, no such order shall be made until the owner of the animal (if present) or the person in charge thereof (if any) has been informed of the state of the animal.

(2) The expenses in connection with the removal and burial of the carcass of any animal destroyed pursuant to subsection (1) shall be paid by the owner or person in charge of the animal, and the amount may be recovered summarily from such owner or person in charge as a civil debt.

151. (1) Where a person having charge of an animal is apprehended by a police officer or officer of the Authority under this section, it shall be lawful for

Power of police officers.

the police officer or officer of the Authority to take charge of such animal, and to deposit the same in the safe custody of the Authority until the termination of the proceedings or until the Court shall direct such animal to be delivered to the person charged or the owner.

(2) The reasonable costs for the detention of an animal pursuant to subsection (1), including veterinary treatment where such treatment is required shall, in the event of a conviction in respect of such animal, be recoverable from the owner summarily as a civil debt, or where the owner himself or herself is convicted, shall be part of the costs of the case.

(3) Any police officer or officer of the Authority may stop and examine in any street or public place, any animal in respect of which he or she suspects that an offence has been committed under subsection (1).

Awards to informers.

152. The Court by which any fine is imposed by virtue of an offence under this section may award any portion thereof not exceeding one half to the informer.

153. Any Order, Regulation or by-laws made under this Act may provide that a breach of or non-compliance with any provision of the Order, Regulations or by-laws shall constitute an offence and may provide for penalties on summary conviction by way of a fine not exceeding two thousand dollars.

Offences and penalties in Orders, Regulations and by laws.

154. (1) No person shall

- (a) use any spear gun, self-contained underwater breathing apparatus (SCUBA) diving equipment, explosive, poison or other noxious substance for fishing in the fishery waters;
- (b) import or sell any spear gun without a licence issued by the Authority;
- (c) wilfully damage or destroy any commercial fishing gear, fishing vessel, fish landing site or mooring buoy.

Offences-prohibited fishing methods.

(2) Any spear gun, self-contained underwater breathing apparatus (SCUBA) diving equipment, explosive, poison or other noxious substance found on board a fishing vessel shall, unless the contrary is proved, be presumed to be intended for fishing in the fishery waters.

(3) No person shall land or knowingly sell or receive any fish taken in contravention of subsection (1).

(4) For the purpose of this section, a certificate as to the cause and manner of death or injury of any fish, signed by the Managing Director of the Authority or by any person authorised by him or her in writing shall be accepted

as prima facie evidence in the Court without proof of the signature of the person appearing to have signed the certificate or his or her official character.

(5) In any proceedings brought under this section, the defendant is entitled to at least fourteen days' written notice of the prosecution's intention to adduce a certificate referred to in subsection (4).

155. Where a local fishing vessel or foreign fishing vessel is used in the fishery waters in contravention of section 119 or 127, the master, owner and charterer of the vessel concerned each commits an offence and

Offences relating to certificate of registration and licences.

- (a) in the case of a local fishing vessel, is liable on summary conviction to a fine not exceeding fifty thousand dollars; and
- (b) in the case of a foreign fishing vessel, is liable on summary conviction to a fine not exceeding five hundred thousand dollars.

Non-compliance with section 117.

156. Where, on the sale or change of ownership of a vessel, the vessel is used in the fishery waters without the vendor and purchaser of the vessel giving notice as required under section 117, the vendor and purchaser of the vessel each commits an offence and is liable on summary conviction to a fine not exceeding five thousand dollars.

Other offences relating to fishing permits and licences.

- 157.** (1) A person commits an offence if
- (a) he or she undertakes marine scientific research without a permit granted under section 136(5);
 - (b) he or she operates an aquaculture establishment without a licence issued under section 138(3);
 - (c) he or she operates a fish processing establishment without a licence; and
 - (d) he or she carries out test fishing operations without a licence.

(2) A person who commits an offence under subsection (1) is liable on summary conviction to a fine not exceeding twenty-five thousand dollars.

(3) Where a person who, at the time of coming into force of this Act is operating an aquaculture establishment, fails to comply with section 138(9), commits an offence and is liable on summary conviction to a fine not exceeding five thousand dollars.

Failure to comply with conditions.

158. (1) A person who fails to comply with a condition attached to a licence or permit issued or granted under this Act, commits an offence and is, notwithstanding any suspension, cancellation or revocation of the licence or permit, liable on summary conviction to a fine not exceeding twenty thousand dollars.

(2) For purposes of subsection (1), where the offence committed is in respect of a local fishing vessel or foreign fishing vessel, the master, owner and charterer shall each be deemed to have committed the offence and liable accordingly.

Contravening suspension.

159. (1) A person commits an offence if, after the suspension of any certificate, permit, or licence issued under the Act, he or she does anything in contravention of the suspension.

(2) A person who commits an offence under subsection (1) is liable on summary conviction to a fine not exceeding twenty-five thousand dollars.

Failure to stow away fishing gear.

160. Where the fishing gear of a foreign fishing vessel that is prohibited from fishing within the fishery waters is not stowed in accordance with the requirements of any permit or licence issued under the Act, the master, owner and charterer of the vessel each commits an offence and is liable on summary conviction to a fine not exceeding fifteen thousand dollars.

161. A person who

- (a) uses any spear gun self-contained underwater breathing apparatus (SCUBA) diving equipment, explosive, poison or other noxious substance in contravention of section 154(1); or
- (b) lands or knowingly sells or receives any fish in contravention of section 154(3),

commits an offence and is liable on summary conviction to a fine not exceeding fifteen thousand dollars.

Using prohibited method of fishing.

Using wrong fishing gear for fishing.

162. Any person who, within the fishery waters, uses for fishing or has on board a vessel in circumstances which indicate an intention to use for fishing in the fishery waters:

- (a) any net the mesh size of which does not conform to the prescribed minimum mesh size for that type of net;

- (b) any type of trap or other fishing gear which does not conform to any standards prescribed for that type of trap or other fishing gear; or
- (c) any other net or fishing gear which is prohibited by this Act or any Regulations made thereunder,

commits an offence and is liable on summary conviction to a fine not exceeding ten thousand dollars.

163. Where an offence under this Act is committed by any person on board a vessel, the master of the vessel also commits the offence and may be proceeded against for the offence.

Liability of master of vessel.

164. (1) Where an offence under this Act is committed by any vessel, the court may, upon an application made to it, order the release of the vessel (together with its gear, stores and cargo), vehicle, fishing gear, net or other fishing appliance seized under this Act on receipt of a satisfactory bond or other form of security from the owner or other person claiming the property.

Release of vessel, etc. on bond.

(2) Where a person is convicted of an offence under this Act, the Court, in addition to any other penalty imposed on the person

- (a) may order that any vessel (together with its gear, stores and cargo), vehicle, fishing gear, net or other fishing appliance, used in the commission of the offence be forfeited to the Crown; and
- (b) shall order that any fish caught in the commission of the offence or the proceeds of sale of the fish, and any spear gun, self-contained underwater breathing apparatus (SCUBA) diving equipment, explosive, poison or other noxious substance used in the commission of the offence be forfeited to the Crown.

(3) Anything that is ordered to be forfeited under subsection (2) shall be disposed of in such manner as the Minister may direct.

Presumptions.

165. (1) Until the contrary is proved, any fish found on board a vessel which is used in the commission of an offence under this Act shall be presumed to have been caught in the commission of the offence.

(2) Where, in any legal proceedings instituted under this Act following the seizure of a foreign fishing vessel, the place in which an event is alleged to have taken place is in issue, the place stated in a certified copy of the relevant entry in the logbook or other official record of the enforcement vessel as being the

place in which the event took place shall, until the contrary is proved, be presumed to be the place in which the event took place.

Onus of proof.

166. (1) When a person is accused of possessing anything or of being in any place where such action requires a written permit, licence or certificate under this Act, such possession or action shall be *prima facie* evidence against the accused that he or she possessed the thing or was located in that place in contravention of this Act, and the burden of proof shall be on the accused to prove the contrary.

(2) In any legal proceedings under this Act where the defendant is charged with having committed an offence under which a licence, authority or the permission of any person is required for the doing of any act, the onus shall be on the defendant to prove that at the time to which the charge relates, the requisite licence, authority or permission was duly held.

Offence triable as if committed within local jurisdiction.

167. Any offence under this Act, or any Regulations made thereunder, within the fishery waters by any person, or any such offence committed outside the fishery waters by any belonger of, or person ordinarily resident in, the Virgin Islands or by any person on board a vessel, shall be triable in the court in the Virgin Islands as if the offence had been committed in a place in the Virgin Islands within the local limits of the jurisdiction of the Court.

General offences and penalties.

168. (1) An attempt to commit an offence under this Act or any Regulations made thereunder shall itself constitute an offence and may be dealt with in like manner as if the attempted offence had been committed.

(2) A person who aids, abets, counsels or procures an offence under this Act or any Regulations made thereunder or conspires to commit such offence commits the offence so aided, abetted, counselled or procured or conspired to be committed.

(3) A person who

- (a) contravenes, or fails to comply with, a requirement of any provision of this Act or any Regulations made thereunder in respect of which no offence is specifically provided commits an offence;
- (b) commits an offence pursuant to paragraph (a) for which no penalty is specifically provided,

is liable on summary conviction to a fine not exceeding one thousand dollars.

Power to compound offences.

169. (1) Subject to subsection (4), the Managing Director of the Authority may, where he or she is satisfied that a person has committed an offence under this Act or any Regulations made thereunder, compound the offence by accepting on behalf of the Government from the person a sum of money of not less than one half of the maximum fine specified for that offence.

(2) On compounding an offence under this section the Managing Director of the Authority may order the release of any article seized under the provisions of the Act or the proceeds of sale of such article on such conditions, including the payment of such additional sums of money not exceeding the value of the article seized, as he or she may think fit.

(3) No offence shall be compounded under this section unless the person who has committed the offence has expressed his or her willingness in writing that the offence be so dealt with.

(4) The compounding of an offence under this section shall be notified in writing under the signature of the offender and the Managing Director of the Authority to the Court.

(5) In any proceedings brought against any person for an offence under this Act or any Regulations made thereunder, it shall be a defence if the person proves that the offence with which he or she is charged has been compounded under this section.

(6) This section does not apply to an offence under section 9(17).

Continuing offence.

170. If a contravention of this Act is committed or continued on more than one day, it constitutes a separate offence for each day on which it is committed or continued.

Documents to be evidence.

171. Every document purporting to be an instrument issued by the Managing Director of the Authority shall be received as evidence and be deemed to be such an instrument without further proof unless the contrary is shown.

Immunity from suit.

172. No action shall be brought against any person for anything done, or omitted to be done, in good faith in the performance of any function or duty, or the exercise of any power, pursuant to this Act or the Regulations.

Obligations, etc. under other laws.

173. No licence or permit issued under this Act shall relieve any foreign fishing vessel or its master or crew of any obligation, requirement or prohibition imposed by law concerning navigation, customs, immigration and other matters.

Sale of fish and perishable goods seized.

174. (1) Any fish or other articles of a perishable nature seized under this Act may, at the direction of the Managing Director of the Authority, be sold and the proceeds of sale shall be held and dealt with in accordance with the provisions of this Act.

(2) Where, after making all reasonable efforts, the Managing Director of the Authority is unable to sell the fish or other articles referred to in subsection (1), or where such fish or other articles are unfit for sale, he or she may dispose of them in such other manner as he thinks fit.

General appeals.

175. (1) Notwithstanding section 98, any person who is aggrieved by a decision taken pursuant to a provision of this Act or any Regulations made thereunder may appeal to the High Court whose decision shall be final.

PART XII REPEALS AND SAVINGS

Regulations.

176. (1) The Minister may make Regulations generally for the better carrying into effect of the provisions of this Act.

(2) In particular and without prejudice to the generality of subsection (1), the Minister may make Regulations

- (a) providing for the form of licences, permits and certificates of registration to be issued under this Act;
- (b) prescribing standards, guidelines and operations procedures for the management of any foods or livestock;
- (c) prescribing the procedures and guidelines for microchipping of animals;
- (d) prescribing the fees payable under this Act;
- (e) providing for
 - (i) pounds and livestock;
 - (ii) matters relating to dogs and prevention of injury to premises;
 - (iii) matters relating to the welfare of animals and prevention of cruelty and abandonment and the measures and steps to be taken when with respect to impounding of animals when such matters arise;
 - (iv) voluntary surrender of animals to an animal pound or shelter;

- (v) matters relating to slaughter houses and butchers;
- (vi) matters relating to animals (importation and diseases) animal and plant protection;
- (vii) matters relating to fisheries; and
- (viii) matters relating to the disposal of animal waste in order to prevent public nuisance;
- (f) establishing rules for the handling, transportation and storage of food, fish and animals products;
- (g) attaching additional conditions to licences or permits issued under this Act; and
- (h) prescribing any other matter which may be prescribed under this Act.

177.(1) The following are hereby repealed:

Repeals and savings.

- (a) Animals (Importation and Diseases) Ordinance, Chapter 88;
- (b) Plant Protection Ordinance, Chapter 93;
- (c) Protection of Animals Act, Chapter 94;
- (d) Fisheries Act, No. 4 of 1997;
- (e) Slaughter Houses Act, No. 8 of 2001;
- (f) Dogs (Prevention of Injury to Persons, Livestock and Poultry) Act, No. 14 of 2001;
- (g) Pounds and Livestock Brands Act, No. 19 of 2004.

(2) Notwithstanding the provisions of subsection (1), the following shall remain in force and effect:

- (a) Animals (Importation and Diseases) Regulations, SRO 1/1978;
- (b) Animals (Importation and Diseases) (Amendment) Regulations, No. 5 of 1995;
- (c) Animals (Importation and Diseases) (Amendment) Regulations, No. 9 of 2001;

- (d) Animals (Importation and Diseases) (Prohibition of Importation) Order, No. 1 of 2004;
- (e) Plant Protection (Prohibition of Importation of Plants) Regulations, S.I. No. 13 of 1996;
- (f) Plant Protection (Prohibition of Importation of Plants) (Amendment) Regulations, No. 60 of 1996;
- (g) Plant Protection (Prohibition of Importation of Plants) (Amendment) Regulations, No. 2 of 1997;
- (h) Plant Protection (Prohibition of Importation of Plants) (Amendment) (No. 2) Regulations, No. 5 of 1997;
- (i) Plant Protection (Amendment) Regulations, No. 34 of 2002;
- (j) Plant Protection (Prohibition of Importation of Plants) (Amendment) Regulations, No. 35 of 2002;
- (k) Fisheries Regulations, S.I. No. 20 of 2003.

SCHEDULE I

[Section 24(4)]

PROCEDURES IN RESPECT OF MEETINGS OF THE BOARD OF THE AUTHORITY

1. The Board shall meet at least once in every quarter for the transaction of its business and such meeting shall be held at a time and a place the Board may determine.
2. At every meeting of the Board, the Chairperson shall preside and in his or her absence the deputy chairperson shall preside.
3.
 - (1) The quorum for a meeting of the Board is five members, of whom one shall be a government representative.
 - (2) If a quorum is not present within one (1) hour from the time appointed for the Meeting, or during a Meeting a quorum ceases to be present, the Meeting shall be adjourned to such time and place as the Members of the Board shall determine.
4. The decisions of the Board shall be by a majority of the votes of the members present and voting and in the event of a tie the chairperson shall together have the casting vote.
5.
 - (1) Notice of any meeting of the Board shall be given to each member of the Board at least ten (10) working days before such meeting is to be held.
 - (2) A notice issued pursuant to subsection (1) shall be sent to each member of the Board at his or her residential address or usual place of business, and shall be given by mail, telefax or electronic mail.
 - (3) Every notice issued pursuant to this section shall state the time and place of the meeting and the business to be transacted or the purpose of the meeting.
6.
 - (1) The Board may, if it thinks fit, transact any of its business
 - (a) by the circulation of papers among all the members of the Board for the time being; or
 - (b) by telephone, closed-circuit television, video-conferencing or other means with all or some of its members, and a resolution in writing

by a majority of those members is taken to be a decision of the Board.

- (2) For the purposes of this section the Chairperson and each member shall have the same voting rights as they have at an ordinary meeting of the Board.
 - (3) A resolution approved under subsection (2) shall be recorded in the minutes of the meetings of the Board.
 - (4) For the purposes of subsection (1), the Board may circulate papers among the members in hard copy, by facsimile or other electronic transmission of the information in the papers concerned.
 - (5) Service of any document on a Chairperson of the Board, or the Managing Director shall be deemed to be service on the Board.
7. The names of all members of the Board as first constituted and any change in the membership thereof shall be published in the Gazette.
 8. Subject to the provisions of this Act the Board may regulate its own proceedings.

SCHEDULE II

[Section 63(1)(c)]

LIST OF REPORTABLE DISEASES

Multiple species diseases

Anthrax
Aujeszky's disease
Bluetongue
Echinococcosis/hydatidosis
Foot and mouth disease
Heartwater
Leishmaniosis
Leptospirosis
New world screwworm (*Cochliomyia hominivorax*)
Old world screwworm (*Chrysomya bezziana*)
Paratuberculosis
Peste des petits ruminants
Q fever
Rabies
Rift Valley fever
Trichinellosis
Vesicular stomatitis
Canine Parvo Virus
Feline Leukemia Virus

Cattle diseases

Bovine anaplasmosis
Bovine babesiosis
Bovine brucellosis
Bovine cysticercosis
Bovine genital campylobacteriosis
Bovine spongiform encephalopathy
Bovine tuberculosis
Contagious bovine pleuropneumonia
Dermatophilosis
Enzootic bovine leucosis
Haemorrhagic septicemia
Infectious bovine rhinotracheitis/infectious pustular vulvovaginitis
Lumpy skin disease
Malignant catarrhal fever
Rinderpest
Theileriosis
Trichomonosis
Trypanosomosis (tsetse-transmitted)

Sheep and goat diseases

Caprine and ovine brucellosis (excluding *B. ovis*)
Caprine arthritis/encephalitis

Contagious agalactia
Contagious caprine pleuropneumonia
Enzootic abortion of ewes (ovine chlamydiosis)
Maedi-visna Nairobi sheep disease
Ovine epididymitis (*Brucella ovis*)
Ovine pulmonary adenomatosis
Salmonellosis (*S. abortusovis*)
Scrapie
Sheep pox and goat pox

Swine diseases

African swine fever
Atropic rhinitis of swine
Classical swine fever
Enterovirus encephalomyelitis
Porcine brucellosis
Porcine cysticercosis
Porcine reproductive and respiratory syndrome
Swine vesicular disease
Transmissible gastroenteritis

Equine diseases

African horse sickness
Contagious equine metritis
Dourine
Epizootic lymphangitis
Equine encephalomyelitis (Eastern and Western)
Equine infectious anaemia
Equine influenza
Equine piroplasmiasis
Equine rhinopneumonitis
Equine viral arteritis
Glanders
Horse mange
Horse pox
Japanese encephalitis
Surra (*Trypanosoma evansi*)
Venezuelan equine encephalomyelitis

Avian diseases

Avian chlamydiosis
Avian infectious bronchitis
Avian infectious laryngotracheitis
Avian mycoplasmosis (*M. gallisepticum*)
Avian tuberculosis
Duck virus enteritis
Duck virus hepatitis
Fowl cholera
Fowl pox

Fowl typhoid
Highly pathogenic avian influenza
Infectious bursal disease (Gumboro disease)
Marek's disease
Newcastle disease
Pullorum disease

Lagomorph diseases

Myxomatosis
Rabbit haemorrhagic disease
Tularemia

Bee diseases

Acariosis of bees
American foulbrood
European foulbrood
Nosemosis of bees
Varroosis

Fish diseases

Epizootic haematopoietic necrosis
Infectious haematopoietic necrosis
Oncorhynchus masou virus disease
Spring viremia of carp
Viral haemorrhagic septicaemia

Mollusc diseases

Bonamiosis (Bonamia exitiosus, B. ostreae, Mikrocytos roughleyi)
Marteiliosis (Marteilia refringens, M. sydneyi)
Mikrocytosis (Mikrocytos mackini)
MSX disease (Haplosporidium nelsoni)
Perkinsosis (Perkinsus marinus, P. olseni/atlanticus)

Crustaceans diseases

Taura syndrome
White spot disease
Yellowhead disease

Passed by the House of Assembly this day of , 2022.

Speaker.

Clerk of the House of Assembly.

OBJECTS AND REASONS

This Bill seeks to establish an effective mechanism to promote food security and sustainability in the Territory, and to provide for the establishment, powers and functions of the Department of Agriculture and Fisheries and the Virgin Islands Agriculture and Fisheries Authority, and respecting the effective administration and management of agriculture and fisheries resources of the Territory.

The Bill is divided into six Parts.

Part I (clauses 1 - 5) would provide for the preliminary provisions. The Bill would set out the short title and commencement, the definition of terms used in the Bill, the Act that binds the Crown, the statement of purpose and the scope and application.

Part II (clauses 6 - 18) would provide for the administrative matters.

Clauses 6 and 7 would provide for the establishment, duties and responsibilities of the Agriculture and Fisheries Management Unit. Clause 8 would provide for the Chief Technical Officer of the Agriculture and Fisheries Management Unit to order assessment, inspection, report, audit or monitoring activity that may be required to enforce or give effect to the requirements of the Act or Regulations. Clause 9 would provide for the officer of the Agriculture and Fisheries Management Unit to be an inspector, officer or auditor for the enforcement and implementation of the Act and Regulations.

Clause 10 would provide for the development and review of the policy for sustainable agricultural production, food security and food safety to ensure that the sound and sustainable production, management and use of food for Virgin Islanders, residents and visitors to the Territory while addressing the impacts from climate change and disasters on food production. Any policy formulated shall be developed through the broadest possible consultation, and submitted for consideration by the Minister.

Clauses 11 - 13 would provide for the establishment and enforcement of standards for food security and safety to establish, monitor, review and regularly update the standards, guidelines and operational procedures. The Unit would be responsible for coordinating and instituting measures for the effective monitoring, reporting and verification of any standards, guidelines or operational procedures.

Clauses 14 - 16 would provide for the power of the Minister to make an Order in consultation with the Unit, also to declare fishing priority and protected area and to declare fish as protected species by Order published in the *Gazette*.

Clauses 17 and 18 would provide for the local fisheries management and by-laws for local fisheries management areas. The Authority would provide to any Local Fisheries Management Authority assistance as may be reasonably necessary for the performance of its functions. The by-laws shall be submitted to the Minister who shall, on the advice of the Chief Technical Officer and the Agriculture and Fisheries Authority, approve the by-laws and cause them to be published in the *Gazette*.

Part III (clauses 19 - 50) would make provisions for the Virgin Islands Agriculture and Fisheries Authority.

Clauses 19 - 26 would provide for the establishment, functions and powers of Virgin Islands Agriculture and Fisheries Authority. It would also provide for the membership and Board of Directors of the Authority. The appointment of the Chairman and Deputy Chairman and the Managing Director and Deputy Manager would be established and the responsibilities outlined.

Clause 27 - 30 would provide for the Authority to pay the Directors fees and allowances. The Director shall also disclose the nature of his or her interest at a meeting of the Board and the disclosure shall be recorded in the minutes of the meeting. The Bill would provide for the Board to develop Annual Business Plan and the establishment and management of Fund under the administration and control of the Authority.

Clauses 31 - 40 would provide for the following: application of monies of the Authority; power to issue debentures or debenture stock or other security for the purpose of raising capital; guarantee of borrowings by Government; the Authority would have the power to borrow from Government to carry out from its functions under this Act. Clauses 35 - 38 would also provide for authorised investments whereby moneys standing to the credit of the Fund which are not immediately required to be expended in meetings, the obligations or in the discharge of the functions of the Authority may be invested in securities with the concurrence of the Minister responsible for Finance, for investment by the Authority. Any assets transferred from the Government to the Authority shall be free of interest and the Authority shall prepare and submit to the Minister estimates of the income and expenditure of the Authority. Clauses 39 and 40 would provide for grants for unremunerative services and rules.

Clauses 41 – 50 would provide for accounts and operations of the Authority, exemption from customs duty, stamp duty, income tax and other taxes; powers of the Minister in relation to the Authority; power to appoint officers and other employees; transfer of officers and employees from Government to the Authority, powers of officers of the Authority, the inspection powers of Authority officers, the Authority would establish Information Management System and the Authority will have input into physical development and natural resource management plans.

Part IV (clauses 51 - 55) would make provisions for the Management of Agriculture and Fisheries Industry.

Clauses 51 and 52 would provide for the Authority to develop Food Security Management Plan for the Territory and every five years the Authority would conduct a review of the Plan.

Clause 53 would provide for the Authority to undertake agricultural census. Clauses 54 and 55 would provide for the power of Authority to acquire and issue leases on Crown lands for food and agricultural production.

Part V (clauses 56 - 62) would make provisions for plant protection.

Clause 56 would provide for a notice to be given to the Authority to control pests and diseases. Clauses 57 and 58 would set out the procedures for eradication of diseases and pests and non-compliance would be issued with an order. Clause 59 would provide for quarantine measures of nurseries. Clause 60 would provide grants by way of compensation to occupiers and owners whose healthy plants were destroyed. Clauses 61 and 62 would provide for Orders controlling importation and every person desirous of applying for an import permit shall make application to the Authority.

Part VI (clauses 63 - 73) would provide for pounds and livestock.

Clauses 63 - 65 would provide for matters relating the pounds and the supervision of the pounds and specifying the stations that would be used for quarantine. Clause 66 would provide for the procedures of the pounds so that animals would be safely kept. Clause 67 would provide for impounded diseased or injured animals to be treated in such a manner as the Managing Director of the Authority thinks fit and the owner of the animal shall be liable to pay the cost of such treatment. Clauses 68 and 69 would provide for the impounding of animals found straying in public places or trespassing on private property and the impounding of livestock.

Clause 70 would provide for impounded animals to be released to its owner and animals that are livestock shall be forfeited to the Crown. Clause 71 would establish and maintain in the Territory a Pounds and Livestock Brands Register, which may be in electronic form. Clauses 72 and 73 would provide for branding for livestock for identification purposes.

Part VII (clauses 74 – 84) would provide for dogs prevention of injury.

Clause 74 would provide for the liability of the owner of a dog for the injury of persons, livestock and poultry and a sign should be posted at the premises to warn visitors of the presence of a dog. Clauses 75 – 78 would provide the power to the Police Force to

impound and destroy dangerous dogs. The owner of a dangerous dog, shall ensure that the dog is destroyed within thirty days by an Order. The owner of the dog shall pay a penalty not exceeding two hundred and fifty dollars of whose dog slaughters or injures livestock or poultry. It would also provide for every dog to be kept tethered or confined to the premises of its owner between the hours of 8.00 p.m. and 5.00 a.m.

Clause 79 would provide for the issuance of a permit to hold a dog show beyond 8.00 p.m. Clause 80 would provide for the owner of a female dog to ensure that it is kept secured, on the premises during any period when such female dog is in heat. Clauses 81 to 83 would provide for the restrictions on importing dogs, the granting of permission to the Police Force or Authority to enter any household or premises and the registration of dogs with the Authority. Clause 84 would provide for the issuance of the metal disc to be affixed to collar of registered dog by the Authority.

Part VIII (clause 85) make provisions for commercial farms.

Clause 85 would provide for the licensing of commercial farms and a person desiring to obtain a licence to operate a commercial farm shall apply to the Authority.

Part IX (clauses 86 – 105) make provisions for the importation and sale of fresh meat.

Clauses 86 – 90 would provide for the following: licensing of food processing facilities and butchers, sale and importation of fresh meat, the requirements and inspection for slaughter house and the inspection of meat.

Clauses 91 – 97 would provide for the requirements to acquire a licence to carry on the business of a butcher and beside the acquiring a licence, clause 92 would provide for possession of a food handler's certificate of health. Clauses 93 and 94 would provide for the licensing of importers and exporters of food, plants, animals and animal products. Clauses 95 – 97 would provide for the conditions, validity, suspension and cancellation of licences.

Clause 98 would provide the suspension or revocation of a license shall be appealable to a Magistrate. Clause 99 would provide for transitional provisions and clauses 100 and 101 would provide for the management of pesticides and genetically modified organisms. Clause 102 would provide for the inspections by the Authority to verify the compliance of any licence, permit, condition, standards and guidelines of operational procedures.

Clause 103 would provide for organic farming which will come into force twelve months of the Act coming into force. Clauses 104 and 105 would provide for branding, labelling and consumer protection.

Part X (clauses 106 – 138) would make provisions for fisheries.

Clauses 106 would establish a Fisheries Advisory Committee and clause 107 would define the functions of the Committee. Clause 108 would specify when the Fisheries Advisory Committee would meet, which shall be at least once in every three months. Clause 109 would provide for the tenure, resignation and cessation of members of the Committee.

Clauses 110 – 115 would provide for the following: co-opting, record of proceedings and report, principle of the management of fishery resources and protecting marine environment from pollution, stock assessment and the authority to develop and comply with the Fisheries Management and Development Plan.

Clause 116 would provide for the registry of fishing vessels by the Authority and the Managing Director of the Authority shall record in the register of local fishing vessels the place, mooring or beach in which a registered local fishing vessel is to be stationed. Clause 117 would provide for change of ownership of local fishing vessels and the Authority should be notified of the change of ownership. Clauses 118 and 119 would provide for the inspection and registration of local fishing vessels.

Clause 120 would provide for the application of local fishing licences in order to catch fish for the purpose of sale. Clauses 121 and 122 would provide for the conditions attached to a local fishing licence and fees. Clauses 123 - 126 would provide grounds for cancellation or suspension of local fishing licence, notification and exemptions, the period of validity of local fishing licence, which shall not exceed twelve months from the date of its issue. Clause 127 would provide for foreign fishing vessel licences, application for foreign fishing vessel licence.

Clause 128 would provide additional conditions such as the amount of catch that may be removed from the Virgin Islands and the management of waste and pollution from the foreign fishing vessels. Clauses 129 - 132 would provide stowage of fishing gears, appointment of local representative, regional and access arrangements.

Clause 133 would provide for matters to be considered in regional arrangements and access agreements. Clause 134 would provide for the exchange of scientific information and any data collected shall be open for inspection. Clause 135 would adopt measures that are necessary to co-ordinate and ensure the conservation and development of such fish stocks.

Clauses 136 - 138 would provide for the promotion of marine scientific research, the transfer of marine technology and conservation management measures and aquaculture.

Clauses 139 - 143 would provide for marine reserve, the application for a fish processing establishment licence, the compliance with this Act or other enactments, the power to suspend or revoke a licence and the application for a test fishing operations licence.

Part XI (clauses 144 - 175) would make provisions for enforcement and evidentiary matters.

Clause 144 would provide for the owner of an animal that is livestock, who caused or allowed his or her animal to stray in a public place, or trespass on the private land of any person, commits an offence and is liable, on summary conviction, to a fine not exceeding one thousand dollars and to pay such compensation in respect of any injury, loss or damage arising from the offence as the Magistrate may order. Clause 145 would provide for various offences against authorised persons, offering bribe or inducement and knowing introducing pest or disease. Clause 146 would provide for cruelty to animals.

Clause 147 - 152 would provide for the power of the Court to Order destruction of animal and to deprive persons of ownership of animals, and the detention of animals. It would also provide for diseased or injured animals, power of police officers to take charge of such animals, and to deposit them in the safe custody of the Authority. The Court by which any fine is imposed by virtue of an offence may award any portion thereof not exceeding one half to the informer. Clause 152 would provide for awards to informers.

Clauses 153 - 155 would provide for offences and penalties in Orders, Regulations and by laws, offences prohibited fishing methods and offences relating to certificate of registration and licences.

Clause 163 would provide for non-compliance on the sale or change of ownership of a local fishing vessel. Clauses 157 - 162 would provide for offences relating to fishing permits and licences and failure to comply with conditions shall contravene to suspension. The Bill would also provide for failure to stow away fishing gears and the consequence for using prohibited method of fishing and using wrong fishing gears for fishing.

Clause 163 would provide for the liability of the master of the vessel if any person on board of the vessel commits an offence. Clauses 164 - 167 would provide for the release of a vessel on bond, the presumptions, onus of proof and offence triable as if committed within local jurisdiction. Clauses 168 - 176 would provide for the following: general offences and penalties, power to compound offences and continuing offences. Clause 171 would provide for documents to be received as evidence. Clauses 171 - 173 would provide for the immunity from suit and the obligations, etc. under other laws.

Clauses 174 - 175 would provide for the sale of fish and perishable goods seized and provision for general appeals.

Part XII (clause 176 - 177) would provide for repeals and savings.

Clauses 176 - 177 would provide for Regulations and repeals and savings.

The Bill provides for two Schedules.

Schedule I would provide for the procedures in respect of meetings of the Board of the Authority.

Schedule II would provide for the list of reportable diseases.

Minister for Education, Culture, Youth Affairs, Fisheries and Agriculture.