

No. 2 of 2022

VIRGIN ISLANDS
VIRGIN ISLANDS FOOD SECURITY AND SUSTAINABILITY
ACT, 2022

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I ASSENT
(Sgd.) John Rankin CMG,
Governor.
25th July, 2022

VIRGIN ISLANDS

No. 2 of 2022

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 MARKETING AUTHORITY, AND RESPECTING THE EFFECTIVE ADMINISTRATION AND MANAGEMENT OF AGRICULTURE AND FISHERIES RESOURCES OF THE TERRITORY, AND FOR MATTERS RELATED THERETO.

[Gazetted 28th July, 2022]

ENACTED by the Legislature of the Virgin Islands as follows:

PART I

PRELIMINARY

Short title and commencement

1. (1) This Act may be cited as the Virgin Islands Food Security and Sustainability Act, 2022.

(2) This Act shall come into force on such date as the Minister may, by Notice published in the *Gazette*, appoint.

Interpretation

2. In this Act unless the context otherwise requires

“animal” for the purposes of Part VI means an animal of any kind, including cattle, buffaloes, horses, goats, dogs, cats, monkeys, birds, poultry, pigeons, 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;

- “authorised officer” means a fisheries officer, customs officer, or police officer and any inspector, officer or auditor designated under section 9;
- “Authority” means the Virgin Islands Agriculture and Fisheries Marketing 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, symbol 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” refers to the act or actions of a dog that puts the public or other animals at risk for injury or death, and this includes a dog that:
- (a) is engaged in or trained for animal fighting;
 - (b) aggressively bites, attacks, or endangers or has inflicted severe injury on a human being on public or private property;
 - (c) when unprovoked, bites a person causing an injury; kills or injures a human being;
 - (d) while the dog is off its owners property, severely injures or kills a domestic animal, which may include livestock;
 - (e) when unprovoked, chased or approached a person upon the streets, sidewalks, or any public grounds in a menacing fashion or apparent attitude of attack; or
 - (f) aggressively attacks in a manner that causes a person to reasonably believe that the dog posed an imminent threat of serious injury to such person or another person although no such injury occurs,
- provided, however, that the acts of barking, growling, or showing of teeth by a dog are not enough;
- “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” with its grammatical variations and cognate expressions in regard to

- (a) any plant means 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, declared under Schedule 2 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 laryngotracheitis, 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 listed in Schedule 2;

“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 Committee established under section 105(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 X;
- “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 responsible for natural resources and the environment;

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

“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 percent 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 to which the Minister responsible for the management and administration of the agricultural and fisheries sectors is assigned;
- “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;
- “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 45;
- “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, declared under Schedule 3 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 persons in the Virgin Islands, 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.

Conflicts with other enactments

5. Where there is a conflict with a section of this Act and any other Act passed by the legislature, the section of this Act prevails if the conflict specifically concerns food security and the management of agricultural and fisheries resources of the Territory.

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 catch and landings, including volumes, species, sizes and location of the landings;
 - (v) imports of agricultural and fisheries products, including volumes and costs;
- (i) carry out in furtherance of its enforcement duties under section 9(1) of this Act such investigations as may be necessary;
- (j) advise the Minister on any matter that he or she may refer to the Authority;
- (k) 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 Management 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 and other lands identified;
- (c) regularise tenure on Paraquita Bay Estate through the establishment of an appropriate licencing and leasing programme that will impose and enforce quota requirements for agricultural production from parcels within the Estate;
- (d) re-allocate available land through the issue of licences 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 the Information Registry.

(7) For the purposes of this Act, the Minister may with the approval of Cabinet appoint such committees as may be necessary to assist the Agriculture and Fisheries Management Unit in the execution of its duties and functions.

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 this 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.

Designation and Powers of inspectors, officers and auditors 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 Unit, designate 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 this Act and Regulations made thereunder.

(2) Notwithstanding subsection (1), the Governor may, from time to time appoint or designate other public officers or such other persons to be an inspector, officer or auditor as may be required for the purposes 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 or designated under the provisions of this section.

(4) The Minister shall issue each inspector, officer and auditor appointed or designated under the provisions of this section with a certificate of appointment and an identification card 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 not exceeding 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 or designated 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 or designated 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 or designated 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) carry out 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 or designated under subsection (1) shall without notice, upon presentation of his or her identification 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 or designated 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 or designated under the provisions of subsection (1) shall, where necessary and relevant to any policy, standard, condition, permit, licence 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 Unit should be treated as a trade secret or confidential business information, the Unit 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 Unit, and the Unit 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 or designated 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 or designated under the provisions of subsection (1) shall request 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 or designated 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 or designated under the provisions of subsection (1);
- (c) fails to comply with any direction or order issued by any inspector, officer or auditor appointed or designated under the provisions of subsection (1);
- (d) tampers with or breaks any seal that has been placed by an inspector, officer or auditor appointed or designated 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.

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, 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 persons in the Virgin Islands 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 assessment of the state of agricultural and fishery resources, food safety and food security in the Territory;
 - (b) provide, in accordance with the Disaster Management Act, No. 3 of 2003, 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 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 Ministry in consultation with the Ministry responsible for natural resources and the environment and the Ministry responsible for Health shall, coordinate 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 and the 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; and
- (f) such other food security and safety standards.

(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 licence or permit issued pursuant to the provisions of this Act or Regulations made hereunder shall comply with any standards, guidelines and operational procedures established under this Act or Regulations made hereunder.

Enforcement of Standards

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.

(2) For the purpose of investigating compliance with any standard, guideline or operational procedure established under section 11, any inspector, officer or auditor appointed or designated 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 hereunder;
- (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 hereunder;
- (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 under this Act or any Regulations made hereunder;
- (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 hereunder;
- (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 hereunder.

(3) An authorised officer may, without a warrant and whether on board a vessel or otherwise, arrest and detain any person whom he or she has reasonable cause 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.

Monitoring, reporting and verification of standards by the Unit

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

- (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 this 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 licence.

(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 not exceeding two thousand dollars or to a term of imprisonment not exceeding three months, or to both such fine and imprisonment.

Power of Minister to make Order

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 or disease;
- (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 the 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 the 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 MARKETING 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 (referred to in this Act as the “Authority”), which shall have such powers and perform such functions as are conferred on it by or under this Act.

(2) The Authority shall be a body corporate to which section 21 of the Interpretation Act, Cap. 136, applies.

(3) Subject to the provisions of section 22, the Authority shall be empowered to develop a corporation model for fishing and farming complexes with licensed fishers and farmers having the option of purchasing a portion of shares.

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 Management Unit 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 as appropriate and the public, information concerning marine ecosystems, fish catches, fish stocks, fishing vessels, and licences 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) identify 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 which have been extended to the Territory;
- (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 complexes in population centres as may be 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 fisheries complexes established pursuant to subsection (3), for which service the Authority shall be entitled to levy and retain a percentage of the value of the purchase price as an administration fee as the Board may determine which 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 an 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 partnerships 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) agriculture or fisheries;
 - (ii) processing, transporting, handling, marketing or distributing agricultural and fisheries products;
 - (iii) exporting agricultural and fisheries products;
 - (iv) the sale of equipment or apparatus to be used for agriculture or 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 fisheries zone or in the waters super adjacent to the continental shelf;
- (p) subject to section 60(4) of the Constitution, negotiate fishery agreements, both domestic and regional;
- (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) charge a fee for
 - (i) services rendered; and
 - (ii) the use by any person of any facilities or services provided by the Authority;

- (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.

Ownership of complexes

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

- (a) the Government of the Virgin Islands, which at the date of the commencement of this Act, shall own no less than 51 percent of the complexes at any time; and
- (b) members of the complexes, who collectively shall own no more than 49 percent of the complexes at any time,

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 complexes, as provided in subsection (1)(b), shall comprise

- (a) any licence farmer or person
 - (i) growing any agricultural produce;

(ii) rearing any livestock,
locally, for sale, and who is a belonger or resident of the Virgin Islands;

(b) any licensed fisherfolk in the business of selling any local fisheries resource and who is a belonger or 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 complexes 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 specified by the Authority at the time of the loan or the creation of the debt.

(5) A member of the complexes shall nominate any person who is a belonger or resident of the Virgin Islands to or among whom there shall be transferred his or her shares or interests in the complexes 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.

(10) For the purposes of this section, “resident” means a person who is legally residing in the Territory in accordance with the Immigration and Passport Act, Revised Edition 2013.

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 or designate, *ex officio*;
 - (b) the Financial Secretary or designate, *ex officio*;
 - (c) the Managing Director of the Authority or his or her designate, *ex officio*;
 - (d) nine other directors appointed, by the Minister by instrument in writing upon consultation with the Agriculture and Fisheries Management Unit and approval by Cabinet, as follows:
 - (i) four nominated representatives of persons mentioned in section 22(2)(a) and 22(2)(b), two of which should be from each group, representing the islands of Tortola, Anegada, Virgin Gorda and Jost Van Dyke;
 - (ii) a youth representative;
 - (iii) a private sector representative of the food retail or food wholesale sector operating in the Territory to be nominated by the Leader of the Opposition;
 - (iv) a private sector representative of the tourism, hotel or restaurant industry;
 - (v) a private sector representative of the or sport fishing industry;
 - (vi) a member of the legal profession.

(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.

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

(4) Schedule 1 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 fulfils 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.

Chairperson and Deputy Chairperson

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 Managing Director and Deputy Managing Directors

26. (1) The Minister may on the recommendation of the Board and with the approval of Cabinet, 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 Deputy Managing Directors 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 Managing Directors or to any other employee of the Authority, such of his or her powers, duties or functions as he or she may from time to time consider necessary and the Deputy Managing Directors 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 or her duties, the Deputy Managing Directors 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 marketing 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 dis-charging 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 Unit 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.

Powers of officers of the Authority

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.

(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 112;
 - (iii) registered agricultural leases, sharecropping agreements, agricultural permits and licences 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 licences, 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) and accessed by parties as determined by the Ministry or Authority.

Ministry to have input into physical development and natural resource management plans

49. The Ministry shall

- (a) collaborate with the Planning Authority established under the Physical Planning Act, 2004, No. 15 of 2004, to ensure the sustainable and economically viable development of agriculture resources in the physical planning process;

- (b) provide input into development of any Local Area Physical Development Plan and development applications under the Physical Planning Act, 2004, No. 15 of 2004;
- (c) collaborate with the Ministry responsible for natural resources and the environment 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 and fisheries 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 and fish landing sites 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 labelling 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 marketing complex established under section 20(2) to serve as a national food supply centre and mechanisms for providing access to food for the general population;
- (q) the strengthening of labour 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 labour market in order to strengthen family agriculture;
- (s) the strengthening of agricultural and fisheries 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.

Review of Food Security Management Plan

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.

Authority to undertake agricultural census

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.

(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.

Power of Authority to acquire Crown land for food production

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;
- (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 lands 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) Where an occupier fails to give notice required under subsection (1), an administrative penalty as may be prescribed by regulations, may be imposed on the occupier, with respect to the contravention.

(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.

(4) For the purpose of subsection (1) the Minister may by Order published in the *Gazette*, declare and define such notifiable diseases and notifiable pests.

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), the Board may dispense with the payment of such expenses in cases where, the person in default is in needy circumstances, or for any other reason deemed necessary by the Board.

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 gives 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) Where a person undertakes any activity prohibited under subsection (3), an administrative penalty as may be prescribed by regulations, may be imposed on such person, with respect to the contravention.

(5) Any occupier having his or her land or nursery, or any part of his or her land or nursery, 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. The Minister may, out of moneys provided for that purpose, 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 plant and animal product, 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) 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 an 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) Where a person undertakes any activity prohibited under subsections (1) or (5) an administrative penalty as may be prescribed by regulations, may be imposed on such person, with respect to the contravention.

(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
ANIMAL INFECTIONS, POUNDS AND LIVESTOCK

Animal infections

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

- (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;
- (c) a disease specified in Schedule 2; or
- (d) a pest specified in Schedule 3,

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), the Chief Veterinary Officer or a veterinary practitioner shall, by any means practicable, immediately notify the owner of the animal and by any means practicable immediately notify the Managing Director of the Authority, the Minister and the Chief Medical Officer of that fact and 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.

(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) Where a person fails to carry out any action required pursuant to subsection (6), an administrative penalty as may be prescribed by Regulations, may be imposed on such person, with respect to the contravention.

(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.

Quarantine stations

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.

(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*.

Pounds

65. (1) For the purposes of this Act, pounds shall be established at such places as may be prescribed by the Minister, by Order, in the *Gazette*.

(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 (3).

(2) Within twenty-four hours after an animal is impounded, such animal shall be scanned with a universal microchip 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).

(4) 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.

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

(6) 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.

Diseased, injured and impounded animals

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).

(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.

Impounding of straying animals

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

- (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 175(2)(g)(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 officer of the Authority, impounds an animal in accordance with this Act, he or she shall be entitled to claim from, and shall be paid by, the Authority, 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 officer of the Authority 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 officer of the Authority, 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 officer of the Authority 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 officer of the Authority 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 officer of the Authority 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 Authority under subsection (3).

(3) An animal that is livestock shall be forfeited to the Authority if 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

- (a) it does not bear the brand of its owner; or
- (b) 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(3) 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;
- (d) be dealt with in such other manner as the Managing Director considers fit; or
- (e) any livestock being sold or dealt with in such other manner as the Managing Director considers fit shall not leave the pound without being branded.

(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) Where a person

(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,

an administrative penalty as may be prescribed by regulations, may be imposed on such person, with respect to the contravention.

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 section 72(1).

(2) All livestock shall be identified by their brand and individual identification number.

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 may conspicuously post at the entrance or entrances of his or her premises a sign to warn any person 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) Except for a person who is not permitted to enter the premises, the owner of a dog may 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) A member of the Royal Virgin Islands Police Force or an officer of the Authority or a person designated in writing by the Managing Director of the Authority may 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(1);
- (b) a dangerous dog which has been imported and which has not been exported as permitted by section 76(4),

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 or has been identified to have attacked any person, livestock or poultry at any time or place.

(2) A member of the Royal Virgin Islands Police Force or an officer of the Authority or a person designated by the Managing Director of the Authority may impound any dog that is found wandering abroad contrary to this Act.

Dangerous dogs

76. (1) The owner of a dangerous dog shall ensure that the dog is destroyed within thirty days of the dog committing an act as specified in the definition of dangerous dog under section 2.

(2) No person shall, after the expiration of thirty days under subsection (1), have in his or her possession any dangerous dog except in pursuance of the power to impound and destroy dangerous dogs under section 75(1).

(3) Where a person contravenes subsection (1) or (2), an administrative penalty as may be prescribed by regulations, may be imposed on such person, with respect to the contravention.

(4) 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 Royal Virgin Islands 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 shall

- (a) order the owner of the dog to pay a penalty of two hundred and fifty dollars; and
- (b) award such compensation to the person whose livestock, domestic animal 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.

(2) Where a dog is found wandering in contravention of subsection (1), an administrative penalty as may be prescribed by regulations may be imposed on the owner of the dog, 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, an administrative penalty as may be prescribed by regulations may be imposed on the owner of the dog.

(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 prohibition an administrative penalty as may be prescribed by regulations may be imposed on such person with respect to the contravention.

(5) Without prejudice to subsection (2), a dog found outside of its owner's premises without a leash may be impounded by a member of the Royal Virgin Islands 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, Her Majesty's Customs, 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), an administrative penalty as may be prescribed by regulations may be imposed on the person or organisation, as the case may be, with respect to the contravention.

Female dogs to be kept secure while in heat

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.

Restrictions on importing dogs

81. No dog shall be allowed to enter the Territory unless the owner of the dog
- (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.

Permission to enter any household or premises

82. A member of the Royal Virgin Islands 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 hereunder are being complied with.

Registration of dogs

83. (1) Where a change in the ownership of a registered dog occurs, the previous and new owner shall give the Authority written notice of the change within seven days thereof; and

(2) The new owner shall 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.

(3) 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.

(4) 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.

(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 may be prescribed in Regulations under section 175(2)(c);
- (d) the prescribed fee; 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, such an annual fee as may be prescribed.

(7) The Managing Director of the Authority shall, not more than thirty 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.

(8) The fees payable under subsection (6) 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.

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

(10) 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.

(11) An administrative 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; and
- (b) ensure that a dog is microchipped in accordance with such conditions and requirements as may be prescribed by regulations under section 175(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, an administrative penalty as may be prescribed by regulations may be imposed on such person, with respect to the contravention.

(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 Royal Virgin Islands 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 prescribed manner, and shall include the prescribed application processing fee.

(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 licence 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) Where a person undertakes any activity prohibited under subsection (2), an administrative penalty as may be prescribed by regulations may be imposed on such person, with respect to the contravention.

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 prescribed manner, and shall include the prescribed application processing fee.

(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 licence may be issued under this section unless the facility meets the standards, guidelines and procedures prescribed in section 11(6) by the Minister by notice in the *Gazette*.

Sale 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) Where a person undertakes any activity prohibited under section 86(2) and subsection (1), an administrative penalty as may be prescribed by regulations may be imposed on such person, with respect to the contravention.

Requirements for slaughter house

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

- (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 responsible for natural resources and the Ministry responsible for Health.

Inspection of slaughter house

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.

(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.

Inspection of meat

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

- (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.

(3) For the purposes of this section a qualified officer of the Authority may include officers under the Ministry responsible for Health.

Licence to carry on the business of a butcher

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

(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 prescribed manner, and shall include the prescribed application processing fee.

(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.

Food handler's certificate

92. (1) No person shall be issued a licence 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.

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

- (a) in the prescribed form and be valid for a period of time as may be prescribed by the Ministry responsible for Health;
- (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) Where a person undertakes any activity prohibited under section 91(1), an administrative penalty as may be prescribed by regulations may be imposed on such person, with respect to the contravention.

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 prescribed manner, and shall include the prescribed application processing fee.

(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 licence 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 prescribed manner, and shall include the prescribed application processing and examination fee.

(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) Where a person undertakes any activity prohibited under subsections (1), (7), (8) or (10), an administrative penalty as may be prescribed by regulations may be imposed on such person, with respect to the contravention.

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

94. (1) No person shall, for the purpose of sale, 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,

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 are to be exported from to verify that there are no pest and diseases 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 licence 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) Where a person undertakes any activity prohibited under subsection (1) or (7), an administrative penalty as may be prescribed by regulations may be imposed on such person, with respect to the contravention.

Conditions of licences

95. (1) The Authority may, in issuing any licences pursuant to sections 85, 86, 87, 91, 93 and 94, impose such conditions as may be necessary to give effect to

- (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 licence is issued under sections 85, 86, 87, 91, 93 and 94 shall produce it to an officer of the Authority or to a police officer if required to do so by such officer.

(3) Where a person fails to produce any licence pursuant to the requirements of subsection (2), an administrative penalty as may be prescribed by regulations may be imposed on such person, with respect to the contravention.

Validity of licences

96. A licence issued under sections 85, 86, 87, 91, 93 and 94 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 licence issued under sections 85, 86, 87, 91, 93 and 94, 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 licence.

(2) Where a person undertakes any activity licensed under sections 85, 86, 87, 91, 93 and 94 after a suspension or revocation has been issued under subsection (1), an administrative penalty as may be prescribed by regulations may be imposed on such person, with respect to the contravention.

Appeals for suspension or revocation

98. A suspension or revocation of a licence under section 97(1) shall be appealable before the Appeals Tribunal.

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 85, 86, 87, 91, 93 and 94 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) Where a person ceases to operate a business pursuant to the requirements of subsection (2), an administrative penalty as may be prescribed by regulations may be imposed on such person, with respect to the contravention.

Management of pesticides

100. Within six months of this Act coming into force, the Unit shall, in collaboration with the Ministry responsible for natural resources and the environment, 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 responsible for natural resources and the environment, 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 or 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 responsible for natural resources and the environment, 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 and the Ministry responsible for Health, 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 (4), 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.

PART X FISHERIES

Fisheries Advisory Committee

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

(2) The Committee shall comprise

- (a) a Chairperson;
- (b) four fishermen, representing equally each of the main islands of Tortola, Anegada, Virgin Gorda and Jost Van Dyke, one of whom shall be a youth;
- (c) a business person who transacts business with fisherfolks including wholesalers and retailers;
- (d) one person with marine scientific knowledge;
- (e) the Chief Technical Officer;
- (f) the Managing Director of the Authority; and
- (g) a representative from the Ministry responsible for natural resources and the environment.

(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

106. 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

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

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

(3) The Chairperson 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 Chairperson shall have a casting vote.

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

Tenure, resignation and cessation of members of the Committee

108. (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.

(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 Chairperson (in the case of a member) or the Minister (in the case of the Chairperson), 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.

Co-opting

109. The Committee may, in the performance of its functions,

(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

110. (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 and the environment.

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

111. (1) In undertaking the responsibilities and functions relating to the management of fishery resources, the Ministry responsible for natural resources and the environment, the Unit 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 natural resources and the environment, the Unit 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 natural resources and the environment, the Unit 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 natural resources and the environment, the Unit 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

112. (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 and the Unit 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 for natural resources and the environment;
- (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 for natural resources and the environment 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

113. (1) Upon completion of any stock assessment under section 112, 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 appeal;
- (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

114. 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 licences issued, shall comply with Fisheries Management and Development Plan approved by Cabinet pursuant to section 113(6)(b).

Registry of fishing vessels

115. (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 sport fishing;
- (d) fisherfolk engaged in commercial fishing activities; and
- (e) persons engaged in pleasure fishing,

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

116. (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 117 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

117. (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

118. (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 licences and spear fishing licences

119. (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) A person shall not be permitted to engage in spear fishing unless he or she applies for and obtains a licence for spear fishing.

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

(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 activity of fishing;
- (b) in possession of the necessary certification concerning safety and navigation standards,

may issue an applicant with a local fishing licence.

Conditions attached to a local fishing licence

120. (1) A local fishing licence shall be in such form as may be prescribed.

(2) The Managing Director of the Authority, after consultation with the Unit, may attach such general or special conditions to a local fishing licence or any category of 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;
- (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;
- (o) the keeping of log-books inclusive of waste record books; and
- (p) placement of remote location sensors.

(3) Where the Managing Director of the Authority, after consultation with the Unit, 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.

Fees

121. (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.

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

Cancellation or suspension of local fishing licence

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

(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 130 or 131.

(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 Unit, 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

123. (1) Subject to subsection (2), any notification given under section 120(4) or 122(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

124. 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.

Foreign fishing vessel licences

125. (1) Subject to this Part, the provisions of sections 115 to 122 and section 124 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) 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 section 126.

Application for foreign fishing vessel licence

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

(2) No commercial 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 130 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.

Additional conditions

127. (1) Subject to section 130(2)(c), the Managing Director of the Authority may, after consultation with the Unit, attach to a foreign fishing licence additional conditions relating to

- (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

128. 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

129. (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 may, 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

130. (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 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.

(4) Subject to subsection (1), the Minister shall report such matters to Cabinet before the agreement is being entered into and within two weeks after the agreement is entered into.

Access agreements

131. (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 and such matters shall be reported to Cabinet before the agreement is entered into and within two weeks after the agreement is entered into.

(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 113(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

132. In any regional arrangement or access agreement entered into pursuant to sections 130 and 131, the Minister shall take into account matters relating to the implementation of the Fisheries Management and Development Plan approved by Cabinet pursuant to section 113(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

133. (1) The Minister may, in consultation with the Unit, subject to section 60(4) of the Virgin Islands Constitution Order 2007, 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 and such matters shall be reported to Cabinet before the agreement is entered into and within two weeks after the agreement is entered into.

(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 administrative 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 administrative fee for access to and reproduction of such data.

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

(6) 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

134. (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

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

(2) A person who intends to undertake marine scientific research in the fishery waters shall prepare and submit a marine scientific research proposal to the Chief Technical Officer.

(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 the Minister, 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 administrative 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 signs a written agreement 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.

(7) The Minister 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 155; or
- (c) contains, in its proposal, information which is inaccurate.

(8) The Minister 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 Minister 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 Minister 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 Minister 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

136. (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 Minister 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 Minister 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

137. (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 made to the Managing Director of the Authority in such form and containing such information as may be prescribed.

(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 and the environment, 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

138. (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 152(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

139. (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 Managing Director of 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

140. A person who is granted a licence under section 139 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.

Power to suspend or revoke a licence

141. (1) The Managing Director of the Authority may suspend or revoke a licence under section 139 if

- (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 thereof and affording the licence holder an opportunity to make representations to him or her.

Test fishing operations licence

142. (1) The Managing Director of the Authority, may

- (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

Offences - straying of livestock

143. (1) Where the owner of an animal that is not livestock, causes or allows that animal to stray in a public place, or trespass on the private land of any person, an administrative penalty as may be prescribed by regulations may be imposed on the owner of the animal with respect to the contravention and he or she may pay such compensation in respect of any injury, loss or damage arising, as a Magistrate may order.

(2) Where the owner of an animal that is livestock, causes or allows that animal to stray in a public place, or trespass on the private land of any person, an administrative penalty as may be prescribed by regulations may be imposed on the owner of the animal with respect to the contravention, and he or she may pay such compensation in respect of any injury, loss or damage arising from the offence as a Magistrate may order.

Offences - against authorised officers, offering bribe or inducement and knowingly introducing pest or disease

144. (1) Where a person

- (a) insults, hinders, assaults or otherwise prevents, or obstructs an authorised officer 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,

an administrative penalty as may be prescribed by regulations may be imposed on such a person with respect to the contravention.

(2) Where a person fails to comply with a notice issued to him or her by an authorised officer under this Act, an administrative penalty as may be prescribed by regulations may be imposed on such person with respect to the contravention.

(3) A person who, with intent to deceive an authorised officer, makes any statement or representation to the authorised officer 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) Where a person defaces or destroys any advertisement posted under this Act at a pound, an administrative penalty as may be prescribed by regulations may be imposed on such a person with respect to the contravention.

(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, in collaboration with the Chief Environmental Health Officer 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

145. (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) abandons an animal;
- (c) 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;
- (d) 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;
- (e) shall wilfully 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;
- (f) 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
- (g) 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;
- (h) leaves an animal on premises and 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 failed to exercise reasonable care and supervision in respect of the protection of the animal from cruelty.

(3) 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

146. (1) Where the owner of an animal is convicted of an offence of cruelty, and the Court is satisfied that it would be cruel to keep the animal alive, the Court may direct that the animal be destroyed and 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

147. (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.

(2) No order shall be made under this section unless there is 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.

(3) Where a person is suspended from owning an animal under subsection (1)(b) and is caught with an animal during the period of suspension, an administrative penalty as may be prescribed by regulations may be imposed on the person with respect to the contravention.

Detention of animals

148. (1) Where any person has been convicted of an offence of cruelty under section 145, the Court may order that any animal in respect of which the offence is committed

- (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.

Diseased or injured animals

149. (1) The Chief Veterinary Officer or any veterinary practitioner who has satisfied himself or herself by personal inspection

- (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.

(2) Where an animal referred to in subsection (1) 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 of the animal (if any) has been informed of the state of the animal.

(3) The expenses in connection with the removal, burial or incineration of the carcase 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.

Power of police officers

150. (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 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

151. 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.

Offences-prohibited fishing methods

152. (1) No person shall

- (a) use any self-contained underwater breathing apparatus (SCUBA) diving equipment, explosive, poison or other noxious substance for fishing in the fishery waters;
- (b) import sell or use any speargun without a licence issued by the Authority;
- (c) wilfully damage or destroy any commercial fishing gear, fishing vessel, fish landing site or mooring buoy.

(2) Any 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).

Offences relating to certificate of registration and licences

153. Where a local fishing vessel or foreign fishing vessel is used in the fishery waters in contravention of section 118 or 126, the master, owner and charterer of the vessel concerned each commits an offence and

- (a) in the case of a local fishing vessel, is liable on summary conviction to a fine not exceeding ten thousand dollars; and
- (b) in the case of a foreign fishing vessel, is liable on summary conviction to a fine not exceeding one hundred thousand dollars.

Non-compliance with section 116

154. 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 116, an administrative penalty as may be prescribed by regulations may be imposed on such vendor or purchaser, with respect to the contravention.

Other offences relating to fishing permits and licences

155. (1) A person commits an offence if

- (a) he or she undertakes marine scientific research without a permit granted under section 135(5);
- (b) he or she operates an aquaculture establishment without a licence issued under section 137(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.

Failure to comply with conditions

156. (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

157. (1) A person commits an offence if, after the suspension of any certificate, permit, or licence issued under this 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

158. 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.

Using prohibited method of fishing

159. A person who

- (a) uses any speargun self-contained underwater breathing apparatus (SCUBA) diving equipment, explosive, poison or other noxious substance in contravention of section 152(1); or
- (b) lands or knowingly sells or receives any fish in contravention of section 152(3),

commits an offence and is liable on summary conviction to a fine not exceeding fifteen thousand dollars.

Using wrong fishing gear for fishing

160. 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, collector or other fishing gear which does not conform to any standards prescribed for that type of trap, collector 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.

Liability of master of vessel

161. 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.

Release of vessel, etc. on bond

162. (1) Where any vessel is used in the commission of an offence under this Act, 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.

(2) Where a person is convicted of an offence under sections 153 to 161, 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 Authority; and

(b) shall order that any fish caught in the commission of the offence or the proceeds of sale of the fish, and any speargun, 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 Authority.

(3) Anything that is ordered to be forfeited under subsection (2) shall be disposed of in such manner as the Managing Director may direct.

Presumptions

163. (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

164. (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

165. 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

166. (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

167. (1) Subject to subsection (4), the Managing Director or authorised officer 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 or authorised officer 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 or authorised officer 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

168. 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

169. 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

170. 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

171. 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

172. (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

173. (1) 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 Appeals Tribunal.

PART XII

MISCELLANEOUS

Amendment of Schedules

174. The Minister may amend the Schedules to the Act, by Order published in the *Gazette*.

Regulations

175. (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) for the constitution and procedures of the Appeals Tribunal;
- (c) prescribing standards, guidelines and operations procedures for the management of any foods or livestock;
- (d) prescribing the procedures, standards and guidelines for microchipping of animals;
- (e) prescribing the fees payable under this Act;
- (f) providing guidelines for service animals;
- (g) 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 including slaughtering of animals for personal consumptions;
 - (vi) matters relating to animals (importation and diseases) animal and plant protection;
 - (vii) matters relating to fisheries including fishing from the shore, land and spear fishing; and
 - (viii) matters relating to the management and disposal of animal waste in order to prevent public nuisance; and
- (h) establishing rules for the handling, transportation and storage of food, fish and animals products;
- (i) attaching additional conditions to licences or permits issued under this Act;
- (j) providing for an administrative penalty regime for the purpose of this Act;
- (k) prescribing any other matter which may be prescribed under this Act.

(3) Regulations made under this section shall be subject to an affirmative resolution of the House of Assembly.

Repeals and savings

176. (1) The following are hereby repealed:

- (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 repeals under subsection (1),
- (a) all subsidiary legislation made under the repealed Acts and in force immediately prior to the coming into operation of this Act shall, in so far as it is not inconsistent with the provisions of this Act, continue in force as if made under this Act;
 - (b) any existing licences granted or anything done under a provision of the repealed Acts shall continue to be of effect until revoked or expired; and
 - (c) anything done under a provision of the repealed Acts, and that could have been done under this Act is deemed to have been done under this Act.

SCHEDULE 1

[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 2

[Section 63(1)(c)]

LIST OF REPORTABLE DISEASES AND PESTS

Avian diseases

Avian chlamydiosis
Avian infectious bronchitis
Avian infectious laryngotracheitis
Avian mycoplasmosis (*M. gallisepticum*)
Avian tuberculosis
Chronic respiratory disease
Duck virus enteritis
Duck virus hepatitis
Fowl cholera
Fowl pox
Fowl typhoid
Highly pathogenic avian influenza
Infectious bursal disease (Gumboro disease)
Infectious laryngotracheitis
Leucosis
Marek's disease
Newcastle disease
Psittacosis Ornithosis
Pullorum disease

Bee diseases

Acariosis of bees
American foulbrood
European foulbrood
Nosemosis of bees
Varroosis

Cattle diseases

Bovine anaplasmosis
Bovine babesiosis
Bovine brucellosis
Bovine cysticercosis
Bovine genital campylobacteriosis
Bovine spongiform encephalopathy
Bovine tuberculosis
Bovine viral diarrhea
Contagious bovine pleuropneumonia
Dermatophilosis
Enzootic bovine leucosis
Haemorrhagic septicemia

Infectious bovine rhinotracheitis/infectious pustular vulvovaginitis
Leucosis
Lumpy skin disease
Malignant catarrhal fever
Rinderpest
Theileriosis
Trichomonosis
Trypanosomosis (tsetse-transmitted)

Crustaceans diseases

Taura syndrome
White spot disease
Yellowhead disease

Equine diseases

African horse sickness
Contagious equine metritis
Dourine
Epizootic lymphangitis
Equine encephalomyelitis (Eastern and Western)
Equine infectious anaemia
Equine influenza
Equine piroplasmosis
Equine rhinopneumonitis
Equine viral arteritis
Glanders
Horse mange
Horse pox
Japanese encephalitis
Mal de Caderas
Surra (*Trypanosoma evansi*)
Venezuelan equine encephalomyelitis

Feline diseases

Bubonic plague

Fish diseases

Epizootic haematopoietic necrosis
Infectious haematopoietic necrosis
Oncorhynchus masou virus disease
Spring viremia of carp
Viral haemorrhagic septicaemia

Lagomorph diseases

Bubonic plague
Myxomatosis
Rabbit haemorrhagic disease

Tularemia

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*)

Multiple species diseases

Anthrax

Aujeszky's disease

Bluetongue

Canine Parvo Virus

Echinococcosis/hydatidosis

Feline Leukemia Virus

Foot and mouth disease

Heartwater

Leishmaniosis

Leptospirosis

Mange ovine (commonly called sheep scabies)

New world screwworm (*Cochliomyia hominivorax*)

Old world screwworm (*Chrysomya bezziana*)

Paratuberculosis

Peste des petits ruminants

Q fever

Rabies

Rift Valley fever

Sarcoptic Mange in Horses (Scabies)

Scabies

Shigellosis

Trichinellosis

Trypanosom vivax infection

Tuberculosis

Vesicular stomatitis

yellow fever

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 erysipelas
Swine fever (Commonly called hog cholera)
Swine vesicular disease
Transmissible gastroenteritis
Vesicular Exanthema

SCHEDULE 3

[Section 63(1)(d)]

LIST OF REPORTABLE PESTS

Group	Species	Common Name
Arachnida	Amblyomma cajennense	Cayenne tick
	Raoiella indica	Red palm mite
	Varroa destructor	Varroa mite
Bird	Anas platyrhynchos	Mallard
	Aratinga erythrogenys	Red-masked conure
	Myiopsitta monachus	Monk parakeet
	Psittacula eupatria	Alexandrine parakeet
	Psittacula krameri	Rose-ringed parakeet
	Sturnus vulgaris	Common starling
Blattodea	Coptotermes formosanus	Formosan subterranean termite
	Coptotermes gestroi	Asian subterranean termite
Coleoptera	Myloccerus undecimpustulatus	Sri Lankan weevil
Diptera	Aedes albopictus	Asian tiger mosquito
	Anopheles gambiae	Mosquito
Hemiptera	Diaphorina citri	Asiatic citrus psyllid
Hymenoptera	Solenopsis richteri	Imported Fire Ant
Mammal	Chlorocebus pygerythrus	Vervet monkey
	Dasyprocta punctate	Central American agouti
	Oryctolagus cuniculus	Rabbit
Marine	Amphibalanus reticulus	Barnacle
	Magallana giga	Pacific Oyster
	Perna viridis	Asian green mussel
	Pterois miles	Devil firefish (lionfish)
Mollusc	Lissachantina fulica	Giant African land snail
Plant	Colubrina asiatica	Asian snakewood
	Gloriosa superba	Glory lily
	Mimosa pigra	Cat's claw mimosa
	Neyraudia reynaudiana	Burma reed

	Prosopis juliflora	Mesquite
	Syzygium cumini	Java plum
Reptile	Anolis equestris	Knight anole

Passed by the House of Assembly this 19th day of April, 2022.

(Sgd.) Corine N. George-Massicote,
Speaker.

(Sgd.) Phyllis Evans,
Clerk of the House of Assembly.