CRFM / CARICOM

MODEL

AQUATIC ANIMAL HEALTH ACT

AQUATIC ANIMAL HEALTH ACT

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A BILL

ENTITLED

AN ACT to safeguard aquatic animal health; to control the movement of aquatic animals, aquatic animal products and aquatic animal-related items into and within [*insert name of country*] in order to prevent the introduction and spread of notifiable diseases of aquatic animals within [*insert name of country*] and other countries[1]; to establish standards for aquatic animal welfare in [*insert name of country*]; to provide for collaboration among Government Ministries and departments and regional and international organisations in the provision of veterinary public health; and for incidental matters.

BE IT ENACTED by [ ], by and with the advice and consent of [ ], and by the authority of the same as follows:-

PART I

PRELIMINARY

1. Short title and commencement

(1) This Act may be cited as the Aquatic Animal Health Act 20[ ].

(2) This Act shall come into force on [*insert date*].

2. Interpretation

In this Act, unless the context otherwise requires –

[1] The Revised Treaty of Chaguaramas mandates a regional SPS framework. Article 57 of the Revised Treaty refers to the implementation of the Caribbean Community Agriculture Policy for achieving the goals as set out in Article 56 in order to support, among other objectives, the establishment of an effective regime of sanitary and phytosanitary measures. Other parts of the Revised Treaty also elaborate the framework for regional SPS. Particularly relevant are provisions set out in Chapter 5 on 'Community Trade Policy', Chapter 7 on 'disadvantaged countries, regions and sectors and Chapter 8 on 'competition policy and consumer protection'. Fisheries exports are an integral part of Community Trade Policy. Among the objectives of Community Trade Policy are the active promotion of export of internationally competitive goods and services originating within the Community, the establishment of common instruments, common services and the joint regulation, operation and efficient administration of the internal and external commerce of the CSME. Trade in fisheries products is also a component of the Caribbean Single Market and Economy (CSME), and the harmonization of SPS measures across CARICOM countries is one area where significant implementation deficits exist. Further, the model is designed to implement key international standards such as the Codex Code of Practice for Fish and Fisheries Products (2nd edition, 2012), the World Organisation for Animal Health Aquatic Animal Health Code (19th edition, as updated at the 84th General Session in May 2016) and the World Trade Agreement on the Application of Sanitary and Phytosanitary Measures.

"aquaculture" means the rearing, keeping or cultivating of aquatic organisms using techniques designed to increase the production of the organisms beyond the natural capacity of the environment and where the organisms remain on the property of one or more persons throughout the rearing or culture stages, up to and including harvesting;

"aquaculture establishment" means an aquaculture production business or a processing establishment;

"aquaculture production business" means an undertaking, whether for profit or not and whether public or private, carrying out any of the activities related to the rearing, keeping or cultivating of aquatic animals and aquatic flora;

"aquatic animal" means all life stages, including eggs and gametes, of fish, molluscs, crustaceans, amphibians and echinoderms originating from aquaculture establishments or removed from the wild for farming purposes, release into the environment, human consumption or ornamental purposes;

"aquatic animal product" means an aquatic animal, [aquatic plant or algae] or a product derived from an aquatic animal, [aquatic plant or algae];[2]

"aquatic animal-related item" includes –

(a) an aquatic animal carcass, genetic material, parts, feed or litter;

(b) a package, container, equipment or other appliances used on aquatic animals; or

(c) objects or material capable of spreading a notifiable disease of aquatic animals;

"buffer zone" means an eradication area or part of an eradication area declared to be a buffer zone under section 31 (6);

[2] In accordance with Member States' decision at the technical senior officials level, the definition of "aquatic animal product" is elaborated to include a broader category of living aquatic resources, and more specifically to capture aquatic plants and algae, aquatic animals, and products derived from the range of living aquatic resources that would be covered.

"CARICOM Member State" means a State or a territory –

(a) listed in Article 3 of the Revised Treaty; or

(b) which accedes to the Revised Treaty;

"commercial" in relation to an aquaculture establishment, installation, aquarium or other facility means an aquaculture establishment, an installation, aquarium or other facility in which aquatic animals are kept with the intention of placing the aquatic animals on the market;

"compartment" means one or more aquaculture establishments under a common biosecurity management system containing an aquatic animal population with a distinct health status with respect to a specific disease or diseases for which required surveillance and control measures are applied and basic biosecurity conditions are met;

"containment zone" means an eradication area or part of an eradication area declared to be a containment zone under section 31 (1);

"designated quarantine station" means a quarantine station designated by the Minister under section 76(1);

"emergency control notice" means a notice served pursuant to section 90;

"eradication area" means [every land area and the territorial sea and contiguous zone of [*insert name of country*]] [the provinces, territories and area specified in Schedule [ ]] taken together;[3]

"farm" –

(a) means any premises, enclosed area, or installation operated by an aquaculture production business in which aquatic animals are reared with a view to them being placed on the market; but

[3] An enacting Member State has the discretion to determine, between the two options, the manner in which an eradication area will be defined for the Member State;

(b) does not include any premises, enclosed area or installation where wild aquatic animals harvested or caught for the purpose of human consumption are temporarily kept, without being fed, awaiting slaughter;

"farming area" means a production area or relaying area in which all aquaculture production businesses operate under a common biosecurity system;

"fisheries waters" means all waters in the exclusive economic zone and territorial sea of [*insert name of country*];

"fishing vessel" means a fishing vessel which falls within a category of fishing vessel determined by the Minister, having regard to the types of information set out in Schedule 1 to the [*Aquatic Food Safety Regulations*];

"food business" –

(a) means a business –

(i) [whose operator is licensed under section 35(1) of the IICA/CARICOM *Food Safety Act*][4]; and

(ii) where food is produced, manufactured, prepared, treated, processed, packed, packaged, transported, handled, served, stored or sold, whether for profit or not; or

(b) a licensed fishing vessel, licensed pursuant to [regulation 8(2) of the [CRFM / CARICOM *Aquatic Food Safety Regulations*][5];

"food business operator" means a person granted a licence under [section 35(1) of the IICA/CARICOM Food Safety Act] to operate a food business;

[4] Where references are made throughout this Bill to sections of the CARICOM Model Food Safety Act Member States will insert the reference to their national legislation which is equivalent to the substance of the referenced provision of the CARICOM Model Food Safety Act.

[5] Where references are made throughout this Bill to regulations in the CRFM / CARICOM Aquatic Food Safety Regulations Member States will insert the reference to their national legislation which is equivalent to the substance of the referenced provision of the CRFM / CARICOM Aquatic Food Safety Regulations.

"Food Safety Authority" means the Food Safety Authority established under [section 4 of the *Food Safety Act*][6];

["Food Safety Service"][7] means the entity established under [section 8 of the *Food Safety Act*], to implement policies and directives issued under that Act with respect to the manufacture, processing, distribution, sale, import and export of food so as to ensure that food complies with food safety standards and requirements;

"free compartment" means a compartment that fulfils the requirements for self-declaration of freedom from disease with respect to the disease under consideration in accordance with the World Organisation for Animal Health -Aquatic Animal Health Code;

"free zone" means an eradication area or part of an eradication area declared to be a free zone under section 31 (4);

"health certificate" means a document issued by the Chief Veterinary Officer pursuant to [section of [*insert name of enactment*]][8] certifying that the aquatic animal, aquatic animal product or aquatic animal-related item identified in the document has been inspected and is found to satisfy the animal health and public health requirements;

"import permit" means a document issued by the Chief Veterinary Officer under section 63 (3) authorising the importation into [*insert name of country*] of an aquatic animal, aquatic product or aquatic animal-related item;

"infected zone" means a provisional infected zone that is declared to be an infected zone under section 36 (2);

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[6] The definition refers to the approved CARICOM model Bill entitled the *Food Safety Act*. The enacting Member State will insert the appropriate reference based on the name of the relevant enactment in the Member State.

[7] Where a Member State already has an entity that is responsible for performing the functions set out in the definition, the name of that entity should be used in the Member State's legislation instead of the term "Food Safety Service".

[8] Each Member State is to insert the section reference for the enactment under which the health certificate is currently issued.

"inspector" means a veterinary inspector appointed under section 11;

"international veterinary certificate" means a health certificate for international trade in aquatic animals, aquatic animal products or aquatic animal-related items which describes the animal health and public health requirements that are fulfilled by the aquatic animal, aquatic product or aquatic animal-related item that is identified in the certificate;

"licensed fishing vessel" means a fishing vessel licensed pursuant to [regulation 8(2) of the [Aquatic Food Safety Regulations]];[9]

"listed disease" means -

(a) a notifiable disease of aquatic animals declared by the Minister under section 27 (2); or
(b) a listed disease specified in Schedule 6;

"Minister" means the Minister responsible for fisheries and aquaculture;

"NAAHO" means the National Aquatic Animal Health Organisation established under section 4;

"non-commercial" in relation to an aquaculture establishment, installation, aquarium or other facility means an installation, aquarium or other facility that is not commercial;

"notice" means notice in writing;

"notifiable animal disease" means [*insert the definition set out in enacting Member State's Animal Health Act*]

[9] This model Bill and the model Aquatic Food Safety Regulations are complementary legislative instruments. They are expected to be elements of the same regulatory framework. Where reference is made to the model Aquatic Food Safety Regulations, Member States will insert the reference to their respective relevant their national legislation which is equivalent to the substance of the referenced provision of the model Aquatic Food Safety Regulations.

"notifiable disease of aquatic animals" means a disease so declared by the Minister under section 27(2);

"official laboratory" means a laboratory designated as an official laboratory under section 8;

"ornamental aquatic animal" means a species of aquatic animal that is reared or marketed for its beauty or exotic characteristics, rather than for human consumption or recreational use;

"outbreak" means an occurrence of cases of disease in excess of what would normally be expected in a defined community, geographical area or season;

"premises" includes a –

(a) piece of land or a place;
(b) vehicle, vessel or other means of transport; or
(c) installation, container or receptacle;

"process", in relation to a food business –

(a) means to heat, smoke, salt, marinate, dehydrate, chill, fillet, slice, skin, mince, or any combinations thereof or to apply any other physical or chemical treatment to an aquatic animal, aquatic animal product or by-product; but
(b) does not include post-harvest handling;

"processing establishment" means –

(a) a food business; or
(b) an aquaculture establishment which mechanically or chemically manipulates aquatic animals for disease control purposes under Part IV;

"production area" means an area in which an aquaculture production business operates;

"provisional free zone" means an eradication area, or part of an eradication area, that is declared to be a provisional free zone under section 31 (8);

"provisional infected zone" means an eradication area, part of an eradication area or a premises declared to be a provisional infected zone under section 32 (1):

"reference laboratory" means a laboratory designated as a reference laboratory under section 9;

"restocking" means the release of aquatic animals into the wild;

"Revised Treaty" means the Revised Treaty of Chaguaramas establishing the Caribbean Community including the CARICOM Single Market and Economy done at Nassau, The Bahamas, 2001;

"veterinarian" means an official veterinarian appointed under section 10 and includes an aquatic animal health professional, so authorised by the Chief Veterinary Officer[10];

"writing" means a worded or numbered expression that can be read, reproduced, and later communicated, and includes electronically transmitted and stored information; and

"zone" means an eradication area, part of an eradication area or a premises.

3. Application

(1) This Act applies to all aquatic animals except an –

(a) ornamental aquatic animal reared in a non-commercial aquarium;
(b) aquatic animal harvested or caught from the wild for the purpose of direct entry into the food chain, subject to subsection (2); and

[10] If the enacting country already provides for the appointment of official veterinarians under another enactment, the definition is to be adjusted to make reference to the other enactment.

(c) aquatic animal caught for the purpose of the production of fishmeal, fish feed, fish oil or a similar product.

(2) Notwithstanding subsection (1)(b), this Act applies to an aquatic animal which is harvested or caught from the wild for the purpose of direct entry into the food chain, is susceptible to a listed disease or is a vector for that disease and is introduced into [*insert name of country*] for further processing before human consumption.

PART II
ADMINISTRATION

4. Establishment and functions of the National Aquatic Animal Health Organisation

(1) There is hereby established the National Aquatic Animal Health Organisation which shall have primary responsibility for the administration of this Act.

(2) The Minister shall, by Order published in the Gazette, designate a Government unit, department or office for which the Minister is responsible to serve as the NAAHO.

(3) Without limiting the generality of subsection (1), the functions of the NAAHO shall be to—

(a) establish and keep under review, in the prescribed manner, programmes and measures to prevent the introduction or establishment and spread of notifiable diseases of aquatic animals within [*insert name of country*];

(b) develop and keep an up-to-date list of notifiable diseases of aquatic animals for [*insert name of country*];

(c) develop and execute sanitary and phytosanitary inspection and certification programmes;

(d) carry out surveillance and detection activities and maintain up-to-date information on the aquatic animal health status of [*insert name of country*];

(e) in collaboration with the Food Safety Authority, regulate and conduct –

(i) inspections in slaughterhouses;

(ii) ante-mortem inspection of aquatic animals to be slaughtered for food; and

(iii) post-mortem inspection of slaughtered aquatic animals;

(f) develop health diagnostic and analytical capabilities;

(g) distribute information regarding notifiable diseases of aquatic animals and the means for their prevention and control;

(h) conduct the inspection and certification of aquatic animals, aquatic animal products and aquatic animal-related items routinely;

(i) issue certificates relating to the health of an aquatic animal or to a period of quarantine of an aquatic animal in [*insert name of country*] containing information required by a country importing aquatic animals, aquatic animal products, or aquatic animal-related items from [*insert name of country*];

(j) establish, monitor and evaluate, in the prescribed form and manner, sanitary measures –

(i) in free zones, free compartments, infected zones, containment zones and areas of low prevalence for notifiable diseases of aquatic animals; and

(ii) in response to a declaration of a notifiable disease of aquatic animals emergency made under section 41 (3);

(k) develop a system of health requirements and controls for aquatic animals and aquatic animal products produced, distributed and sold in [*insert name of country*], including but not limited to border controls, domestic controls and controls among CARICOM Member States;

(l) oversee the training and development of inspectors;

(m) set up early warning systems and undertake emergency action for diseases, pathogens and toxic substances;

(n) establish, monitor, carry out, coordinate and evaluate, in the prescribed form and manner, detection, surveillance and monitoring programs relating to aquatic animal health and epidemiological matters;

(o) develop and implement systems for aquatic animal identification and aquatic animal traceability;

(p) notify the World Organisation for Animal Health of outbreaks of notifiable diseases of aquatic animals and comply with regional and other international reporting requirements;

(q) provide information regarding import and export regulations in force, and technical requirements for aquatic animals, and aquatic animal-related items, on request from an interested domestic, regional or international organization, or country, and comply with reporting requirements;

(r) inform and collaborate with the Ministry responsible for health, and any other agency that the Chief Veterinary Officer may determine, on any actions to be taken to manage risks to human health arising from an aquatic animal disease, toxic substance or other hazard;

(s) carry out risk analyses;

(t) evaluate sanitary measures taken by trading partners;

(u) where appropriate, recommend to the Minister the imposition of quarantines;

(v) participate in the work of the World Organisation for Animal Health and its subsidiary bodies, and other international, non-governmental and regional entities;

(w) establish, in the prescribed form and manner, guidelines for the welfare of aquatic animals based on World Organisation for Animal Health standards;

(x) coordinate with the Ministry responsible for health to establish guidelines for the authorization and use of veterinary medicinal products;

(y) regulate the importation and manufacture of aquatic animal feed and aquatic animal feed ingredients;

(z) where appropriate, authorise the importation and manufacture of veterinary medicinal products and, in collaboration with the Ministry responsible for health, monitor their distribution and use;

(aa) establish, in the prescribed form and manner, health and hygiene measures for aquatic animal markets and other significant aquatic animal gatherings;

(bb) establish, in the prescribed form and manner, measures for the regulation of aquatic animal reproduction; and

(cc) establish, in the prescribed form and manner, measures for the regulation of the collection, processing and disposal of aquatic animal products.

5. Advisory Committee

(1) There is hereby established an Advisory Committee.

(2) Schedule 1[11] -

(a) shall have effect as to the constitution of the Advisory Committee; and

(b) may be amended by the Minister by Regulations.

(3) The functions of the Advisory Committee shall include -

(a) advising the NAAHO on general policy relating to the export of aquatic animals and aquatic animal products;

(b) identifying necessary areas of research which it considers relevant for the implementation of this Act, and seeking the means to facilitate such research;

(c) preparing and submitting to the NAAHO annual reports regarding the export and import of aquatic animals and aquatic animal products;

(d) performing such other functions pertaining to the export of aquatic animals and aquatic animal products as may be assigned to it from time to time by the Minister; and

(e) liaising and cooperating with other advisory bodies concerned with food safety and agricultural health in order to coordinate the regulation of food safety and agricultural health in relation to aquatic animals and aquatic animal products.

[11] Member States have the discretion, at the national level, to include the provisions set out in Schedule 1 among the substantive provisions of their national legislation.

(4) The Advisory Committee may make recommendations to the Chief Veterinary Officer, appointed under [section 6] [*insert reference to section of enactment under which Chief Veterinary Officer is appointed*][12] –

(a) in respect of Regulations that may be required to implement this Act;

(b) in respect of the development, adoption or implementation of codes of practice, standards or protocols relating the health and hygiene of aquatic animals, aquatic animal products and aquatic animal-related items;

(c) that relate to the export and import of aquatic animals, aquatic animal products and aquatic animal-related items.

6. Chief Veterinary Officer[13]

(1) The [Minister] shall appoint a Chief Veterinary Officer for the purposes of this Act, who shall be responsible for –

(a) the day-to-day administration of the NAAHO, including the efficient discharge of its functions in accordance with this Act;

(b) registering, or registering subject to specified conditions, aquaculture establishments in relation to which he receives applications made under section 17 and refusing to grant registration certificates;

(c) except where otherwise provided, issuing licences, certificates and permits required under this Act

(d) informing and collaborating with the Ministry responsible for health, and any other Ministry or agency that the Chief Veterinary Officer may determine, on any actions to be taken to manage risks to human health arising from a notifiable disease of aquatic animals, toxic substance or other hazard; and

(d) making recommendations to the Minister and advising him in accordance with this Act.

[12] The Chief Veterinary Officer may be appointed under other legislation already in effect in the enacting Member State. Where the appointment is made under another enactment, a reference to the section of the other enactment should be inserted instead of the words "section 6".

[13] The Chief Veterinary Officer (CVO) may be appointed under other legislation already in effect in the enacting Member States. As this is a model, the appointment of the CVO is included in this clause for completeness.

[(2) The individual appointed as Chief Veterinary Officer shall –

(a) be eligible for full registration as a veterinary practitioner under [*insert name of Act under which veterinary practitioners are registered*]; and

(b) possess demonstrated ability in, and knowledge of, veterinary public health and emergency preparedness, aquatic animal health and other professional experience as determined by [the Minister], such as in agriculture, food security and disaster medicine.] [14]

(3) The Chief Veterinary Officer shall avoid acts which may give rise to a conflict between his private interests and his duties and responsibilities under this Act, or in which his private interests could improperly influence the performance of his duties and responsibilities under this Act.

(4) If the Chief Veterinary Officer has an actual or reasonably perceived personal interest in a matter falling within the purview of the NAAHO he shall notify the Minister of such interest in the prescribed form.

(5) If the Chief Veterinary Officer fails to comply with subsection (4) he commits an offence and is liable on summary conviction to a fine not exceeding [ ], and any interest or benefit acquired as a result of such conflict of interest shall be forfeited.

7. Delegation of functions of the NAAHO

(1) Subject to subsections (2) and (3), the Chief Veterinary Officer may, by agreement in writing between the Chief Veterinary Officer and a veterinarian or an inspector, delegate any of the functions of the NAAHO under this Act to the veterinarian or inspector.

(2) An agreement made under subsection (1) shall set out the terms and conditions of the delegation, including -

[14] As this is a model Bill and recognising that Member States are likely to have appointed their respective Chief Veterinary Officers under pre-existing legislation, the decision was taken not set out the qualifications of the Chief Veterinary Officer in the model Aquatic Animal Health Bill. The focus of subclause (1) is to set out the responsibilities of the Chief Veterinary Officer in respect of aquatic animal health. The question of qualifications to be possessed by the Chief Veterinary Officer is one of national policy. Subclause (2) is placed in square brackets to indicate that Member States are to make the determination at the national level but may consider using the qualifications set out in subclause (2).

(a) the scope of the delegated function to be performed including the duration and the geographic area to be covered by such functions;
(b) remuneration arrangements;
(c) the means of supervision by the Chief Veterinary Officer; and
(d) the conditions of withdrawals of the delegation.

(3) The Chief Veterinary Officer shall not delegate -

(a) his official liaison duties with other Ministries, or foreign authorities or notification responsibilities;
(b) the power to approve standards, requirements, rules or sanitary measures;
(c) the power to issue import permits;
(d) the functions specified in paragraphs (a), (b), (c), (d), (f), (g), (j), (k), (l), (m), (n), (p), (r), (s), (x), (y) or (z) of section 4 (3); and
(e) other functions as may be prescribed.

8. Designation of official laboratories

(1) The Minister may by Order published in the Gazette, on the recommendation of the Chief Veterinary Officer, designate a diagnostic, research or other laboratory as an official laboratory for the purpose of conducting specified or prescribed laboratory tests required to be done under this Act.

(2) An Order under subsection (1) may –
(a) specify the tests or testing procedures which may be performed by an official laboratory under this Act; and
(b) include the terms and conditions upon which the designation is made and set out the grounds upon which the Minister may suspend or revoke the designation.

(3) The Minister may prescribe standards and criteria for the designation of official laboratories under this Act including compliance standards of impartiality and independence.

9. Designation of reference laboratories

(1) The Minister may by Order published in the Gazette, on the recommendation of the Chief Veterinary Officer, designate a diagnostic, research or other laboratory as a reference laboratory as may be necessary for the purposes of this Act.

(2) An Order under subsection (1) may –

(a) specify the tests or testing procedures which may be performed by a reference laboratory under this Act; and

(b) include the terms and conditions upon which the designation is made and set out the grounds on which the Minister may suspend or revoke the designation.

(3) A reference laboratory shall –

(a) in the case of conflicting results or contested results, be used for comparative testing and shall ensure an appropriate follow-up of such comparative testing;

(b) disseminate to official laboratories information relating to testing procedures in relation to aquatic animal health;

(c) provide scientific and technical assistance to the NAAHO for the implementation of this Act; and

(e) carry out such other duties as may be prescribed.

(4) Where a reference laboratory is located outside of [*insert name of country*] the services of the reference laboratory may be procured by such contractual or other means as the Minister thinks fit.

(5) The Minister may prescribe additional standards and criteria for the designation of reference laboratories under this Act including compliance standards of impartiality and independence.

10. Appointment of official veterinarians

(1) The [Minister] shall, on the advice of the Chief Veterinary Officer appoint and employ at such remuneration and on such terms and conditions as the Minister thinks fit, such number of official veterinarians as may be necessary for the purposes of this Act.[15]

(2) The Minister shall, on the advice of the Chief Veterinary Officer, prescribe the qualifications and experience required of official veterinarians.

11. Appointment of inspectors

(1) The Minister shall, on the advice of the Chief Veterinary Officer, appoint and employ at such remuneration and on such terms and conditions as the Minister thinks fit, such number of inspectors as may be necessary for the purposes of this Act.[16]

(2) The Minister shall, on the advice of the Chief Veterinary Officer, prescribe the qualifications and experience required of an inspector.

(3) The Chief Veterinary Officer may exercise the powers conferred on an inspector.

(4) The Minister may, from time to time, appoint as inspectors, for the purposes of this Act, public officers or other persons who, by training and experience, are, in his opinion, qualified to be so appointed.

(5) The appointment of an individual under subsection (4) shall be published in the Gazette.

12. Duties and responsibilities of inspectors

(1) An inspector shall perform the duties assigned by, or on behalf of the Chief Veterinary Officer or delegated by the Chief Veterinary Officer under section 7, and shall perform the duties in accordance with any instructions issued by the Chief Veterinary Officer,

[15] When enacting legislation, Member States are advised to use the language and process ordinarily used in their respective jurisdictions for the appointment public officers, such as appointment by the Public Service Commission.

[16] When enacting legislation, Member States are advised to use the language and process ordinarily used in their respective jurisdictions, such as appointment of inspectors by the Public Service Commission.

and the hierarchical or other system of management determined by the Chief Veterinary Officer to be appropriate, whereby inspectors are entrusted with responsibilities according to rank or other specified basis.

(2) When performing an enforcement function under Part IX, an inspector may -

(a) be accompanied and assisted by one or more police officers or such other persons as may reasonably be required for the performance of that function; or

(b) use aids, including a piece of equipment or a device, subject to compliance with any applicable law regarding the use of such aids.

(3) A person who accompanies and assists an inspector pursuant to subsection (2) (a) is authorised to provide assistance to perform functions in accordance with this Act.

13. Immunity of inspectors and assistants

(1) No action shall be brought against an inspector or a person who accompanies and assists him pursuant to section 12 (2)(a) in respect of anything done or omitted to be done by him in good faith in the execution of his powers and duties under this Act.

(2) Subsection (1) shall not apply to an act or omission arising from negligence or wilful misconduct.

14. Declaration of interests of inspector

(1) An inspector shall avoid acts which may give rise to a conflict between his private interests and his duties and responsibilities under this Act, or in which his private interests could improperly influence the performance of his duties and responsibilities under this Act.

(2) An inspector who has an actual or reasonably perceived personal interest in a matter falling within the purview of the NAAHO shall notify the Chief Veterinary Officer of such interest in the prescribed form.

(3) An inspector who fails to comply with subsection (2) commits an offence and is liable on conviction to a fine of [ ], and any interest or benefit acquired as a result of such conflict of interest shall be forfeited.

(4) Without prejudice to subsection (3), where the Chief Veterinary Office is notified under subsection (2), or otherwise, of the interest of an inspector and such interest appears to the Chief Veterinary Officer to be in conflict with duties or functions of the NAAHO, the Chief Veterinary Officer shall take such consultative or other measures as may be necessary in the circumstances to prevent the occurrence of such conflict, including the making of an appropriate recommendation to the Minister where the circumstances warrant the revocation or suspension of the designation of the inspector.

15. Identification of inspectors

(1) The Chief Veterinary Officer shall issue an identification card to each person appointed as an inspector under this Act.

(2) When performing an enforcement function under this Act, an inspector shall, on demand by a member of the public in relation to whom a request is made or a directive is issued, produce the identification card issued under subsection (1).

PART III
AQUACULTURE ESTABLISHMENTS

16. Requirements to operate aquaculture establishment

(1) No person shall operate, or cause or permit another person to operate, an aquaculture establishment, unless –

(a) the aquaculture establishment is registered in accordance with section 18 and operated in accordance with the conditions of its registration, pursuant to section 19; and

(b) in the case of a processing establishment which is –

(i) a licensed fishing vessel, the licensed fishing vessel is being operated in accordance with the [Aquatic Food Safety Regulations] and any authorisations issued thereunder; or

(ii) a food business, other than a licensed fishing vessel, the processing establishment is operated in accordance with the [IICA/CARICOM Food Safety Act].

(2) Where the Chief Veterinary Officer reasonably suspects that a processing establishment referred to in subsection (1)(b) is not being operated in accordance with the [Food Safety Act or the Aquatic Food Safety Regulations][17], as the case may be, he shall –

(a) notify the Director of Food Safety of his suspicion; and

(b) provide any assistance requested, in writing, by the Director of Food Safety regarding any examinations, monitoring and administrative or legal proceedings under the [Food Safety Act or Aquatic Animal Health Regulations].

17. Application for registration

(1) A person who wishes to register a commercial or non-commercial aquaculture establishment referred to in section 16 (1)(a), shall apply to the Chief Veterinary Officer, in the form set out at Schedule 2[18], for the issue of a Registered Aquaculture Establishment Certificate.

(2) An application made under subsection (1) shall be accompanied by such information or supporting documents as may be prescribed and the inspection and registration fees specified in Schedule 3[19].

(3) When making an application under subsection (1), the burden is on the applicant to prove that the aquaculture establishment is a non-commercial aquaculture establishment,

[17] When drafting legislation modelled on this Bill, a Member State will substitute the names of legislation enacted in the Member State which give effect to the IICA/ CARICOM model Food Safety Bill and CARICOM model Aquatic Food Safety Regulations.
[18] Member States have the discretion to place the information that is captured in Schedule 2 in Regulations.
[19] Member States have the discretion to place the information that is captured in Schedule 3 in Regulations.

otherwise the aquaculture establishment shall be considered to be a commercial aquaculture establishment.

(4) An inspector shall conduct an inspection of the premises indicated in the application and submit the results of the inspection to the Chief Veterinary Officer.

18. Registered aquaculture establishment

(1) Where an application made under section 17 relates to –

(a) a commercial aquaculture establishment, the Chief Veterinary Officer shall register the commercial aquaculture establishment if he is satisfied that–

(i) the premises are fit and proper for such purposes;
(ii) the operation of the aquaculture establishment will not lead to an unacceptable risk of spreading disease;
(iii) the premises have been duly inspected and recommended for registration by an inspector; and
(iv) the applicant has paid the relevant fees specified in Schedule 3; or

(b) a non-commercial aquaculture establishment, the Chief Veterinary Officer shall register the non-commercial aquaculture establishment if he is satisfied that –

(i) the premises are fit and proper for such purposes;
(ii) the premises have been duly inspected and recommended for registration by an inspector; and
(iii) the applicant has paid the relevant fees specified in Schedule 3.

(2) Where the Chief Veterinary Officer registers an aquaculture establishment under subsection (1), he shall assign to it an identification number and issue to the applicant a registration certificate in the form set out in Schedule 4.

(3) A registration certificate issued under subsection (2) shall –

(a) specify the address of the aquaculture establishment to which the certificate relates;
(b) specify the name of the operator;
(c) specify the purpose for which it is granted;
(d) specify the period of its validity;
(e) subject to section 19, specify any condition to which it is subject; and
(f) specify the registration number assigned to the business or establishment.

19. Conditions of registration

(1) Where the Chief Veterinary Officer issues a registration certificate in relation to an aquaculture establishment that operates as a processing establishment, whether commercial or non-commercial, it shall be a condition of the registration that the operator –

(a) keeps a record of the movement of an aquatic animal and an aquatic animal product into and out of the premises of the business;
(b) implements good hygiene practice in the establishment;
(c) complies with a surveillance requirement specified on the registration certificate; and
(d) establishes and maintains a system which enables the operator to demonstrate to the Chief Veterinary Officer that the requirements of paragraphs (a) and (b) are being met.

(2) Where the Chief Veterinary Officer issues a registration certificate in relation to an aquaculture establishment that operates as an aquaculture production business, it shall be a condition of the registration that the operator–

(a) keeps a record of –

(i) the movement of an aquatic animal, aquatic flora and aquatic animal product into and out of the premises of the aquaculture production business;

(ii) the mortality in each epidemiological unit within the premises, as is relevant for the type of production carried on by the aquaculture production business;

(iii) the results of surveillance conducted by the operator of the aquaculture production business in satisfaction of a requirement for surveillance specified on the registration certificate; and

(iv) the results of surveillance carried out by an inspector which has been notified to the aquaculture production business;

(b) implements good hygiene practice in the aquaculture production business;

(c) complies with any surveillance requirements specified by the Chief Veterinary Officer; and

(d) establishes and maintains a system which enables the operator to demonstrate to the Chief Veterinary Officer that the conditions set out in paragraphs (a) to (c) are being met.

(3) The Chief Veterinary Officer may attach to a registration certificate any specific condition as he thinks fit in order to ensure the proper functioning of the aquaculture establishment in accordance with this Act.

20. Validity period of registration certificate

A registration certificate is valid for period of 1 year following its date of issue, unless it is revoked sooner under section 22 or by a court.

21. Refusal to issue a registration certificate

(1) The Chief Veterinary Officer may refuse to issue a registration certificate if –

(a) he is reasonably satisfied the applicant has failed to meet the requirements for registration specified in section 18; or

(b) subject to subsection (3), he is reasonably satisfied that the applicant is not a fit and proper person to hold a registration certificate.

(2) Where the Chief Veterinary Officer refuses to issue a certificate or issues it subject to a condition imposed under section 19(3), he shall notify the applicant in writing of –

(a) the reasons for the refusal or the imposition of the condition; and

(b) the applicant's right to apply to the Chief Veterinary Officer for reconsideration of the decision, pursuant to section 98 and to his right of appeal to [*insert name of Court*] pursuant to section 101.

(3) For the purpose of determining whether an applicant is a fit and proper person to hold a registration certificate, under subsection (1)(b), the Chief Veterinary Officer may, without limitation, take account of the applicant's history of compliance with enactments relating to animal health, fisheries, animal welfare, food safety, agriculture, public health and public safety.

22. Suspension or revocation of registration certificate

(1) The Chief Veterinary Officer may, by notice addressed to a holder of a registration certificate, suspend or revoke the registration certificate if he is reasonably satisfied that –

(a) the holder of the certificate has not complied with, or is not complying with, a condition of the registration or with this Act; or

(b) it is necessary to suspend or revoke the certificate to prevent or limit the risk of the spread of disease.

(2) In addition to the grounds specified in subsection (1), the Chief Veterinary Officer may, by notice addressed to a holder of a registration certificate, revoke the registration certificate if the Chief Veterinary Officer is reasonably satisfied that the aquaculture establishment is no longer operated for the purpose for which the registration certificate was issued or has ceased to operate.

(3) A notice issued under this section shall -

(a) specify reasons for the suspension or revocation;

(b) specify the date on which the suspension or revocation comes into effect;

(c) in the case of suspension, specify the date on which, or the event in relation to which, the suspension ceases to have effect; and

(d) notify the applicant of his right to apply to the Chief Veterinary Officer for reconsideration of the decision, pursuant to section 98 and of the applicant's right of appeal pursuant to section 101.

(4) Where a registration certificate is suspended or revoked, the holder of the registration certificate shall surrender it to the Chief Veterinary Officer within fourteen calendar days of the holder's receipt of the notice, whether or not the suspension or revocation is the subject of reconsideration or appeal.

23. Modification of registration certificate

(1) The Chief Veterinary Officer may on –

(a) his own initiative; or

(b) an application made by an operator of an aquaculture establishment,

modify a registration certificate issued under section 18 and such modification may include the modification of a condition of the registration certificate.

[(2) The Chief Veterinary Officer may modify a registration certificate where –

(a) an operator of an aquaculture establishment notifies the Chief Veterinary Officer of an intention to change the operations of the aquaculture establishment or the management practices of the aquaculture establishment; or

(b) the Chief Veterinary Officer is reasonably satisfied that there is a change in –

(i) a particular referred to in an application submitted under section 17(1); or

(ii) the information, or a supporting document, prescribed under section 17(2).][20]

[20] Member States have discretion, at the national level, to make adjustments to the list of grounds for modification.

(3) Where an operator of an aquaculture establishment wishes the modification of a registration certificate, he shall submit an application to the Chief Veterinary Officer –

(a) in a form to be determined by the Chief Veterinary Officer; and

(b) accompanied by such information as the Chief Veterinary Officer may reasonably require.

(4) Where the Chief Veterinary Officer modifies a registration certificate on his own initiative or denies an operator's application for modification, he shall by notice served on the operator –

(a) in the case of a modification, specify the modification, the date on which it is to take effect and the reasons for the modification; or

(b) in the case of a denial, state his decision to deny the application and the reasons therefor; and

(c) inform the operator of his right to apply to the Chief Veterinary Officer for reconsideration of the decision, pursuant to section 98 and of his right of appeal pursuant to section 101.

24. Surrender of registration certificate

(1) Where an operator of an aquaculture establishment wishes to surrender a registration certificate, he shall submit an application to the Chief Veterinary Officer in a form to be determined by the Chief Veterinary Officer and accompanied by such information as the Chief Veterinary Officer may reasonably require.

(2) Where the Chief Veterinary Officer receives of an application submitted under subsection (1), he shall, in determining whether to approve the application –

(a) consider whether the cessation of the operation to which the registration certificate relates is likely to lead to an unacceptable risk of spreading disease; and

(b) inspect, or arrange to have inspected, the aquaculture establishment and the operation to which the certificate relates.

(3) If the Chief Veterinary Officer is reasonably satisfied that the cessation of operations at an aquaculture establishment to which a registration certificate relates –

(a) is not likely to lead to an unacceptable risk of spreading disease, he shall, subject to subsection (4), approve the application; or

(b) is likely to lead to an unacceptable risk of spreading disease he shall deny the application.

(4) Before approving an application for the surrender of a registration certificate, the Chief Veterinary Officer may, by notice in writing served on an operator who submitted the application, require the operator to conduct such works or do such things as may be specified in the notice.

(5) Where, under subsection (3) (a), the Chief Veterinary Officer approves an application, he shall retrieve the registration certificate and issue to the operator a certificate, in the prescribed form and manner, certifying –

(a) his approval of the surrender of the registration certificate;

(b) his satisfaction that the surrender of the registration certificate is not likely to lead to an unacceptable risk of spreading disease; and

(c) that on the date of issue of a certificate under this subsection the registration certificate shall cease to have effect.

(6) Where, under subsection (3)(b), the Chief Veterinary Officer denies an application for the surrender of a registration certificate, he shall, by notice in writing, inform the operator of the decision, give the reasons for the decision and inform the operator of his right to apply to the Chief Veterinary Officer for reconsideration of the decision, pursuant to section 98 and of the operator's right of appeal pursuant to section 101.

25. Public register of aquaculture establishments

(1) The Chief Veterinary Officer shall establish and maintain a register of aquaculture establishments registered under section 18.

(2) In the case of an aquaculture production business, the register shall contain the information specified in Part I of Schedule 5.

(3) In the case of a processing establishment, the register shall contain the information specified in Part II of Schedule 5.

(4) The Chief Veterinary Officer shall –

(a) make the register available for inspection by the public free of charge at all reasonable times and at such place as may be determined by the Chief Veterinary Officer; and

(b) afford members of the public reasonable facilities for obtaining from the Chief Veterinary Officer, on payment of reasonable charges, a copy of any entry in the register.

(5) To allow for the tracking of disease outbreaks in aquaculture establishments, the Chief Veterinary Officer shall record, in the prescribed form and manner, the name and address of each aquaculture establishment where aquatic animals are raised in captivity.

PART IV
NOTIFIABLE DISEASES OF AQUATIC ANIMALS AND CONTROL

26. Aquatic animal health measures

The NAAHO shall approve aquatic animal health measures and shall take into consideration the following when approving animal health measures -

(a) harmonization with international standards;

(b) risk assessments and science-based measures;

(c) regionalization; and

(d) being least-trade restrictive, necessary and proportional to the risk.

27. Notifiable diseases of aquatic animals

(1) The NAAHO shall –

(a) develop and submit to the Minister a list of notifiable diseases of aquatic animals based on risk analyses; and

(b) regularly update the list of notifiable diseases of aquatic animals and submit the updated list to the Minister.

(2) The Minister shall, by Order, declare the diseases referred to in the list of notifiable diseases of aquatic animals to be notifiable diseases of aquatic animals.

(3) The Minister shall from time to time, by Order, amend the list of notifiable diseases of aquatic animals in accordance with updated lists submitted pursuant to subsection (1) (b).

(4) An Order under subsection (2) or (3) shall be published in a [daily][21] newspaper of general circulation in [*name of country*] for a period of at least [ ].

28. Notifiable disease of aquatic animals surveillance system

The NAAHO shall establish—

(a) a notifiable disease of aquatic animals surveillance system to detect notifiable diseases of aquatic animals or aquatic animal health hazards with the following minimum characteristics -

(i) representative coverage of target aquatic animal populations by field services;

(ii) effective disease investigation and reporting; and

(iii) laboratories capable of diagnosing and differentiating relevant diseases;

(b) training programmes for veterinarians (including veterinarians not appointed under this Act), veterinary para-professionals, and other

[21] In relation to this and all other provisions throughout the Bill that mandate the publication of information in a daily newspaper, Member States may determine the level of frequency of publication depending upon their national newspaper publication arrangements.

persons involved in the handling of aquatic animals for detecting and reporting unusual aquatic animal health incidents; and

(c) a clear chain of command for detection, reporting and response to notifiable diseases of aquatic animals and aquatic animal health hazards.

29. Obligation to notify Chief Veterinary Officer of notifiable disease of aquatic animals

(1) A relevant person who knows or suspects –

(a) the presence of a notifiable disease of aquatic animals in an aquatic animal; or

(b) that an increased mortality has occurred or is occurring in aquatic animals,

shall immediately notify an inspector, veterinarian or the Chief Veterinary Officer of that knowledge or suspicion.

(2) A relevant person who, in circumstances referred to in subsection (1), fails to notify an inspector, veterinarian or the Chief Veterinary Officer commits an offence and shall be liable on summary conviction to a fine of [ ] or to imprisonment for a term not exceeding [ ], or both.

(3) In this section "relevant person" means—

(a) an owner of, or a person attending to, an aquatic animal;

(b) a person accompanying an aquatic animal during transport;

(c) a professional person involved in aquatic animal health services;

(d) a senior member of staff of a laboratory; or

(e) any other person with an occupational relationship to aquatic animals of susceptible species or to the products of such animals.

30. Eradication areas

(1) [Every land area and the territorial sea [and contiguous zone]] [The provinces, territories and areas specified in Schedule X][22] taken together, is established as an eradication area in which –

(a) a fish, mollusc, crustacean or an echinoderm [listed in Schedule Y] may be inspected, segregated and tested for a listed disease; and

(b) disease eradication programmes may be instituted to prevent the spread of such diseases.

(2) A person having possession, care or control of an aquatic animal in an eradication area shall, when requested by an inspector, permit tests for any of the diseases listed in Schedule 6 to be conducted on the aquatic animal.

(3) A person who fails to comply with a request made under subsection (2) commits a summary offence and shall be liable on conviction to a fine of [ ] or to imprisonment for a term not exceeding [ ], or both.[23]

31. Containment zones, buffer zones and free zones

(1) Subject to subsection (2), where a listed disease has been identified in an eradication area, the Minister shall declare the eradication area, or a part of the eradication area, to be a containment zone.

(2) No declaration shall be made under subsection (1) unless the NAAHO has established measures to maintain the status of a containment zone.

(3) The Minister may, by Order published in the Gazette, designate the aquatic animals present in the containment zone as susceptible to a listed disease, unless –

(a) the –

[22] Member States may choose between these options at the national level.
[23] The maximum penalty is to be determined at the national level.

(i) infected aquatic animals and anything that has been exposed to the disease have been treated or disposed of in a manner that satisfies an inspector that the listed disease has been eliminated from the containment zone; and

(ii) epidemiological examination is conducted, the result of which satisfies the inspector that the listed disease has been eradicated from the containment zone; or

(b) the infected aquatic animal or the disease is in a containment facility.

(4) Subject to subsection (5), the Minister may declare an eradication area, or a part of an eradication area, to be a free zone with respect to a listed disease if he is reasonably satisfied that–

(a) the eradication area, or a part of the eradication area, is free of the disease, based on one or more of the following factors –

(i) the amount of time since the disease was last identified in the area;

(ii) the investigation of all suspected outbreaks and a decision by an inspector that the disease is not present;

(iii) the actions taken to eradicate the disease, if it was identified, and the success of those actions, based on the factors set out in subsection (3);

(iv) the disease detection activities are sufficient to detect the presence of the disease;

(v) the measures taken to prevent the introduction of the disease into the eradication area and the ability to enforce those measures;

(vi) the physical barriers to the spread of the disease;

(vii) any other scientific information relevant to the disease; and

(viii) the fact there is a sufficient level of separation between the eradication area or part of the eradication area which is proposed to be declared a free zone and an infected area by a buffer zone; and

(b) disease detection activities sufficient to detect the presence of the disease are maintained while the declaration is in effect.

(5) No declaration shall be made under subsection (4) unless the NAAHO has established measures to maintain the status of a free zone.

(6) Subject to subsection (7), the Minister may declare an eradication area or a part of a declaration area to be a buffer zone for any of the listed diseases specified in Schedule 6 if he is reasonably satisfied that even where the disease has not been detected within the eradication area, or part of the eradication area, that area or part is at risk of becoming infected because of its epidemiological relationship to an infected area.

(7) No declaration shall be made under subsection (6) unless the NAAHO has established measures to maintain the status of a buffer zone.

(8) The Minister may declare an eradication area, or a part of an eradication area, to be a provisionally free zone for any of the listed diseases specified in Schedule 6 if the eradication area or part of the eradication area is not a containment zone, free zone or buffer zone.

(9) A declaration made under this section shall include a description of the eradication area or part the eradication area, the name of the disease the presence of which gave rise to the declaration and the list of the species of aquatic animals and carcasses or parts of carcasses of the aquatic animals that are susceptible to the disease.

32. Provisional infected zones

(1) Where a veterinarian reasonably suspects that a notifiable disease of aquatic animals exists in an eradication area, part of an eradication area or a premises, the veterinarian shall without delay—

(a) declare the eradication area, part of the eradication area or the premises to be a provisional infected zone;

(b) post a provisional infected zone notice in a conspicuous place within the limits of the provisional infected zone, specifying the limits of the

provisional infected zone and indicating the preventative measures to be applied in the provisional zone;

(c) using the most effective and least invasive method, serve the provisional infected zone notice on the owner or occupier of premises in the provisional infected zone that the veterinarian reasonably suspects is affected by a notifiable disease of aquatic animals;

(d) serve a copy of the provisional infected zone notice on any person he considers likely to be affected by the notice; and

(e) issue a copy of the provisional infected zone notice to the NAAHO.

(2) A provisional infected zone notice shall -

(a) be in the prescribed form;

(b) state that the purpose of the notice is to declare a provisional infected zone;

(c) state the date on which it shall come into operation;

(d) specify the location and size of the provisional infected zone; and

(e) specify the nature of the prohibitions, restrictions and requirements applicable within the provisional infected zone or any part of the provisional infected zone.

(3) Without prejudice to anything which may be included in an emergency control notice under section 90, a provisional infected zone notice may –

(a) prohibit or restrict the movement of any equipment, material or substances liable to transmit disease into, out of or within the provisional infected zone or any part thereof; and

(b) impose, in relation to the provisional infected zone or any part thereof, such additional control measures as are considered necessary to prevent or limit the risk of the spread of disease to other animals.

(4) For the purposes of this section, a provisional infected zone notice is considered to be served on the owner or occupier of a premises in the provisional infected zone where the person on whom is it served -

(a) is resident or temporarily present on the premises;

(b) owns, does business with or is otherwise engaged in an aquaculture establishment located on the premises;

(c) is involved in the movement of aquatic animals; or

(d) is a person or class of person specified in the provisional infected zone notice.

(5) Where the NAAHO receives notice of a declaration of a provisional infected zone in relation to any premises, the Chief Veterinary Officer shall designate an inspector to conduct an investigation of the provisional infected zone within the prescribed period.

(6) In the conduct of an investigation referred to in subsection (5), the designated inspector shall, without prejudice to other powers he may exercise under this Act -

(a) subject to section 84, take or arrange to have taken samples of or from an aquatic animal, premises, land or water in the provisional infected zone as may be necessary to establish whether the disease is present;

(b) examine, or arrange to have examined, the samples in an official laboratory;

(c) place an aquaculture establishment or other area, as appropriate, in the provisional infected zone under surveillance; and

(d) where he reasonably suspects that the disease is present, initiate an epizootic investigation in order to determine –

(i) the possible origin of the disease and the means of contamination;

(ii) whether aquatic animals have left the provisional infected zone during the period preceding the declaration; and

(iii) whether other aquaculture establishments have been infected.

(7) Except under and in accordance with the requirements of a provisional infected zone notice, it is an offence for a person, to –

(a) move an aquatic animal or aquatic animal product into, out of or within a provisional infected zone; or

(b) dispose of an aquatic animal (whether alive or dead) which comes from a provisional infected zone.

33. Additional powers of inspector in provisional infected zone

(1) Where a provisional infected zone is declared pursuant to section 32, an inspector may –

(a) remove, slaughter[24] or make arrangements to slaughter, euthanize or dispose of an aquatic animal in the provisional infected zone showing clinical signs of disease; or

(b) cleanse and disinfect any premises in the provisional infected zone or anything on the premises which is liable to transmit disease.

(2) Without prejudice to anything which may be included in an emergency control notice served under section 90, an inspector may, by emergency control notice served on the occupier of any premises in a provisional infected zone, require the occupier –

(a) subject to subsection (3), to take such measures as are specified in the notice to secure the slaughter, euthanasia, removal or disposal of an aquatic animal on the premises;

(b) to provide and operate a disinfection facility at the entrances and exits of the premises in such manner as may be specified in the notice;

(c) to cleanse and disinfect, in such manner as may be specified in the notice, any premises or anything on the premises that is liable to transmit disease;

(d) to take such other measures as are specified in the provisional infected zone notice as the inspector considers necessary to eradicate the suspected disease or to prevent or limit the spread of the suspected disease to other aquatic animals.

[24] A Member State may take into consideration any other relevant enactments regarding the slaughter of animals when giving effect to this provision.

(3) In a provisional infected zone an inspector may prohibit the slaughter, euthanasia, removal or disposal of an aquatic animal or the movement, treatment or destruction of a container, package or material which may have been in contact with an infected aquatic animal, where such action is necessary to enable the inspector to carry out the functions set out in section 84 (1) and (2).

34. Amend, suspend or withdraw provisional infected zone notice

An inspector may amend, suspend or withdraw a provisional infected zone notice by a notice served on the persons on whom the provisional infected zone notice and any copies of the notice were served pursuant to section 32.

35. Termination of provisional infected zone notice

If, following an investigation conducted under section 32 (5) and the completion of the exercise of the inspector's powers which he considered to be necessary to be conducted under section 33 (2), the Chief Veterinary Officer is reasonably satisfied that an area declared as a provisional infected zone –

(a) is not infected, the Chief Veterinary Officer shall, by notice in writing, revoke the provisional infected zone notice, declare the provisional infected zone to be free of infection and publish such revocation notice in a [daily] newspaper of general circulation in [*insert name of country*] for [*insert period*].

(b) is infected, the Chief Veterinary Officer shall, in accordance with section 36, recommend to the Minister that a provisional infected zone be declared an infected zone and the provisional infected zone notice shall be terminated immediately upon the declaration of an infected zone pursuant to section 36 (2).

36. Infected zones

(1) Where, pursuant to section 35, the Chief Veterinary Officer recommends to the Minister that an infected zone be declared, the recommendation shall be in writing and include information on the demarcation of the infected zone and the controls to be applied in the infected zone, taking into account –

(a) the disease profile;

(b) the geographical situation of the area to be demarcated;

(c) the ecological and hydrological factors and meteorological conditions of the area to be demarcated;

(d) the presence, distribution and types of vectors in the area to be demarcated;

(e) the results of any epidemiological enquiries and other epidemiological data and studies;

(f) the results of laboratory tests;

(g) the disease control measures applied; and

(h) other relevant epidemiological factors.

(2) On the recommendation of the Chief Veterinary Officer pursuant to subsection (1), the Minister shall, by Order published in the *Gazette*, declare the provisional infected zone to be an infected zone and publish the Order in a [daily] newspaper of general circulation in [*insert name of country*] for [*insert period*].

(3) An Order under subsection (2) shall specify –

(a) the limits of the infected zone;

(b) the duties and responsibilities of persons within the infected zone;

(c) restrictions or prohibitions on the movement of aquatic animal products or aquatic animals of the species affected by the disease into or out of the infected zone; and

(d) that international trade in aquatic animals, aquatic animal products or aquatic animal-related items shall be controlled or restricted as appropriate to the situation.

(4) The NAAHO shall continuously review the disease status of the infected zone to verify compliance with the Order and the Chief Veterinary Officer shall recommend to the Minister such revisions and updates as may be necessary.

37. Actions relating to infected zones

(1) Where the Minister has declared an infected zone under section 36, an inspector shall, on the directive of the Chief Veterinary Officer–

(a) subject to section 84 (2)(a)(iv) and (3), take, or arrange to have taken, samples of, or from, any aquatic animal, premises, land or water in the infected zone as may be necessary to monitor the presence of the disease;

(b) subject to section 84 (7), examine, or arrange to have examined, the samples in an official laboratory;

(c) as appropriate, place an aquaculture establishment or other area in the infected zone under surveillance;

(d) conduct further epizootic investigations as may be necessary in order to determine –

(i) the possible origin and means of contamination;

(ii) whether animals have left the infected zone during the period preceding its declaration; or

(iii) whether other aquaculture establishments have been infected;

(e) take all necessary measures to fully inform persons in the infected zone of the restrictions in force and the nature of the disease control measures; and

(f) impose necessary obligations on operators operating within the infected zone in order to prevent the further spread of disease.

(2) Subject to subsection (3) and without prejudice to any powers that may be exercisable by any person under this Act, the Chief Veterinary Officer, shall upon the declaration of an infected zone, take or cause to be taken any of the following actions, as may be reasonably required –

(a) identify the establishments, food businesses, feed businesses, aquatic animal product establishment, and other locations where infected aquatic animals or aquatic animal products have been found;

(b) visit the establishments, food businesses, feed businesses, aquatic animal product establishments and other locations where infected aquatic animals or aquatic animal products have been found, and, where necessary, conduct examinations, sampling and laboratory examinations of the samples taken;

(c) impose conditions for the movement of persons, aquatic animals, aquatic animal products, feed, vehicles and any other materials or substances that may be contaminated or may contribute to the spread of the listed disease within and from an infected zone or by transport through an infected zone;

(d) establish biosecurity requirements for –

(i) the production, processing and distribution of products of aquatic animal origin;

(ii) the collection and disposal of aquatic animal products;

(iii) the cleaning, disinfection, and control of insects and rodents;

(iv) other necessary biosecurity and risk-mitigating measures to minimise the risk of the spread of disease; and

(v) the vaccination of kept aquatic animals and treatment thereof with other veterinary medicinal products; or

(e) designate or, where relevant, approve food business establishments for the purposes of the slaughtering of aquatic animals or the treatment of aquatic animal products originating from the infected zone.

(3) In determining the appropriate action to be taken under subsection (2), the Chief Veterinary Officer shall consider –

(a) the disease profile;

(b) the types of production; and

(c) the feasibility, availability and likely effectiveness of the disease control measures.

(4) Except in accordance with a term specified in an Order issued under section 36 (2), no person shall –

(a) sell, buy or otherwise trade an aquatic animal, aquatic animal product or aquatic animal-related item from an infected zone;

(b) move an aquatic animal, aquatic animal product or aquatic animal-related item into, out of or within an infected zone; or

(c) dispose of an animal, whether alive or dead, which comes from an infected zone.

38. Powers of inspector in infected zone

(1) An inspector may –

(a) subject to subsection (2), remove, slaughter, euthanize or dispose of[25] an aquatic animal in an infected zone that he reasonably suspects is infected; or

(b) cleanse and disinfect any premises in the infected zone or anything on those premises which is liable to transmit disease.

(2) An inspector may prohibit the removal, treatment or euthanasia of an aquatic animal or the movement, treatment or destruction of a container, package or material which may have been in contact with an infected aquatic animal, where such action is necessary to enable the inspector to carry out the functions set out in section 84 (1) and (2).

(3) An inspector may, by notice served on an occupier of premises in an infected zone, require the occupier to –

(a) take such measures as are specified in the notice to secure the slaughter, euthanasia, removal or disposal of an animal on the premises;

(b) provide and operate a disinfection facility at the entrances and exits of the premises in such manner as may be specified in the notice;

[25] Member States may decide at the national level whether to provide for the inspector to perform the actions specified in clause 38 (1) (a) or whether the actions specified in the clause will be performed by the owner or occupier under the direction or supervision of the inspector.

(c) empty, cleanse and disinfect the premises or anything on the premises, including equipment or machinery which is liable to transmit disease, in the manner specified in the notice; or

(d) take such other measures as the inspector considers necessary to eradicate the disease or to prevent or limit the spread of the disease to other aquatic animals.

(4) An inspector may, by notice in writing, prohibit a person from entering a farm or farming area in the infected zone.

(5) A person shall comply with measures imposed by an inspector.

39. Revocation of declaration of infected zone

(1) Where the Chief Veterinary Officer determines that the circumstances that gave rise to the Order declaring the infected zone are no longer present, the Chief Veterinary Officer shall recommend to the Minister that the Order made under section 36 (2) be revoked, and the Minister may revoke the Order.

(2) Where the Minister revokes a declaration of infected zone Order, the Chief Veterinary Officer shall serve a notice of the revocation upon an owner or occupier of the affected premises or establishment and shall publish the notice of the revocation in a [daily] newspaper of general circulation in [*insert name of country*] for [*insert period*].

40. Register of zones

(1) The Chief Veterinary Officer shall establish and maintain a register of zones in [*insert name of country*] as declared pursuant to sections 31, 32 and 36.

(2) The Chief Veterinary Officer shall make the register available for inspection by the public free of charge at all reasonable times at such places as may be determined by the Chief Veterinary Officer.

41. Declaration of notifiable disease of aquatic animals emergency

(1) Subject to subsection (2), where the Chief Veterinary Officer reasonably suspects that there is an outbreak of a notifiable disease of aquatic animals in [*insert name of country*] the Chief Veterinary Officer shall –

(a) as soon as practicable, make a recommendation to the Minister to declare a notifiable disease of aquatic animals emergency; and
(b) where a zoonotic disease is reasonably suspected, immediately notify the Minister responsible for health.

(2) A recommendation to the Minister made under subsection (1) (a) shall be based on a risk assessment or risk analysis carried out by the NAAHO.

(3) Subject to subsection (4), the Minister may, on the recommendation of the Chief Veterinary Officer, declare a notifiable disease of aquatic animals emergency by Order published in the *Gazette*.

(4) A declaration of an animal disease emergency shall be -

(a) based on a risk assessment or risk analysis carried out by the NAAHO;
(b) limited to the extent necessary to minimize the threat; and
(c) time-bound and subject to periodic review and evaluation as may be specified in the contingency plan developed by the NAAHO under section 42 (1).

(5) Upon the declaration of a notifiable disease of aquatic animals emergency, the NAAHO shall implement its contingency plan for aquatic animal health developed pursuant to section 42.

(6) Where, pursuant to section 4 (3) (j) (ii), the NAAHO establishes sanitary measures in response to a declaration of a notifiable disease of aquatic animals emergency, such measures shall be proportionate to the threat that gives rise to the declaration[26].

[26] Taking into consideration their respective pre-existing legislative and other national arrangements and the anticipated scale of operations of the NAAHO, Member States may determine the process for the establishment of measures at the national level.

(7) The Chief Veterinary Officer shall regularly update the Minister on the status of the notifiable disease of aquatic animals emergency and, where the threat no longer justifies the continuation of the disease emergency, shall recommend to the Minister that the Order be revoked.

(8) The Minister may by Order published in the Gazette, on the recommendation of the Chief Veterinary Officer under subsection (7), revoke an Order declaring a notifiable disease of aquatic animals emergency.

42. Contingency plans for response to emergencies affecting aquatic animal health

(1) Subject to subsections (2) and (3), the NAAHO shall develop contingency plans for emergencies affecting aquatic animal health.

(2) The NAAHO shall take into account the following when developing contingency plans –

(a) the disease control strategies available;
(b) the implications of the use of different disease control strategies;
(c) the most appropriate disease control strategy given different circumstances or disease outbreak scenarios;
(d) the NAAHO's capacity to respond to the emergency;
(e) the geographical, ecological and epidemiological environments;
(f) production and marketing practices; and
(g) other factors considered necessary to control, stop the spread of, or eradicate the notifiable disease of aquatic animals.

(3) A contingency plan shall include -

(a) the administrative and logistic organization of the institutions and persons responsible for responding to aquatic animal health and food safety emergencies;
(b) a clear command structure for response deployment; and
(c) the specific measures needed to address risks to human or animal health.

(4) The Chief Veterinary Officer shall collaborate with the Ministries responsible for health, the environment, trade, disaster preparedness and response management, law enforcement and other public authorities with a role in emergency response to implement and enforce the emergency plans developed under this section.

43. Control measures

For the purpose of controlling or eradicating notifiable diseases of aquatic animals or preventing the introduction or spread of notifiable diseases of aquatic animals, the NAAHO may—

(a) prohibit or regulate the movement of aquatic animals, aquatic animal products, aquatic animal-related items, persons and vehicles, within, into or out of an infected zone, provisional infected zone, buffer zone, free zone or containment zone;

(b) provide for the establishment of compartments and varying measures of control for each compartment;

(c) subject to section 84, instruct an inspector to seize, treat or dispose of aquatic or other animals, aquatic or other animal products or aquatic or other animal-related items that are or have been in such zone, or order the seizure, treatment or disposal of aquatic or other animals, aquatic or other animal products or aquatic or other animal-related items that are or have been in such zone; or

(d) implement disinfection measures, eradication measures, vaccination schemes, or official control programmes and stamping-out programmes.

44. Barriers to movement of aquatic animals

(1) Without restricting the generality of section 43, where –

(a) a veterinarian has declared a provisional infected zone under section 32;

(b) the Minister has declared a notifiable disease of aquatic animals emergency under section 41 (3); or

(c) the Minister has declared an infected zone under section 36 (2),

the Chief Veterinary Officer may exercise the powers specified in subsection (2).

(2) The Chief Veterinary Officer may, where there is a declaration of a type referred to in subsection (1) and he considers it appropriate to do so, arrange for –

(a) the creation and maintenance of barriers to the movement of aquatic animals in inland waters to -

(i) prevent the spread of the disease; and

(ii) facilitate treatment of aquatic animals with chemical agents with a view to eradicating the disease from the waters concerned;

(b) the treatment of bodies of water in the provisional infected zone or the infected zone, as the case may be, with chemical agents to eradicate the disease from the waters concerned;

(c) the removal of dead aquatic animals; and

(d) the dismantling and removal of barriers created under paragraph (a).

(3) For the purposes of subsection (2)(a), "inland waters" means waters which do not form part of the sea or of a creek, bay or estuary or of a river as far as the tide flows.

45. Movement of aquatic animals from containment zone

(1) No person shall move, or cause to be moved, an aquatic animal from a containment zone to a free zone, buffer zone or provisionally free zone, except in accordance with a movement permit issued under section 46.

(2) If the Chief Veterinary Officer reasonably suspects that an aquatic animal has been or is being moved from a containment zone into a to a free zone, buffer zone or provisionally free zone, contrary to subsection (1), the Chief Veterinary Officer may direct that the aquatic animal be returned without delay to the containment zone from which it was moved or to an zone of equal or lesser health status.

46. Movement permit

(1) A person who is desirous of moving an aquatic animal from a containment zone shall apply[27] to the Chief Veterinary Officer, in the prescribed form and manner, for a movement permit.

(2) The Chief Veterinary Officer may issue a movement permit if he is reasonably satisfied that the proposed movement will not, or is not likely to, result in the spread of a vector or listed disease within [*insert name of country*].

(3) A movement permit issued under subsection (2) may contain such conditions as the Chief Veterinary Officer reasonably considers necessary.

(4) The Chief Veterinary Officer may cancel or suspend a movement permit issued under subsection (2) if he reasonably believes that -

(a) a condition under which the permit was issued pursuant to subsection (3), or a condition contained in the permit, has not been complied with;
(b) a provision of this Act has not been complied with;
(c) the applicant knowingly or recklessly provided information which is false for the purpose of obtaining a movement permit; or
(d) failure to do so could result in the spread of a vector or disease.

(5) The Chief Veterinary Officer may delegate a duty referred to in this section to an inspector.

47. Production of movement permit and documents on request

A person moving an aquatic animal under a movement permit issued under section 45 shall –

(a) at all times during the movement of the aquatic animal, keep the movement permit or a copy of it with him;

[27] The decision as to form would be taken at the Member State level.

(b) on request by an inspector, produce the movement permit or copy of it and allow a copy of it, or an extract from it, to be taken;

(c) at all times during the movement of the aquatic animal, carry a consignment note specifying –

(i) what is being transported, including the quantity;

(ii) the date of the movement;

(iii) the name of the consignor;

(iv) the address of the premises from which the movement started;

(v) the name of the consignee;

(vi) the address of the premises of destination; and

(d) on request by an inspector, produce the consignment note relevant to the movement and allow a copy of it, or an extract from it, to be taken.

48. Segregation of diseased aquatic animals and notification

(1) A person having in his possession, or under his charge, an aquatic animal which he suspects of suffering from a listed disease shall –

(a) keep the aquatic animal separate from other aquatic animals and other animals which are not diseased or suspected of being diseased; and

(b) as soon as practicable, but not later than twenty-four hours after becoming aware of facts causing the suspicion, notify an inspector, the NAAHO or the person in charge of a police station.

(2) Where the person notified under subsection (1)(b) is the person in charge of a police station he shall immediately notify the NAAHO.

(3) Where an aquatic animal is tested for a listed disease and the aquatic animal reacts positively to the test, the owner of the aquatic animal shall cause the aquatic animal to be –

(a) kept separately from other aquatic animals which are not diseased; and

(b) marked with an identifier appropriate to the species or placed in a container that is marked as containing an infected aquatic animal.

49. Euthanasia or destruction of diseased aquatic animals

(1) Subject to subsection (2), an inspector may cause to be euthanised or destroyed an aquatic animal –

(a) suffering or reasonably suspected of suffering from a listed disease; or

(b) which has been in the same place, area or zone as, or in contact with, a diseased animal or aquatic animal or an animal or aquatic animal reasonably suspected of having a notifiable animal disease or a notifiable disease of aquatic animals, whether or not the place, area or zone has been declared to be an infected zone.

(2) An inspector may, for the purposes of examination, observation or treatment, take possession of and retain an aquatic animal that is to be euthanised or destroyed under this section.

50. Disposal of dead aquatic animals

An aquatic animal that is euthanised or destroyed under section 49 or which dies as a result of a disease, shall be disposed of as soon as possible in manner to be determined by the Chief Veterinary Officer to avoid the spread of pathogenic organisms.

51. Compensation

(1) The Minister may, on the recommendation of the Chief Veterinary Officer, make grants by way of compensation, [out of moneys voted for that purpose by Parliament][28], to owners of aquatic animals euthanised or destroyed pursuant to section 49.

(2) The amount of compensation for a euthanised aquatic animal shall be the fair market value of the aquatic animal immediately before being euthanised, and compensation

[28] Member States may determine the appropriate source of funds at the national level.

may be reduced, or refused, where the owner or the person having charge of the animal has been found guilty of an offence under this Act regarding the aquatic animal.

(3) No compensation shall be payable -

(a) in respect of an aquatic animal which develops an infectious or contagious animal disease while in a designated quarantine station;

(b) in respect of an aquatic animal compulsorily euthanised while in a designated quarantine station, if in the reasonable opinion of the inspector, the aquatic animal shows symptoms of a disease, the spread of which would endanger animal health in [*insert name of country*]; or

(c) to a person who commits an offence under this Act and claims compensation in respect of any premises or thing by means of, or in relation to which, the offence was committed.

52. Aquatic animal identification and traceability system

The NAAHO shall –

(a) establish a system for the identification of aquatic animals and for aquatic animal traceability; and

(b) collaborate with the government department responsible for food safety with regard to aquatic animal traceability and the traceability of aquatic animal products to be used for food for human consumption.

53. Registration of veterinary medicinal products

(1) Subject to subsections (2) and (3), no veterinary medicinal product shall be imported, manufactured, distributed, sold or used in [*insert name of country*] unless it is registered in accordance with [prescribed procedures][29].

[29] Where a Member State already makes provision for the registration of veterinary medicinal products, the legislative drafter will insert the reference to the statute under which the registration is done.

(2) The Chief Veterinary Officer may make exceptions to the requirement for registration under subsection (1) for research or trial purposes or where he is reasonably satisfied that —

(a) there are veterinary needs or emergencies that justify the importation, production or use of unregistered veterinary medicinal products; or
(b) there is insufficient availability or affordability of registered veterinary medicinal products in response to a veterinary need.

(3) Subsection (1) shall not apply to traditional animal remedies prepared in [*insert name of country*] and administered in accordance with customary usage.

(4) The Chief Veterinary Officer shall coordinate with the Ministry responsible for health [*or different authority in charge of medicinal products for human health*] on the registration, authorised uses, prescription, sale and distribution of veterinary medicinal products, including—

(a) the designation of professionals that are entitled to prescribe veterinary medicinal products and the determination of the conditions and forms to be used for veterinary prescriptions;
(b) the permitted uses of veterinary medicinal products, with the objective of minimizing or phasing out non-therapeutic uses;
(c) data collection, record keeping and obligations of documentation and official notification linked to the prescription and use of antimicrobials;
(d) the use of veterinary medicinal products including antimicrobials in feed; and
(e) the sale and distribution of veterinary medicinal products and feed containing veterinary medicinal products, with special attention to antimicrobials, in particular, those used in human medicine.

(5) In this section "traditional animal remedies" means a substance, or combination of substances, the use of which is based on knowledge, methods, practices and skills acquired and disseminated across generations, whether orally or in writing and whether explicable or inexplicable, developed by deliberate experimentation which –

(a) are intended for administration to aquatic animals;

(b) may be administered to aquatic animals; or

(c) are, whether expressly or implication, presented for administration to aquatic animals,

for the purpose of –

(d) treating, preventing or modifying diseases in aquatic animals;

(e) making a medical or surgical diagnosis in aquatic animals;

(f) restoring, correcting or modifying psychological functions in aquatic animals; or

(g) except for a substance or a combination of substances commonly known to be and solely used as feedstuff, otherwise improving the health or condition of aquatic animals.

PART V
PRODUCTION, MARKETING AND TRANSPORTATION

54. General health requirements

(1) No person shall place on the market an aquatic animal or an aquatic animal product if he knows or suspects, or ought to know or suspect, that such placement would poses a risk of spreading a listed disease to an aquatic animal.

(2) No person shall place an aquatic animal on the market for farming unless -

(a) the aquatic animal is clinically healthy; and

(b) subject to subsection (5), the aquatic animal comes from a farm or farming area where there is no unresolved increased mortality.

(3) No person shall release an aquatic animal into the wild or into a recreational fishery unless -

(a) it is clinically healthy; and

(b) subject to subsection (5), it comes from a farm or farming area where there is no unresolved increased mortality.

(4) Where an aquatic animal is of a species which is susceptible to a listed disease or is a vector for that disease, no person shall release the aquatic animal into the wild or into a recreational fishery unless the animal comes from a country, zone or compartment which has, in relation to that disease, a disease-free health status.

(5) Subsections (2)(b) and 3(b) do not apply where -

(a) an aquatic animal comes from a part of a farm or farming area which is independent of the epidemiological unit in which the increased mortality has occurred; and

(b) the placing on the market or release of the aquatic animal is under, and in accordance with, the conditions of a registration certificate issued under section 18.

(6) No person shall place on the market an ornamental aquatic animal if the person knows or suspects, or ought reasonably to have known or suspected, that it would pose a risk of spreading a listed disease to an aquatic animal.

(7) No person shall release an ornamental aquatic animal into a farm, farming area, relaying area, recreational fishery or into the wild, except under, and in accordance with the conditions of a registration certificate issued under section 18.

(8) No person shall place on the market, for farming or restocking, an aquatic animal intended for euthanasia or destruction in accordance with disease control measures under Part IV.

55. Identification of aquatic animals and aquatic animal products for sale

(1) No person shall dispatch an aquatic animal or an aquatic animal product for sale unless information is provided, in the manner specified in subsection (2), which –

(a) identifies the consignment;

(b) enables the farm of origin, or in the case of an aquatic animal or an aquatic animal product from the wild the place or origin, to be traced; and

(c) enables the contents of the consignment to be linked to the movement document relating to the consignment, where a movement document is required by this Act.

(2) The information referred to in subsection (1) shall be provided on the container for the consignment, on a label affixed to the container or on a corresponding document.

56. Disease prevention requirements in respect of transport

(1) Subject to section 58, no person shall transport an aquatic animal unless the requirements specified in subsection (2) are met.

(2) Where a person transports an aquatic animal -

(a) the duration of the journey shall be as short as is reasonably possible;

(b) the person shall clean and disinfect the means of transport before the aquatic animal is loaded;

(c) over land –

(i) the aquatic animal shall be transported in such a manner that the water in the container in which it is being transported cannot escape from the means of transport; and

(ii) any water exchange shall be carried out only at a water station approved by the Chief Veterinary Officer; and

(d) the conditions of transport shall not jeopardise the health status of –

(i) the aquatic animal being transported;

(ii) an aquatic animal at a place of transit; or

(iii) an aquatic animal at the place of destination.

(3) Aquatic animal-related items being moved by post shall be subject to requirements administered jointly by the [*postal service*] and the NAAHO.

57. Recording of information in respect of transport

(1) Subject to section 58, where a person transports an aquatic animal he shall, in the prescribed form and manner, keep for a period of four years beginning on the date on which the aquatic animal arrived at its place of destination, a record of –

(a) the mortality of the aquatic animal in the course of transport;

(b) the name and address of every farm, farming area, relaying area, dispatch centre, purification centre, recreational fishery, non-commercial installation, ornamental facility or processing establishment which is visited in the course of the transport;

(c) the nature of a water exchange carried out in the course of transport;

(d) the source of water used in the course of transport; and

(e) the location at which water from the means of transport is discharged.

(2) A person who contravenes subsection (1) commits an offence and shall be liable on summary conviction to a fine of [ ] or to imprisonment for a term not exceeding [ ], or both.

(3) Where a person is charged under subsection (2) with failure to keep a record of the mortality of an aquatic animal in the course of transport, in accordance with subsection (1)(a), it is a defence to the charge to prove that it was not practicable to keep the record.

58. Exemption for transport in small containers

Sections 56 and 57 do not apply where the transport is by means of a container which –

(a) is watertight and airtight;

(b) does not exceed one cubic metre; and

(c) is accompanied by a legible label affixed to the exterior of the container which identifies its contents, their place of origin and their place of destination.

PART VI
IMPORT, EXPORT AND TRANSIT

59. Designated landing sites

(1) Subject to subsection (4), the Minister may, by Notice published in the *Gazette* –

(a) designate a port[30], landing site or other place as a designated landing site[31]; and

(b) specify requirements concerning the landing of aquatic animals, aquatic animal products and aquatic animal-related items at the landing site.

(2) An owner or operator of a designated landing site shall, where required in writing by the Minister, provide and maintain adequate areas, offices, laboratories and other facilities, including buildings, accommodation, equipment, furnishings and fixtures, in order to facilitate inspection or for any other purpose related to the administration of this Act.

(3) Where an owner or operator of a designated landing site fails to comply with the Minister's instructions issued under subsection (2), the Minister may cause the construction or repairs to be carried out and the owner or operator shall be liable for all reasonable costs incurred.

(4) The requirements referred to in subsection (1) shall include a requirement -

(a) that specified species of aquatic animal, categories of aquatic animal product and aquatic animal-related item be landed at the designated landing site;

(b) that specified species of aquatic animal, categories of aquatic animal product and aquatic animal-related item be landed at the designated

[30] The decision on whether permission should be sought from the port operator is a national one and will likely be similar to what currently obtains in the enacting Member State for the landing of other items.
[31] Member States have the discretion at the national level to determine whether landing site designation should be the result of an application process.

landing site at specified times with a category of person specified in the Notice present;

(c) that specified categories of fishing vessel, licence holder or fisher land specified species of aquatic animal, category of aquatic animal product and category of aquatic animal-related item at the designated landing site;

(d) that an owner, operator, or master of a fishing vessel, or a permit holder, or any combination thereof, notify the Chief Veterinary Officer of the intention to land an aquatic animal, aquatic animal product and aquatic animal-related item; and

(e) concerning the manner of landing, the information provided on the catch being landed, including the provision of a catch log or declaration, by a person, and the manner of an inspection or examination by an inspector or customs officer.

(5) A person who, at a designated landing site, carries out an activity concerning the landing of aquatic animals to which a requirement referred to in subsection (1) or subsection (4) applies shall comply with the requirement set out in the Notice published under subsection (1).

[60. Food for personal consumption

A person bringing into [*insert country name*] an aquatic animal or aquatic animal product as food for personal consumption not exceeding a prescribed amount, and not for sale, shall be exempt from the requirements set out in this Part.][32]

61. Notification of imports

(1) A customs officer shall –

(a) notify the Chief Veterinary Officer of the arrival of an aquatic animal, aquatic animal product or aquatic animal-related item in [*insert name of country*] in such time and manner as shall be prescribed; and

[32] Based on their national arrangements, Member States may determine, at the national level, whether to retain this section.

(b) retain an aquatic animal, aquatic animal product or aquatic animal-related item, at the request of the Chief Veterinary Officer for inspection or in order to take a sample.

(2) Where the Chief Veterinary Officer requests that an aquatic animal, aquatic animal product or aquatic animal-related item be retained pursuant to subsection (1), the customs officer shall not release the aquatic animal, aquatic animal product or aquatic animal-related item by unless the Chief Veterinary Officer has released it for clearance.

62. Import requirements

(1) The Minister shall, from time-to-time on the recommendation of the Chief Veterinary Officer and in the prescribed form and manner, approve the list of species of aquatic animals and categories of aquatic animal products for which an international veterinary certificate or other health certificate is required for importation into [*insert name of country*].

(2) The Minister shall, from time-to-time by Notice published in the *Gazette*, list the species of aquatic animals and the categories of aquatic animal products approved under subsection (1).

(3) Subject to subsection (10) and upon receipt of the recommendation of the Chief Veterinary Officer, the Minister may prescribe import requirements for -

(a) aquatic animals, aquatic animal products and aquatic animal-related items; and

(b) veterinary medicinal products, subject to subsection (5).

(4) Import requirements prescribed under subsection (3) shall be based on international standards, or science-based risk assessment.

(5) The Chief Veterinary Officer shall collaborate with the Ministry responsible for health to determine the import requirements for veterinary medical products to be prescribed pursuant to subsection (3)(b).

(6) Import requirements issued under this Act shall be kept under review and published by the NAAHO in a [daily] newspaper of general circulation in [*insert name of country*] for [*insert period*].

(7) The Minister shall, from time-to-time in the prescribed form and manner, approve and publish by Notice in the Gazette the list of categories aquatic animal-related items that require prior approval of the Chief Veterinary Officer in order to be imported into [*insert name country*].

(8) In relation to an aquatic animal-related item to which subsection (7) does not apply, an importer may, without the prior approval of the Chief Veterinary Officer, submit the aquatic animal-related item directly for inspection at a port of entry.

(9) The Minister shall, by Notice published in the *Gazette*, specify the countries whose sanitary measures are considered equivalent to those of [*insert name of country*] and the list of products covered.

(10) Notwithstanding the generality of subsection (3)(a), a person importing an aquatic animal or an aquatic animal product –

(a) shall handle such animal or product and transport water from the imported consignments in a manner so as to avoid contamination of natural waters in [*insert name of country*]; and
(b) subject to subsection (11), shall not release the animal into the wild, unless authorised in writing by the Chief Veterinary Officer.

(11) The Chief Veterinary Officer may grant an authorisation pursuant to subsection (10)(b) where he is reasonably satisfied that such release is not likely to jeopardise the health status of the aquatic animals at the place of release and on the condition that the person importing the aquatic animal or aquatic animal product implements appropriate risk-mitigating measures.

63. Import permit

(1) Subject to subsection (5) and section 64 (1), no person shall import an aquatic animal, aquatic animal product or aquatic animal-related item unless -

(a) the importation is in accordance with an import permit issued by the Chief Veterinary Officer under this section;

(b) the aquatic animals or aquatic animal products or aquatic animal-related items are accompanied by an international veterinary certificate issued by the Chief Veterinary Officer of the exporting country, where required, or such other certificate issued by the Chief Veterinary Officer of the exporting country; and

(c) the importation is conducted through a designated landing site.

(2) A person who wishes to import an aquatic animal, aquatic animal product or aquatic animal-related item into [*insert name of country*] shall apply to the Chief Veterinary Officer for an import permit in the prescribed form and manner and shall pay the prescribed fee.

(3) Upon receipt of an application made in accordance with subsection (2), the Chief Veterinary Officer shall issue the applicant with an import permit in the prescribed form if he satisfied that the applicant meets the prescribed requirements.

(4) An import permit issued pursuant to subsection (3) shall be subject to such terms and conditions as may be specified therein.

[(5) For the purposes of this section, no import permit shall be required for small quantities of aquatic animal products or aquatic animal-related items intended for personal use.][33]

(6) The Chief Veterinary Officer shall, in the prescribed form and manner and for the prescribed period, cause to be kept records of –

(a) all import permit applications made under this section; and

[33] In practice there are some Member States that do not recognise this exemption. Based on their national arrangements, Member States may determine, at the national level, whether to retain subsection (5).

(b) all other documents submitted in support of applications referred to in paragraph (a) or generated in relation to the importation of aquatic animals, aquatic animal products and aquatic animal-related items under this Act into [*insert name of country*].

64. Prohibition or restriction on importation

(1) Where, on the basis of a risk assessment, the Chief Veterinary Officer is reasonably satisfied that the importation of an aquatic animal, aquatic animal product or aquatic animal-related item may result in the introduction or spread of a vector, pathogen, disease or toxic substance, the Chief Veterinary Officer shall make a recommendation to the Minister to prohibit or restrict the importation into [*insert name of country*].

(2) Subject to subsection (3), the Minister may, on the recommendation of the Chief Veterinary Officer under subsection (1), at any time prohibit or restrict the importation of any species or category of aquatic animal, aquatic animal product, aquatic animal-related item into [*insert name of country*].

(3) A prohibition or restriction done under subsection (2) shall be based on a risk assessment caused by the Chief Veterinary Officer to be conducted which demonstrates that importation may result in the introduction or spread of a vector, pathogen, disease or toxic substance.

(4) An aquatic animal which is imported contrary to a prohibition or restriction done pursuant to subsection (2) shall, upon being landed, be placed in quarantine for such period and be subject to such conditions as the Minister may prescribe.

(5) An inspector may refuse to permit the importation of -

(a) a tackle, harness, rope, gear or other equipment which has been used in connection with an aquatic animal;

(b) a cage, basket, box, crate or other container which has been used or is being used for the carriage of an aquatic animal, aquatic animal-related item or refuse connected thereto; or

(c) an instrument, a tool or other utensil which has been used in connection with an aquatic animal or any of the things referred to in paragraph (b), which the inspector reasonably believes is capable of carrying a notifiable animal disease, a notifiable disease of aquatic animals or other infectious or contagious disease affecting aquatic animals.

(6) Where an inspector is reasonably satisfied that a piece of equipment, a container or a utensil referred to in subsection (5) (c) is capable of being disinfected, he may permit it to be landed in the country, subject to such conditions and directions relating to its disinfection in the port area where it is landed, as he shall impose in writing.

(7) Where a piece of equipment, a container or a utensil is landed contrary to this section or a condition or direction imposed under this section, in addition to any penalty imposed under this Act, the equipment, container or utensil may be seized and detained by an inspector, in the prescribed manner, and destroyed or otherwise disposed of as the Chief Veterinary Officer may direct.

65. Importation of species susceptible to disease

Subject to section 67, no person shall import an aquatic animal which is of a species susceptible to a listed disease or is a vector for a listed disease, unless the aquatic animal –

(a) arrives from a country, zone or compartment which has, in relation to diseases to which that aquatic animal is susceptible, a disease-free health status; or

(b) has undergone inspection at the point of entry and has been confirmed to be disease free; and

(c) is accompanied by, and imported in accordance with, an import permit issued under section 63.

66. Importation of carcasses and offal

(1) Except in accordance with an import permit issued under section 63, no person shall import into *[insert name of country]* –

(a) the carcass or a part of the carcass of a finfish listed in Schedule 6 for use as bait or feed for aquatic animals, for manufacturing feed for aquatic animals, for research or diagnosis or, if the carcass has not been eviscerated, for a purpose that will produce offal or effluent containing anything from the finfish;

(b) the carcass or a part of the carcass of a mollusc listed in Schedule 6, for use as bait or feed for aquatic animals, for manufacturing feed for aquatic animals, for research or diagnosis, or for a purpose that will produce offal or effluent containing anything from the mollusc;

(c) the carcass or a part of the carcass of a crustacean listed in Schedule 6, for use as bait or feed for aquatic animals, for manufacturing feed for aquatic animals, for research or diagnosis, or for a purpose that will produce offal or effluent containing anything from the crustacean; or

(d) the offal from a finfish, mollusc crustacean or an echinoderm listed in Schedule 6, for use as bait or feed for aquatic animals, or manufacturing feed for aquatic animals, for research or diagnosis, or for any purpose that will produce effluent containing anything from that offal.

[(2) In this section, "finfish" means an aquatic vertebrate which –

(a) has an internal skeletal structure made of bone or cartilage;

(b) breathes under water using gills; and

(c) possesses fins for locomotion, balance and steering in an aquatic environment.][34]

67. Importation of aquatic animals for personal use

Notwithstanding section 65, a person may import an aquatic animal that is of a species susceptible to a listed disease, or is a vector of a listed disease, without an import permit if the person -

(a) imports the aquatic animal for his personal use;

(b) brings the aquatic animal into [*insert name of country*] or picks it up at the point of entry into [*insert name of country*]; and

[34] Where Member States already have fisheries legislation that defines the term "finfish", the Secretariat recommends, for consistency, that the preexisting definition be applied to the legislation modelled on this model Bill.

(c) presents to the inspector proof of his identity, the manner in which he acquired the aquatic animal and the intended use of the aquatic animal.

68. Importation of aquatic animals not listed in Schedule 6[35]

No person shall import an aquatic animal that is not listed in Schedule 6 unless, in addition to an import permit being issued in relation to the aquatic animal, the aquatic animal is accompanied by a document that, to the reasonable satisfaction of an inspector, includes –

(a) the name and address of the exporter;
(b) the name and address of the importer;
(c) the taxonomic name of the aquatic animal, the life stage, and the number being imported, if more than one; and
(d) the country in which the aquatic animal was born, or where the germplasm came from, and whether it was born in captivity or in the wild.

[69. Arrival notification

A customs officer shall -

(a) in the prescribed time and manner, notify the Chief Veterinary Officer of the arrival of an aquatic animal, aquatic animal product or aquatic animal-related item at a port of entry; and
(b) not release or dispose of an aquatic animal, aquatic animal product or aquatic animal-related item, unless authorised by the Chief Veterinary Officer.][36]

70. Inspection of imports

(1) Subject to subsection (2), an inspector shall inspect aquatic animals, aquatic animal products, and aquatic animal-related items at the designated landing site upon importation into [*insert name of country*].

[35] This is a list of minimum requirements. Member States may opt to include other types of information in addition to what is referenced in clause 68.
[36] Member States' aquatic animal health legislation must be compatible with their respective Customs legislation. Additionally, we recommend that Member States ensure that a clause of this type be included in aquatic animal health legislation given the level of coordination necessary between the Chief Veterinary Officer and the Customs Department to give effect to the Aquatic Animal Health Act. The clause has been placed in square brackets for Member States to make adjustments at the national level which are informed by the Customs legislation in their respective jurisdictions.

(2) With the approval of the Chief Veterinary Officer, an inspector may conduct an inspection referred to in subsection (1) at a location or facility other than a designated landing site.

(3) A person who is desirous of an inspection of an aquatic animal, aquatic animal product or aquatic animal-related item at a location or facility other than the designated landing site shall apply to the [Chief Veterinary Officer] [Minister][37] in the prescribed form and manner and pay the prescribed fee.

(4) When determining whether to approve a location or facility for the inspection of an aquatic animal, aquatic animal product or aquatic animal-related item the [Chief Veterinary Officer] [Minister] shall take the following into consideration , whether –

(a) an importer has submitted an application in accordance with subsection (3);
(b) an aquatic animal product to be inspected is perishable;
(c) a container in which the aquatic animal, aquatic animal product or aquatic animal-related item is transported is sealed and marked as prescribed; and
(d) there is no risk of introduction or spread of disease.

(5) Upon inspection, where an inspector determines that an imported aquatic animal, aquatic animal product or aquatic animal-related item does not present any risk for the introduction and spread of disease, the inspector may release the imported shipment for clearance by customs or, where the inspection is conducted at a destination approved under subsection (4), to the importer or person in charge.

(6) Where an inspector inspects an imported aquatic animal, aquatic animal product or aquatic animal-related item and, on the basis of a risk assessment, reasonably determines that it presents a risk of introduction or spread of a vector or a disease, or where the documentation accompanying the shipment of aquatic animals, aquatic animal products or aquatic animal-related items fails to meet the prescribed requirements, the inspector shall -

[37] Based on their national arrangements, Member States may determine, at the national level, whether to assign this responsibility to the Minister or the Chief Veterinary Officer.

(a) inform the Chief Veterinary Officer in a written report; and

(b) subject to subsection (8), by written notice to the importer –

(i) require a measure set out in subsection (7) to be taken within [ ] days of the inspection; and

(ii) specify the grounds for the measures to be taken.

(7) The measures referred to in subsection (6) (b) are –

(a) the taking of samples for submission to an official laboratory for analysis;

(b) the transfer of the shipment to a quarantine station or any other location identified by the inspector for testing or disinfection;

(c) the treatment or disinfection of the shipment in order to remove the risk;

(d) the return of the shipment to the country of origin; or

(e) the destruction of the shipment.

(8) Notwithstanding subsection 6 (b), an inspector may forego giving notice to an importer and may destroy a shipment where the destruction of the shipment is urgently required on humane grounds or the giving of notice is impracticable.

(9) Where an imported shipment lies unclaimed for a prescribed period after its entry into [*insert name of country*] or after treatment, the Chief Veterinary Officer may cause the shipment to be disposed of.

(10) The cost of a measure taken under this section shall be borne by the importer.

(11) The NAAHO shall bear no liability for measures taken in good faith for the destruction or disposal of aquatic animals, aquatic animal products or aquatic animal-related items that have been imported into [*insert name of country*] in contravention of this Act.

71. Aquatic animals in transit

(1) A person who wishes to transport an aquatic animal, aquatic animal product or aquatic animal-related item through [*insert name of country*] shall apply to the Chief Veterinary

Officer, in the prescribed form[38] and manner, for a transit permit and shall pay the prescribed fee.

(2) Where the Chief Veterinary Officer is satisfied that an application made under subsection (1) meets the prescribed requirements, he shall issue the applicant with a transit permit, which shall be subject to such terms and conditions as may be specified therein.

(3) At a designated landing site an inspector may inspect an aquatic animal, aquatic animal product or aquatic animal-related item that is in transit through [*insert name of country*] to verify its animal health status.

(4) If an inspector detects that an aquatic animal, aquatic animal product or aquatic animal-related item that is in transit has a notifiable disease of aquatic animals, the inspector may –

(a) refuse it entry;
(b) detain or confiscate it;
(c) apply sanitary treatment or action; or
(d) apply animal health measures; and
(e) promptly notify the Chief Veterinary Officer.

(5) An inspector may refuse entry to an aquatic animal, aquatic animal product or aquatic animal-related item if the international veterinary certificate that is associated with it is inaccurate or unsigned.

(6) An operator of a vehicle carrying an aquatic animal, aquatic animal product or aquatic animal-related item that is stopping in a port or passing through a port situated in the territory of [*insert name of country*] to a port situated in the territory of another country shall comply with the prescribed conditions.

[38] The decision of how to reflect the application form and application fee is a discretion to be exercised by the Member States individually. Each Member State will take its legislative drafting norms into consideration. In the model the intention is for the form and fees to be reflected in subsidiary legislation under the Aquatic Animal Health Act.

72. Requirements for export, re-export – general

(1) No person shall export or re-export an aquatic animal, aquatic animal product or aquatic animal-related item unless –

(a) the export or re-export is supported by a valid export certificate;

(b) the export or re-export is supported by a valid international veterinary certificate;

(c) the aquatic animal, aquatic animal product or aquatic animal-related item comes from an aquaculture establishment registered under section 18; and

(d) the aquatic animal, aquatic animal product or aquatic animal-related item is registered in such a way that the establishment from which the animal originated can be traced.

(2) A person who wishes to export an aquatic animal, aquatic animal product or aquatic animal-related item into [*insert name of country*] shall apply to the Chief Veterinary Officer for an export certificate in the prescribed form and manner and shall pay the prescribed fee.

(3) Upon receipt of an application made in accordance with subsection (2), the Chief Veterinary Officer shall issue the applicant an export certificate in the prescribed form if he satisfied that the applicant meets the prescribed requirements.

(4) An export certificate issued pursuant to subsection (3) shall be subject to such terms and conditions as may be specified therein.

(5) The Chief Veterinary Officer shall, in the prescribed form and manner and for the prescribed period, cause to be kept records of –

(a) all export certificate applications made under this section; and

(b) all other documents submitted in support of applications referred to in paragraph (a) or generated in relation to the export of aquatic animals, aquatic animal products and aquatic animal-related items under this Act into [*insert name of country*].

73. International veterinary certificate

(1) A person who intends to export or re-export an aquatic animal, aquatic animal product or aquatic animal- related item from [*insert name of country*] shall –

(a) apply to the Chief Veterinary Officer for an international veterinary certificate and pay the fee specified in Schedule 3; and

(b) submit the aquatic animal, aquatic animal product or aquatic animal-related item and any prescribed document in support of the exportation or re-exportation for examination and inspection to determine whether it meets the requirements of the importing country.

(2) Where the Chief Veterinary Officer considers an application for an International Veterinary Certificate he may –

(a) cause biological tests, vaccinations or disinfection procedures to be conducted;

(b) cause inspection, approval and certification procedures of aquatic animals and aquaculture establishments to be conducted;

(c) cause the observation of the aquatic animals during transport to the place of shipment and at the point of departure; and

(d) send advance notice of the application to the importing country.

(3) Where the Chief Veterinary Officer is satisfied that the requirements of the importing country have been met, he shall issue an International Veterinary Certificate in the prescribed form.

(4) If the Chief Veterinary Officer is reasonably satisfied that an aquatic animal, aquatic animal product or aquatic animal-related item intended to be exported or re-exported does not meet the requirements of the importing country, he shall administer the appropriate treatment in order to meet the requirements of the importing country or deny issuance of an International Veterinary Certificate.

74. Cancellation of export certificate and international veterinary certificate

(1) Where an inspector reasonably believes that after an International Veterinary Certificate is issued, but prior to export or re-export, the condition of an aquatic animal, aquatic animal product or aquatic animal-related item has deteriorated or materially changed in quality from the condition in which it was at the time the Certificate was issued, an inspector shall –

(a) inspect the aquatic animal, aquatic animal product or the aquatic animal-related item; and

(b) detain the aquatic animal, aquatic animal product or the aquatic animal-related item, if he reasonably suspects that it does not comply with the Certificate.

(2) Where an inspector detains an aquatic animal, aquatic animal product or aquatic animal-related item pursuant to subsection (1) -

(a) the inspector shall inform the Chief Veterinary Officer of the detention;

(b) the Chief Veterinary Officer shall immediately notify the holder of the International Veterinary Certificate, in writing, that the International Veterinary Certificate is cancelled and state the reasons for the cancellation; and

(c) the holder of the cancelled International Veterinary Certificate shall not conduct the exportation.

75. Suspension and withdrawal of export certificate

(1) The Chief Veterinary Officer may suspend, for a prescribed period, or withdraw an export certificate where, after the export of an aquatic animal, aquatic animal product or aquatic animal-related item, the Chief Veterinary Officer -

(a) becomes aware that an application for an export certificate contains or is based on false or misleading representation or on information which is false in a material particular;

(b) becomes aware that an administrative error has occurred in relation to an export certificate and it is necessary to correct that error;

(c) becomes aware that an operator has failed to comply with the provisions of this Act; or

(d) reasonably believes that an exported aquatic animal, aquatic animal product, aquatic animal-related item poses a danger to public health, animal health or plant health.

(2) Where, pursuant to subsection (1), the Chief Veterinary Officer suspends or withdraws an export certificate he shall –

(a) immediately notify the holder of the export certificate, in writing, that the export certificate is withdrawn or suspended and the reasons therefor; and

(b) take such steps as he reasonably considers necessary to recall the exported products or to prevent the acceptance of the exported products by the importing country.

PART VII
AQUATIC ANIMAL QUARANTINE

76. Quarantine of aquatic animals

(1) The Minister my by Order published in the *Gazette*, on the recommendation of the Chief Veterinary Officer, designate a quarantine station to be a designated quarantine station.

(2) An inspector may, with the approval of the Chief Veterinary Officer, direct that an aquatic animal be placed in a designated quarantine station[39] if the inspector reasonably believes that the aquatic animal -

(a) may be suffering from a notifiable animal disease or other infectious or contagious animal disease or a notifiable disease of aquatic animals or other infectious or contagious disease of aquatic animals;

[39] This model Bill sets out the minimum requirements that have been technically approved up to the level of COTED. When preparing their respective Bills Member States are at liberty to consider quarantine legislation already existing in their jurisdictions. However, Member States are advised against including in their legislation provisions which contradict this model.

(b) may have been in contact, during its transportation, with an aquatic animal or an animal which -

(i) is or may be suffering from a notifiable animal disease or other infectious or contagious animal disease or a notifiable disease of aquatic animals or other infectious or contagious disease of aquatic animals;

(ii) has not been tested or inspected to determine if it is suffering from a notifiable animal disease or a notifiable disease of aquatic animals; or

(iii) is not exempted from the requirement of being placed in quarantine; or

(c) has otherwise been exposed to or is at risk of contracting a notifiable animal disease or other infectious or contagious animal disease or a notifiable disease of aquatic animals or a contagious disease of aquatic animals.

(3) The Chief Veterinary Officer may, where reasonably necessary, cause an aquatic animal to be placed in a designated quarantine station upon being landed for import, for such period and subject to such conditions as may be prescribed.

(4) Where the Chief Veterinary Officer causes an aquatic animal to be placed in quarantine pursuant to subsection (3), a person who owns, has charge of, or control over, the aquatic animal but fails to transport it directly to a designated quarantine station commits an offence and shall be liable on summary conviction to a fine not exceeding [ ].

(5) No person shall enter a designated quarantine station without the permission of the Chief Veterinary Officer.

(6) If an aquatic animal is removed from a designated quarantine station without prior written authorization from the Chief Veterinary Officer, an inspector may seize the animal and detain, destroy or otherwise dispose of it as the Chief Veterinary Officer may direct.

(7) Nothing in this section shall be construed as restricting the power of the Chief Veterinary Officer to impose, as a condition of an import permit in respect of an aquatic animal to be imported into [*insert name of country*], the requirement that the aquatic animal be placed in quarantine for such period and subject to such conditions as the Chief Veterinary Officer may specify in the import permit.

(8) Where the placement of an aquatic animal in a designated quarantine station is a condition for placement of the animal on the market, it is an offence for the operator of a quarantine station to release the aquatic animal from the designated quarantine station without the prior written consent of the Chief Veterinary Officer.

77. Destruction of diseased aquatic animal in designated quarantine station

(1) Subject to subsections (2) and (3) and the approval of the Chief Veterinary Officer, an inspector may destroy an aquatic animal in a designated quarantine station without payment of compensation where –

(a) the aquatic animal develops a prescribed or other infectious or contagious animal disease or aquatic animal disease while in the designated quarantine station; or

(b) in the reasonable opinion of the inspector, the animal shows symptoms of a disease, the spread of which would endanger animal health or aquatic animal health in [*insert name of country*].

(2) Subject to subsection (3), the Chief Veterinary Officer shall, before destroying an aquatic animal pursuant to subsection (1), give to the person who owns, or is in charge of the aquatic animal not less than two days' notice in writing of the intention to destroy the aquatic animal.

(3) The Chief Veterinary Officer may forgo issuing a notice pursuant to subsection (2) where the destruction of the aquatic animal is urgently required on humane grounds or the giving of notice is impracticable.

(4) Where the owner or person in charge of an aquatic animal receives a notice under subsection (2) or before the destruction of an aquatic animal, the owner or person in charge may apply to Chief Veterinary Officer in the prescribed form and manner, and within the prescribed period, for reconsideration of the decision to destroy the aquatic animal.

78. Loss to be borne by importer

Where loss is sustained with respect to an imported aquatic animal while being conveyed to, from or within a designated quarantine station, whether by accident or sickness arising from natural causes or contraction from another aquatic animal or animal or by destruction or detention in quarantine, -

(a) the loss shall be borne by the importer; and

(b) neither an inspector, a veterinarian, the Chief Veterinary Officer nor the NAAHO is liable for any loss or damage occasioned to an aquatic animal by an act of an inspector, veterinarian or the Chief Veterinary Officer, unless such loss or damage is caused by wilful neglect.

79. Release of aquatic animals from quarantine

Prior to the expiration of the prescribed period of quarantine, the inspector shall examine the quarantined aquatic animal and shall by notice, in writing, authorise the release of the aquatic animal into the custody of its owner, the importer or the consignee where the inspector is satisfied that –

(a) the aquatic animal is free from disease; and

(b) the expenses due have been paid.

80. Failure to remove quarantined aquatic animal after authorised release

(1) Subject to subsection (2), if the owner, importer or consignee of a quarantined aquatic animal refuses or fails within [seven] days of receipt of a notice issued under section 79 to claim the aquatic animal or to pay any charges or expenses incurred with respect to the aquatic animal, it may be sold or euthanised and the proceeds, if any, paid into the Consolidated Fund.

(2) If the amount realised from the sale of the aquatic animal exceeds the total amount of the charge and expenses payable in respect thereof, the balance of the proceeds, after deducting the amount of charges and expenses so payable shall be paid to a person so entitled.

PART VIII
AQUATIC ANIMAL WELFARE

81. Prohibition of maltreatment of aquatic animals

No person shall torture[40], beat, injure, mutilate or neglect an aquatic animal, or treat any aquatic animal with cruelty.

82. Welfare of aquatic animals

(1) A person who owns, or is in charge of an aquatic animal shall provide the aquatic animal with -

(a) a sufficient and suitable diet;
(b) access to sufficient and clean water;
(c) proper shelter and housing which is -

(i) appropriate for the animal's behavioural patterns; and
(ii) sufficient to protect the animal from unsuitable weather conditions;

(d) veterinary care when needed to treat and prevent suffering and disease;
(e) suitable accommodation during transportation; and
(f) humane care and treatment.

[40] An offence is created by clause 98 (General offences and penalties) which states that, "Every person who acts in contravention of or fails to comply with any provision under this Act, or any certificate, permit, notice, direction, restriction, requirement, or condition given (including condition of registration), made, or imposed under this Act other than a requirement to pay a sum of money as a fee, commits an offence. Subclause 98 (2) sets the penalty for the offence. Member States have the discretion to redraft as a specific offence in connection with this clause when preparing national legislation.

(2) No owner or person in charge of an aquatic animal shall cause or permit an act, or an omission by another person, that causes unnecessary suffering to an aquatic animal.

83. Prohibition on vaccination against listed disease

No person shall vaccinate an aquatic animal against a listed disease except under and in accordance with the conditions of a licence granted by the Chief Veterinary Officer.

PART IX
ENFORCEMENT

84. Powers of inspector

(1) Subject to subsections (4) and (5), in connection with an application for registration made under section 17, a registration certificate issued under section 18, or an application to modify a registration certificate made under section 23 (3), an inspector may inspect and examine –

(a) an aquatic animal, aquatic animal product or aquatic animal-related item;

(b) the premises of an aquaculture establishment, including land and water; and

(c) documents or records present on the premises of an aquaculture establishment.

(2) Subject to subsections (4) and (5), except for a dwelling place, an inspector may, with the consent of an owner or occupier or on the authorisation of a warrant issued by a magistrate -

(a) enter a slaughterhouse, premises, vehicle, port facility or other place where activities in relation to aquatic animal health or veterinary public health are being carried out, or are reasonably suspected of being carried out, for the purpose of determining whether this Act is being or has been violated and may -

(i) inspect or search the premises, and examine an aquatic animal, or open and examine an aquatic animal product, aquatic animal-

related item, or objects or substances which are, or are suspected of being, used in activities relating to aquatic animal health or veterinary public health;

(ii) conduct an activity in connection with a notifiable disease of aquatic animals surveillance system;

(iii) require an owner or a person in charge of the premises to submit any information or documentation regarding an aquatic animal, aquatic animal product, aquatic animal-related item, an object or a substance;

(iv) weigh, count, measure, mark, open, take photographs of or read values on an instrument;

(v) subject to subsection (7), take samples of an aquatic animal, aquatic animal product, aquatic animal-related item or other thing on the premises;

(vi) examine, make copies of or take extracts from a book, record, statement or other document found at the premises that the inspector reasonably suspects, contains any information relevant to this Act, and demand from an owner or a person in charge of the premises an explanation of any entry in it;

(vii) inspect an operation, process or system used or conducted on the premises;

(viii) seize an aquatic animal, an aquatic animal product, an aquatic animal-related item, an appliance, a product, material, an object, a substance, a book, a statement or a document which appears to provide proof of a contravention of a provision of this Act, providing a signed receipt in the prescribed form, detailing the reasons for the seizure, which shall be countersigned immediately by the owner or person in charge of the premises;

(ix) order the destruction or disposal of a carcass of a diseased aquatic animal;

(x) issue notices to an owner or a person in charge of the premises;

(xi) order modifications to an aquaculture establishment that is not in compliance with this Act;

(xii) order the seizure of an aquatic animal for the purpose of further testing and analysis;

(xiii) prohibit the movement of an aquatic animal; and

(xiv) decontaminate, disinfect or order the decontamination or disinfection of any vehicle, premises or place.

(b) in relation to an aquatic animal, apply tests, use vaccines and apply marks as may be reasonably necessary for the purposes of this Act;

(c) stop and search any vessel, container or vehicle, upon entry into, movement within or exit from [*insert name of country*];

(d) for a prescribed period, stop the distribution, sale or use of an aquatic animal, aquatic animal product or aquatic animal-related item which the inspector reasonably believes is infected with a notifiable disease of aquatic animals or a notifiable animal disease or may spread a notifiable disease of aquatic animals or a notifiable animal disease; and

(e) require the owner or person in charge of an aquatic animal, aquatic animal product, aquatic animal-related item or premises to give—

(i) assistance to or carry out instructions as may be reasonably necessary to facilitate the exercise of the inspector's functions or to implement the provisions of this Act; and

(ii) information as may be reasonably necessary in connection with the control or prevention of a notifiable animal disease or a notifiable disease of aquatic animals or for the implementation of this Act.

(3) Where a record referred to in subsection (2)(a)(vi) is kept by means of a computer, an inspector may -

(a) have access to, inspect and check the operation of the computer and any associated apparatus or material which is or has been in use in connection with the record; and

(b) request that a person who is in charge of, or is otherwise involved with the operation of, the computer, apparatus or material give the inspector any assistance which he reasonably requires.

(4) An inspector may, after taking reasonable steps to notify the owner or occupier of a dwelling place of the date and time at which the inspector intends to enter the dwelling place, enter it for the purpose of carrying out any of the functions specified in subsections (1) and (2) -

(a) with the consent of the owner or occupier; or
(b) without the consent of the owner or occupier, on the authorisation of a warrant issued by a magistrate.

(5) An inspector may enter a slaughterhouse, premises other than a dwelling place, vehicle, port facility or other place where activities in relation to aquatic animal health or veterinary public health are being carried out, or are reasonably suspected of being carried out, for the purpose of carrying out a function specified in subsection (1) or (2) if –

(a) the occupier consents to the inspector's entry;
(b) it is a public place and the inspector enters when the place is open to the public; or
(c) the entry is authorised by a warrant.

(6) For the purpose of subsection (5) (b), if the premises is used partly as dwelling place, subsection (4) shall apply to the portion of the premises that is used a dwelling place.

(7) Where an inspector takes a sample pursuant to subsection (2) (a) (v), he shall –

(a) divide the sample into approximately three equal parts;
(b) ensure that each sample is numbered and securely sealed in a manner that does not permit it to be opened without breaking the seal;
(c) hand over one part of the sample to the owner or person responsible for the aquatic animal, animal product or animal-related item and the other two parts to be submitted to an official laboratory for tests; and

(d) ensure, as best as practicable, that sampling is conducted in such a manner as to prevent cross-contamination of the sample.

(8) Where an inspector is reasonably satisfied that the captain of a vessel has failed to comply with a requirement of this Act or with a condition imposed pursuant to this Act and such failure poses a veterinary health hazard, the inspector may -

(a) detain the vessel and notify the Chief Veterinary Officer and the [*Comptroller of Customs*] of the detention; and
(b) immediately issue to the captain of the vessel a written and signed notice of detention, which sets out the particulars of the non-compliance and the terms of the detention.

(9) Where an inspector reasonably believes that an owner of, or person in charge of, an aquatic animal, aquatic animal product, aquatic animal-related item or a premises has failed to comply with this Act, he may serve a written notice on the owner or person in charge -

(a) stating the grounds for his belief that the Act is not being complied with;
(b) specifying the measures which the inspector determines that the owner or person in charge shall take in order to remedy the non-compliance referred to in paragraph (a);
(c) requiring the owner or person in charge to implement the measures specified in paragraph (b), or measures which are at least equivalent to them, within the period specified in the notice.

(10) Where a premises or vessel is unoccupied, or where the occupier or owner cannot be located, service of a notice under this Act shall be made by affixing the notice to a conspicuous place on the premises or vessel which shall constitute good service of the notice.

(11) Where an inspector performs a function under this section, he shall identify himself as an inspector by showing his identification card or other proof of his appointment as an inspector.

(12) Where an inspector, performs a function under this section, he may request the presence and assistance of a [*law enforcement*] officer as he considers necessary and bring onto the premises such equipment and vehicles, as the inspector reasonably considers necessary.

(13) A person accompanying an inspector under subsection (12) shall, if requested, show evidence of their authority given in that behalf by the Chief Veterinary Officer and may -

(a) in the course of his duties, remain on the premises and from time to time re-enter the premises without the inspector;
(b) bring onto the premises a piece of equipment or a vehicle that the person considers necessary; or
(c) conduct work on the premises in the manner directed by an inspector.

85. Storage and removal of seized aquatic animals

(1) An inspector who seizes and detains an aquatic animal, aquatic animal product or aquatic animal-related item or other item under this Act, may require the owner or the person having possession, care or control of it at the time of seizure to –

(a) remove it to a place specified by the inspector; or
(b) store it at the place where it was seized and, on the further instructions of the inspector, remove it to any other place specified by the inspector for storage.

(2) Unless authorised in writing by the Chief Veterinary Officer, no person[41] shall remove, alter or interfere in any way with an aquatic animal, aquatic animal product or aquatic animal-related item or other item seized and detained under this Act.

86. Limitations on detention

[41] Please see clause 98 (General offences and penalties) which states that, "Every person who acts in contravention of or fails to comply with any provision under this Act, or any certificate, permit, notice, direction, restriction, requirement, or condition given (including condition of registration), made, or imposed under this Act other than a requirement to pay a sum of money as a fee, commits an offence. Subclause 98 (2) sets the penalty for the offence. Member States have the discretion to redraft as a specific offence in relation to this clause when preparing their respective national legislation.

(1) Subject to subsection (2), an aquatic animal, aquatic animal product, aquatic animal-related item or other item seized and detained under this Act shall not be detained after –

(a) an inspector determines that it is in conformity with the provisions of this Act; or

(b) the expiration of [one hundred and eight days] after the date of seizure, or any other period as may be prescribed.

(2) Notwithstanding subsection (1) (b), if proceedings are instituted in relation to an aquatic animal, aquatic animal product, aquatic animal-related item or other item before the expiration of [one hundred and eight days] after the date of seizure, or any other prescribed period, the aquatic animal, aquatic animal product, aquatic animal-related item or other item, or the proceedings from its disposition, may be detained until the proceedings are concluded.

87. Confiscation and disposal

(1) The Chief Veterinary Officer may order the confiscation and disposal of an aquatic animal, aquatic animal product or aquatic animal-related item or other item, or require the owner or person in charge of it to dispose of it, where -

(a) the aquatic animal, aquatic animal product or aquatic animal-related item or other item has been in contact with or in close proximity to another animal, animal product or animal-related item, whether aquatic or otherwise, or other item that was, or is reasonably suspected of having been, infected or contaminated by a notifiable animal disease or a notifiable disease of aquatic animals, causative agent of a disease, or a toxic substance at the time of contact or close proximity;

(b) the aquatic animal, aquatic animal product or aquatic animal-related item or other thing is, or is reasonably suspected of being, infected or contaminated by a disease or a toxic substance;

(c) the aquatic animal, aquatic animal product or aquatic animal-related item or other item is, or is reasonably suspected of being, a vector, the causative agent of a disease or a toxic substance; or

(d) confiscation and disposal are required to prevent suffering or otherwise ensure animal welfare.

(2) If, after entry into [*insert name of country*] and treatment an aquatic animal, aquatic animal product or aquatic animal-related item remains unclaimed beyond a prescribed period of time, an inspector may confiscate and dispose of it in a manner determined by the Chief Veterinary Officer.

(3) An inspector who decides to confiscate an aquatic animal, aquatic animal product or aquatic animal-related item shall, as soon as is reasonably practicable before the confiscation, issue a written notice of confiscation and disposal to the owner or person in charge of the aquatic animal, aquatic animal product or aquatic animal-related item, stating the reason for the confiscation.

(4) An inspector may forego issuing a notice of confiscation before confiscating and disposing of an aquatic animal, aquatic animal product or aquatic animal-related item if –

(a) in the circumstances, it is impractical to give notice; or

(b) emergency action is required,

in which case, the inspector shall issue the notice of confiscation to the owner or person in charge as soon as is reasonably practicable after the confiscation and disposal are conducted.

88. Improvement notices

(1) An inspector may serve an improvement notice on the operator of an aquaculture establishment where the inspector reasonably suspects that an aquaculture establishment is not being operated in accordance with –

(a) a registration certificate issued in relation to it under section 18;

(b) a condition referred to in a registration certificate; or

(c) a requirement under this Act.

(2) An improvement notice shall -

(a) be in the prescribed form and manner;

(b) state the inspector's grounds for suspecting that an aquaculture establishment is not being operated in accordance with a requirement referred to in subsection (1);

(b) specify the matters which constitute the failure to operate an aquaculture establishment in accordance with subsection (1);

(c) subject to subsection (3), specify the measures to be taken in order for the aquaculture establishment to be operated in compliance with subsection (1);

(d) require an operator of an aquaculture establishment to take the measures specified in the notice, pursuant to paragraph (c), within such period as may be specified in the notice; and

(e) inform the operator of his right to apply, under section 98 for reconsideration of the inspector's decision to issue an improvement notice or of the contents of the notice and of his right to appeal pursuant to section 101.

(3) Without limiting the generality of subsection (2) (c), an improvement notice may direct the operator to conduct any or all of the following measures –

(a) clean and disinfect premises or equipment;

(b) enhance operational and sanitary measures;

(c) modify or replace equipment; or

(d) alter aquatic animal health, safety or welfare practices at any stage of the business process.

(4) Subject to subsection (5), in determining the period of time referred to in subsection (2)(d) the inspector shall take into account –

(a) the seriousness of the act of non-compliance and the level of aquatic animal health risk presented; and

(b) the extent and complexity of the modifications required in the aquaculture establishment's practices, procedures or facilities and the capacity of the operator to implement those modifications.

(5) The period of time referred to in subsection (2) (d) shall be not less than fourteen days and not more than one year following the date on which the notice was issued.

(6) A person who fails to comply with an improvement notice commits an offence.

89. Enforcement notices

(1) An inspector may serve an enforcement notice on the operator of an aquaculture establishment if the inspector reasonably suspects that –

(a) in respect of an aquaculture establishment, there is a contravention of, or failure to comply with –

(i) a registration certificate issued in relation to it under section 18;
(ii) a condition of a registration certificate; or
(iii) a requirement under this Act; and

(b) as a result of such contravention or failure, there is a risk to human health or animal health.

(2) An enforcement notice shall –

(a) be in the prescribed form and manner;
(b) state the inspector's grounds for suspecting that –

(i) an operator of an aquaculture establishment is contravening or failing to comply with aquatic animal health requirements under the Act; and
(ii) there is a risk to human or animal health;

(c) specify the matters which constitute the contravention or failure to operate the aquaculture establishment in compliance with a registration certificate, conditions of registration or a requirement under this Act;
(d) specify the measures which must be taken in order to operate an aquaculture establishment in compliance a registration certificate, conditions of registration or a requirement under this Act;
(e) specify the date by which the measures must be taken; and
(f) inform the operator of the establishment of his right to apply to the Chief Veterinary Officer for reconsideration of a decision to issue an

enforcement notice or the contents of the notice, pursuant to section 98 of and of his right of appeal pursuant to section 101.

(3) Without limiting the generality of subsection (2)(d) an enforcement notice may direct the operator of an aquaculture establishment to –

(a) clean and disinfect premises or equipment;
(b) enhance operational and sanitary measures;
(c) modify or replace equipment;
(d) alter animal health or animal welfare practices at any stage of the business process; or
(e) modify or stop operations until the person has taken the remedial actions specified in the notice.

90. Emergency control notices

(1) Where an inspector, on the basis of –

(a) information or knowledge that he acquires in the course of his duties; or
(b) a formal notification given to him, another inspector, a veterinarian or the Chief Veterinary Officer, pursuant to this Act,

reasonably suspects that a disease present in an aquaculture establishment or other area or premises, other than a premises, or a part of a premises, used for residential purposes, poses a serious and imminent threat to aquatic animal health, animal health or human health he may serve an emergency control notice, in the prescribed form and in the manner specified in subsection (2).

(2) An emergency control notice shall be served -

(a) on an owner or occupier of an aquaculture establishment or other premises;
(b) on an employee of an aquaculture establishment present on the premises of an aquaculture establishment; or

(c) by affixing it to a conspicuous place in the aquaculture establishment or other premises, if an individual referred to in paragraph (a) or (b) cannot reasonably be located or identified.

(3) Subject to subsections (5) and (6), where an inspector serves an emergency control notice under subsection (1), he may enter a premises and, on the premises or any other place specified in the emergency control notice do, or require a person to do, any of the following –

(a) prevent, control or reduce the risk of the spread of disease;
(b) euthanise or treat an infected animal or infected material; or
(c) modify or stop operations until remedial actions have been completed.

(4) An inspector acting under this section shall, if requested to do so, show evidence of his authority to act.

(5) Subject to subsection (8), an inspector may, after serving an emergency control notice, enter an aquaculture establishment, area or premises referred to in subsection (1) without a warrant or the consent of the occupier.

(6) Subject to subsection (7), before entering an aquaculture establishment, area or premises, an inspector shall do, or make reasonable attempts to do, the following –

(a) produce his identification card for inspection by an owner or occupier or have the identification card displayed so that it is clearly visible to the owner or occupier when the inspector is exercising his power of entry;
(b) inform the owner or occupier that the inspector is permitted under the Act to enter the aquaculture establishment, area or premises; and
(c) give the owner or occupier the opportunity to allow the inspector to immediately enter the aquaculture establishment, area or premises without the use of force.

(7) An inspector is not required to comply with subsection 6 if the inspector reasonably believes that immediate entry is required to avoid imminent risk of death or serious illness of a person.[42]

(8) Subsection (5) does not affect a right of entry conferred by a warrant referred to in section 84 (4)(b).

(9) An inspector may be accompanied by such other persons and may bring onto the premises such equipment and vehicles, as the inspector reasonably considers necessary to assist him in the performance of his functions.

(10) A person accompanying an inspector pursuant to subsection (9) may –

(a) in the course of his duties, remain on the premises and from time to time re-enter the premises without the inspector;
(b) bring onto the premises a piece of equipment or a vehicle which the person reasonably considers necessary; or
(c) conduct work on the premises in the manner directed by the inspector.

(11) A person accompanying an inspector pursuant to subsection (9) shall, if so requested, show evidence of the authority given in that behalf by the Chief Veterinary Officer.

PART X
GENERAL PROVISIONS AS TO NOTICES

91. Service of notices

(1) This section does not apply to an emergency control notice or a provisional infected zone notice.

[42] Member States are reminded that an emergency control notice is applicable in restricted circumstances as set out in subclause (1) and its use is intended to restrict or eliminate a serious and imminent threat to animal health or human health. To limit the exercise of the power of entry in the circumstances specified in subsection (1) to the presence of a warrant or with consent of the occupier would run counter to the objective of the clause. The Bill also covers unregulated aquaculture establishments which may be informal in structure and may, in some instances, be easily disbanded and the opportunity to enforce the Act and protect the public from a reasonably suspected disease which poses a serious and imminent threat to animal health or human health may likely be lost in the time in which it will likely take to procure a warrant. These are powers which are exercisable in limited circumstances in which there is reasonable suspicion of an aquatic animal health emergency for a specified purpose. The objective is to strike a balance between a person's right to privacy and the duty to maintain public health.

(2) A notice to which this section applies may be served on a person –

(a) by delivering it to him personally;

(b) by leaving it for him at his usual or last known place of abode or business;

(c) by sending it in a prepaid registered letter addressed to him at his usual or last known place of abode or, where an address for service has been given by that person, at that address; or

(d) in the case of a body corporate, or other body, by delivering it to the director, manager, secretary or other officer of that body at its registered or principal office in [*insert name of country*] or by sending it in a prepaid registered letter addressed to the secretary or other officer of that body at that office.

(3) Where a notice to which this section applies (2) is to be served on an occupier or another person in charge of premises, and the last known place of abode or business of that person cannot be ascertained after reasonable inquiry, the notice shall be taken to be served seven days after it has been addressed to "the occupier" and affixed conspicuously to an object on the premises to which the notice relates.

(4) Where a notice to which this section applies is served, an inspector may, either in the notice or in a separate notice served on an owner or on such other person as appears to inspector to be in charge of the premises to which the notice relates, require the person on whom the notice is served to inform -

(a) the Chief Veterinary Officer, in writing, of any change in the occupation of the premises to which the notice relates together with the date of the change and the name of the new occupier; and

(b) the new occupier of the premises, in writing, of the contents of the notice.

92. Service of notices by electronic means

(1) A notice to which section 91 applies may be served by means of an electronic communication if –

(a) the recipient has consented to the use of that form of communication and has provided an electronic address for that purpose;

(b) the consent referred to in paragraph (a) has not been withdrawn; and

(c) the notice is sent to the electronic address provided.

(2) Where a notice referred to in subsection (1) is served by way of an electronic communication, the notice shall be deemed to have been served on the day and at the time recorded by the transmitting apparatus as being the day and time of satisfactory completion of the transmission, unless the contrary is proved.

93. Coming into effect of notices

(1) An emergency control notice shall specify whether it comes into effect on the date on which it is served or on a later date.

(2) A notice other than an emergency control notice shall specify whether it comes into effect 24 hours after it has been served or on a later date.

94. Information as to compliance with notices

A person on whom a notice has been served or is considered to have been served under this Act shall, if so required by an inspector, inform the inspector of whether the requirements of the notice have been complied with and, if they have been complied with, of the details of the steps taken in order to comply with those requirements.

95. Failure to comply with a notice

If a person fails to comply with a notice served under this Act, an inspector may –

(a) take such steps as he reasonably considers necessary to –

(i) ensure compliance with the notice; or

(ii) remedy the consequences of the failure to comply with the notice; and

(b) recover from the person who failed to comply with the notice any expenses reasonably incurred as a result of steps taken pursuant to paragraph (a).

96. Cost of compliance

Unless the Chief Veterinary Officer directs otherwise in writing, a notice served under this Act shall be complied with at the expense of the person on whom it is served.

97. Disapplication of control measures regarding movement

Where a provision in this Act prohibits or restricts the movement of a person or thing, the provision does not apply to an inspector during the performance of his functions under this Act or to a person, piece of equipment or vehicle assisting an inspector in the performance of his functions.

PART XI
RECONSIDERATION OF DECISIONS

98. Application for reconsideration[43]

(1) Subject to subsection (2), where a person to whom this Act applies is not satisfied with a decision or action taken by an inspector, veterinarian, the Chief Veterinary Officer or the NAAHO that person may, within [fourteen] days of the date of that decision, apply to the Chief Veterinary Officer in the prescribed form for a reconsideration of the decision through administrative proceedings.

[43] The CARICOM Secretariat recommends the inclusion of clauses which establish reconsideration as an option in reviewing decisions made by inspectors, veterinarians, the Chief Veterinary Officer or the NAAHO. Member States are reminded that an aggrieved person's right to judicial review of an administrative decision is not precluded by the option to have the administrative decision reconsidered. The common practice of including reconsideration clauses in legislation has developed in light of the benefits of reconsideration which include access to due process by allowing the person to present his or her case to be heard with the possibility of a different outcome from the initial outcome, or providing an opportunity to have errors in the initial decision corrected, without having to commence a potentially lengthy judicial process and being subjected to backlogs in the court system. Notwithstanding the benefits of reconsideration clauses, this model is not prepared to establish uniformity among the laws of Member States. The primary purpose of the model is to establish a minimum regulatory standard for matters concerning aquatic animal health. Therefore, Member States may determine at the national level whether to include the clauses establishing a framework for the reconsideration of some types of decisions made under the Act.

(2) Subsection (1) applies to -

(a) an importer or exporter of an aquatic animal, aquatic animal product or an aquatic animal-related item;
(b) a person expressly permitted under this Act to apply to the Chief Veterinary Officer for reconsideration;
(c) a person who has made an application for permission or a certificate in respect of any benefit or matter under this Act or who is aggrieved by the manner in which a right or interest in any matter has been dealt with by a person under this Act; and
(d) the agent of a person referred to paragraph (a) or (c).

(3) An application for reconsideration under subsection (1) shall -

(a) state the grounds on which the application is based; and
(b) be accompanied by documentation or other information relied upon in support of the request for reconsideration.

99. Proceedings for reconsideration

(1) The Chief Veterinary Officer shall consider an application made under section 98 as soon as is reasonably practicable after his receipt and, after taking into account any further submissions of the person making the application, endeavour to make a decision as soon as may be practicable but not later than [ ] days following the date on which the application for reconsideration is filed.

(2) The Chief Veterinary Officer shall, in the prescribed form and manner, keep a record of, the proceedings of all administrative matters considered under this section.

(3) This section shall not affect a power conferred by any written law to claim goods in case of a seizure or the taking of samples or to commence legal proceedings at any time prior to the payment of a fine or penalty.

100. Decisions of Chief Veterinary Officer in reconsideration proceedings

Where the Chief Veterinary Officer considers an application for reconsideration, he may –

(a) restore anything seized under this Act, subject to such conditions as are reasonably necessary;

(b) impose, reinstate, revoke, mitigate or remit penalties or fines as the case may be, in respect of offences dealt with administratively under this Act;

(c) seize an aquatic animal, aquatic animal product, aquatic animal-related item or other thing; or

(d) grant, refuse, reinstate, revoke, amend or apply conditions to permission or a certificate applied for, or granted, under this Act.

101. Appeals against decisions on reconsideration

(1) A person aggrieved by a decision of the Chief Veterinary Officer made under section 100 may, in the prescribed form and manner appeal to [*insert name of Court*].

(2) A decision of [*insert name of Court*] is final.

PART XII
OFFENCES AND PENALTIES

102. General offences and penalties

(1) A person who contravenes or fails to comply with this Act, a certificate, permit, notice, direction, restriction, requirement, or condition, including condition of registration, issued, served or imposed under this Act, other than a requirement to pay a sum of money as a fee, commits an offence.

(2) A person who commits an offence against this Act for which no other penalty is prescribed shall be liable, on summary conviction, to a fine not exceeding [ ] and, if the offence is a continuing one, to a further fine not exceeding [ ] for every day after the first day on which the offence has continued.

(3) The Minister –

(a) shall keep the level of fines specified in this Act under review, with the objective of ensuring that the fines remain an appropriate deterrent; and

(b) may amend the fines specified in this Act by means of Regulations.

(4) Nothing in subsection (1) shall apply to a person while acting in the capacity of an employee, agent or representative of the State performing, in good faith, a function or responsibility required under this Act.

103. Specific offences

(1) A person commits an offence if he, either personally or indirectly through an employee or an agent –

(a) exports or imports an aquatic animal, aquatic animal product or aquatic animal-related item without a permit or certificate, contrary to this Act;

(b) fails to allow a search or inspection authorised under this Act;

(c) alters, forges, defaces, or destroys a document issued under this Act;

(d) destroys, conceals, abandons, discards, tampers with or does any other thing to –

(i) an aquatic animal, aquatic animal product, aquatic animal-related item, any other item, a container or packaging; or

(ii) a log, return, record, document or a piece of equipment or device containing a log, return, record or document,

with intent to avoid its seizure or the detection of an offence under this Act;

(e) tortures or treats an aquatic animal contrary to aquatic animal welfare requirements under this Act;

(f) possesses, sells, offers for sale, transports, imports or exports an aquatic animal, aquatic animal product or aquatic animal-related item knowing, or ought reasonably to have known that it –

(i) is infected or contaminated;

(ii) may transmit a notifiable animal disease or a notifiable disease of aquatic animals; or

(iii) permits or causes the introduction or spread of a notifiable animal disease or a notifiable disease of aquatic animals;

(g) imports an aquatic animal, aquatic animal product or aquatic animal-related item otherwise than through a designated port of entry;

(h) impersonates an inspector;

(i) without reasonable cause, fails to provide an inspector or a person acting on behalf of the NAAHO assistance or information which that person may reasonably require of him;

(j) in purported compliance with a requirement to provide assistance or information or for the purpose of procuring a certificate or permit under this Act, intentionally or recklessly furnishes information which is false or misleading in a material particular, or intentionally fails to disclose material information; or

(k) obstructs, assaults, threatens with violence, bribes or attempts to bribe or otherwise interferes with an inspector or other representative of the NAAHO in the exercise of the powers under this Act, or attempts to prevent him from executing his duties,

commits an offence and without prejudice to any fine, period of imprisonment or other sanction that may arise under any other law for the actions in question, shall be liable, on summary conviction under this Act, to a fine not exceeding [ ] or to imprisonment for a term not exceeding [ ], or both.

(2) Where an offence under this Act is committed by a body corporate and is proved to have been committed with the consent or connivance of, or to be attributable to any neglect or default on the part of, any director, manager, secretary or other similar officer of the body corporate, or a person who is purporting to act in any such capacity, such director, manager, secretary or other similar officer, as well as the body corporate, commits the offence and shall be liable on summary conviction to a fine not exceeding [ ] or to imprisonment for a term not exceeding [ ] or both.

104. [Offences by officials

(1) An employee of the NAAHO or a person appointed under this Act commits an offence if he -

(a) agrees to do, abstains from doing, permits, conceals, or connives in doing an act or thing, contrary to the proper execution of his duties under this Act;

(b) discloses confidential information acquired in the performance of his official duties relating to a person, firm, or business, except when required to do so by his supervisor in the course of official duties, or where ordered to do so by a Court;

(c) in connection with an official duty, directly or indirectly asks for or takes a payment, gratuity or other reward to which he is not entitled; or

(d) otherwise abuses his powers granted under this Act, and

is liable, on summary conviction, to a fine not exceeding [ ] or to imprisonment for a term not exceeding [ ] or both.

(2) A person who is convicted of an offence under subsection (1) -

(a) is liable to dismissal from the NAAHO;

(b) shall, in the case of an inspector or analyst, cease to function as an inspector or analyst, as the case may be;

(c) may be ineligible for reappointment; and

(d) shall be subject to such other penalty as is applicable to civil servants in [*insert name of country*].][44]

105. Procedure for offences

(1) Where an inspector reasonably suspects that a person has contravened this Act, the inspector shall notify the Chief Veterinary Officer.

(2) The Chief Veterinary Officer shall determine whether the matter shall be forwarded to [*law enforcement/police*] or whether an administrative penalty is applicable.

[44] This clause is included in the model Bill for completeness. The clause is placed in square brackets because Member States have a discretion on whether to include this clause in their legislation. Where a Member State has national arrangements that adequately sanction civil servants whose conduct falls within actions prohibited in this clause, the Member State would not include this clause in their aquatic animal health legislation.

(3) Where a matter has been forwarded to the [*law enforcement/police*] in accordance with subsection (2), the [*law enforcement/police*] shall carry out an investigation and shall, where appropriate, issue a summons ordering the person accused of contravening the Act to appear before a magistrate.

106. Forfeiture

(1) Where a person is convicted of an offence under this Act the Court may, on its own motion or at the request of a party to the proceedings, in addition to any penalty imposed, order that an aquatic animal, aquatic animal product, aquatic animal-related item or other thing by means of or in relation to which the offence was committed or any proceeds realised from its disposition, be forfeited to the [*State/Crown*].

(2) Where a person is convicted of an offence under this Act and a fine is imposed in respect of an aquatic animal, aquatic animal product, aquatic animal-related item or other thing, the aquatic animal, aquatic animal product, aquatic animal-related item or other thing may be -

(a) detained until the fine is paid; or

(b) sold in satisfaction of the fine.

(3) A person to whom subsection (1) applies may appear before the Court at the hearing conducted pursuant to subsection (1) and show cause why an aquatic animal, aquatic animal product, aquatic animal-related item or other thing to which the conviction relates should not be forfeited.

(4) Where the Court does not order the forfeiture of an aquatic animal, aquatic animal product, aquatic animal-related item or other thing, it shall be returned to its owner.

(5) At the expiry of the time limit for appeal, where no appeal is lodged, an aquatic animal, aquatic animal product, aquatic animal-related item or other thing ordered to be forfeited under this Act, may be destroyed, sold, leased or donated to a charitable organization.

(6) The proceeds of sale of an aquatic animal, aquatic animal product, aquatic animal-related item or other thing forfeited in accordance with this section shall be deposited into the [*to be specified at the national level*].

107. Good faith defence

(1) No person appointed under this Act or member of staff or officer of the NAAHO, an official laboratory, a reference laboratory or a government entity shall be liable to suit or to prosecution in respect of anything done, or omitted to be done, by him in good faith in the performance of his functions under this Act.

(2) Subsection (1) shall not apply to civil or criminal liability for personal injury or death.

[PART XIII
ADMINISTRATIVE PENALTIES[45]

[108. Certain offences may be dealt with administratively

A person who commits an offence set out in section [ ], [ ], [ ], [ ] or [ ][46] may elect to have that offence dealt with administratively in accordance with sections 109 to 119**.]**

109. Notice respecting administrative penalty

(1) If the Chief Veterinary Officer reasonably suspects that a person has contravened a section referred to in section 108**,** the Chief Veterinary Officer shall, before making a determination, issue to the person a notice, in writing, giving the person the option to deal with the offence administratively.

[45] Part XIII is included as a guide to facilitate Member States who intend to use an administrative penalty framework. The Part is not mandatory and is placed in square brackets because Member States have a discretion not to include them in their respective legislation which is modelled on the CARICOM model Bill. Where a Member State already has an administrative penalty framework or a civil penalty framework, the Member State has the discretion to continue to use its pre-existing framework.

[46] Member States will determine, at the national level, the prohibited conduct to which administrative penalties will apply. Member States' legislation will set out specific conduct in relation to which administrative penalties will be imposed. The section numbers assigned to the sections setting out the prohibited conduct will replace the square brackets.

(2) A notice issued under subsection (1) shall –

(a) be in the prescribed form:

(b) include the name of the person who is the subject of the notice;

(c) specify the section that the person is alleged to have contravened;

(d) set out the circumstances alleged to constitute the contravention to which the notice relates;

(e) specify the person's right to make representation under section 110;

(f) inform the person that a request to make a representation shall be submitted within thirty days after the date on which the person receives the notice, failing which the Chief Veterinary Officer shall, immediately make a determination in lieu of representation; and

(g) set out a preliminary assessment of the amount of the administrative penalty.

110. Opportunity to make representations

(1) Before making a determination in respect of an alleged contravention of a section referred to in section 108, the Chief Veterinary Officer shall provide the person referred to in section 109 (1) the opportunity to make representations in respect of the alleged contravention.

(2) A person who wishes to make representations pursuant to subsection (1) shall submit a request in writing to the Chief Veterinary Officer within thirty days after the date on which the person receives the notice issued under section 109 (1).

(3) Subject to subsection (4), if a person makes a request in accordance with subsection (2), the Chief Veterinary Officer shall –

(a) conduct a written, electronic or oral hearing, or any combination thereof, as he, in his sole discretion, considers appropriate;

(b) determine the circumstances and the place in which, and the process by which, the hearing shall be conducted; and

(c) by notice in writing, specify the form and content of materials to be submitted for the hearing and the deadline for the submission of materials.

(4) If a person fails to submit materials to the Chief Veterinary Officer in accordance with what is specified under subsection (3)(c), the Chief Veterinary Officer is not required to conduct a hearing and shall immediately proceed to make a determination and issue a decision in respect of the alleged contravention.

111. Hearing and decision

(1) Where a person makes a request under section 110 (2) and, where required, submits materials in accordance with a notice issued under section 110 (3) (c)**,** the Chief Veterinary Officer shall, within [ ][47] days of receipt of the request and the submission of any materials, conduct a hearing in respect of the alleged contravention.

(2) Within [ ] days of the date of completion of representations, the Chief Veterinary Officer shall make a determination in respect of the alleged contravention and issue a decision, in writing.

(3) If, on a balance of probabilities, the Chief Veterinary Officer is satisfied that a person has contravened a provision referred to in section 108, he shall serve the person with a decision requiring the person to pay an administrative penalty in the amount specified in the decision.

(4) A decision under this section shall –

(a) be in the prescribed form;
(b) specify reasons for the decision;
(c) specify the name of the person who is liable for the administrative penalty;
(d) set out the contravention in relation to which the administrative penalty is imposed;
(e) specify the amount of the administrative penalty;
(f) specify the date by which the administrative penalty is to be paid; and

[47] Member States are to determine, at the national level, the timeframes indicated by empty square brackets throughout the clause.

(g) notify the person against whom the administrative penalty is imposed of his right to appeal to [*insert name of Court*].

(5) An administrative penalty shall be paid within the deadline specified in the notice issued under subsection (4).

(6) Where an administrative penalty is imposed under this Part, a prosecution for an offence under this Act in respect of the same contravention may not be brought against the person.

(7) If the Chief Veterinary Officer does not, within [ ] days after the person has made representations under this Part, issue a decision in respect of the alleged contravention, the Chief Veterinary Officer shall notify the person, in writing, that he is not required to pay an administrative penalty.

112. Appeals against decisions under this Part

(1) A person aggrieved by a decision of the Chief Veterinary Officer made under this Part may appeal to [*insert name of Court*] within the prescribed period and in the prescribed manner.

(2) The decision of [*insert name of Court*] is final.

113. Correction of decision

(1) Within [fifteen] days after the date on which the Chief Veterinary Officer issues a decision under section 111, he may amend the decision to correct –

(a) a typographical error, arithmetical error or other similar error; or
(b) an obvious error or omission.

(2) The discretion given to the Chief Veterinary Officer under subsection (1) is exercisable with or without a hearing and –

(a) on the initiative of the Chief Veterinary Officer; or
(b) at the request of the person who is the subject of the decision.

(3) If, pursuant to subsection (1), the Chief Veterinary Officer corrects a decision he shall give notice in writing to the person who is the subject of the decision.

114. Absolute liability

A requirement that a person pays an administrative penalty applies even if the person exercised due diligence to prevent the contravention or failure in relation to which the administrative penalty is imposed.

115. Assessment of quantum of administrative penalty

(1) In establishing the quantum of an administrative penalty in a particular case, the Chief Veterinary Officer must consider the following matters, if applicable –

(a) the nature of the contravention or failure;
(b) the real or potential adverse effect of the contravention or failure;
(c) whether the contravention or failure was deliberate;
(d) any economic benefit derived by the person from the contravention or failure;
(e) whether the person exercised due diligence to prevent the contravention or failure;
(f) the person's efforts to correct the contravention or failure;
(g) the person's efforts to prevent the recurrence of the contravention or failure; and
(h) any other factor that, in the opinion of the Chief Veterinary Officer, is relevant.

(2) If the contravention or failure continues for more than one day, separate administrative penalties, each not exceeding the applicable maximum administrative penalty, may be imposed for each day the contravention or failure continues.

116. Deadline for payment of administrative penalty

A person who is the subject of a decision made under this Part shall pay the administrative penalty within [thirty] days after the later of –

(a) the date on which the decision is served on the person;
(b) if the decision was corrected under section 113, the date on which the person received the notice of correction;
(c) if the person appeals the imposition of the administrative penalty -
    (i) the date on which the person receives a copy of the order of the Court, if the Court confirms or varies the administrative penalty; or

(ii) the date on which a new decision is served on the person, if the Court sends the matter back to the Chief Veterinary Officer with directions.

117. Recovery of administrative penalty

(1) Subject to a decision of the Court cancelling a decision made under section 111, an administrative penalty imposed under this Part may be recovered as a debt due to the government.

(2) If a person fails to pay an administrative penalty, the Chief Veterinary Officer may file a certificate in a Court that has jurisdiction and, upon filing, the certificate has the same force and effect, and all proceedings may be taken on it, as if it was a judgement of the Court with which it is filed.

(3) A certificate filed under subsection (2) shall –

(a) be in the prescribed form;

(b) be signed by the Chief Veterinary Officer; and

(c) contain –

(i) the name of the person who is liable for the penalty;

(ii) the contravention in relation to which the penalty is imposed; and

(iii) the amount of the penalty.

118. Consolidated Fund

All revenue derived from administrative penalties shall be paid into the Consolidated Fund.

119. Limitation period

A notice issued under section 109 may not be served more than 3 years after the later of –

(a) the date on which the alleged contravention to which the notice relates occurred; or

(b) the date on which evidence of the alleged contravention first came to the knowledge of the Chief Veterinary Officer.]

PART XIV
JURISDICTION, EVIDENCE AND LIABILITY

120. Jurisdiction and standing

(1) An act or omission in contravention of this Act committed by -

(a) a person within the fisheries waters;

(b) a national outside the fisheries waters; or

(c) a person on board a vessel, including a licensed fishing vessel,

may be dealt with, and judicial proceedings taken, as if such act or omission had taken place in [*insert name of country*] within the local limits of the jurisdiction of the [*specify Court e.g. Supreme Court*].

(2) An act or omission beyond the fisheries waters by a person referred to in subsection (1) (b) or (c) which if committed within the fisheries waters would be an offence shall be considered to have been committed within the fisheries waters.

(3) Where a condition specified in a certificate or permit requires specifically or incidentally the reporting of a fact while a vessel is beyond the fisheries waters, proceedings may be taken in respect of a failure to report or misreporting of such fact as if it had occurred within the fisheries waters.

121. Burden of proof

In proceedings under this Act where a person is charged with having committed an offence involving an act for which a certificate, permit or other authorisation is required under this Act, the burden is on the person charged to prove that at the material time the requisite certificate, permit or other authorisation was held by him.

122. Presumption aquatic animal intended for human consumption

(1) An aquatic animal commonly used for human consumption shall, if placed on the market or offered, exposed or kept for placing on the market, be presumed, unless the contrary is proved, to have been placed on the market or, as the case may be, to have been or to be intended for placement on the market for human consumption.

(2) An –

(a) aquatic animal commonly used for human consumption which is found on premises used for the preparation, storage or placement on the market of that aquatic animal; or

(b) article or substance commonly used in the manufacture of food for human consumption which is found on premises used for the preparation, storage or placement on the market of an aquatic animal,

shall be presumed, unless the contrary is proved, to be intended for placement on the market, or for manufacturing fishery products or other food for placement on the market for human consumption.

123. Presumptions concerning vessels and aircraft

(1) Where the place at which an event is alleged to have taken place is in issue, the place stated in the relevant entry in the logbook or other official record of an enforcement vessel or enforcement aircraft as being the place at which the event took place shall be *prima facie* evidence of the place at which the event took place, unless the contrary is proved.

(2) *Prima facie* evidence of an entry in a logbook or other official record of an enforcement vessel or enforcement aircraft may be given by the production of a written copy or extract of the entry certified by an authorised officer as a true copy of accurate extract.

(3) For the purposes of legal proceedings, the act or omission of a member of the crew of a vessel, while aboard that vessel or engaged in fishing activity related to the vessel, shall be deemed to be also that of the operator and master of the vessel, unless the contrary is proved.

(4) An entry in writing or other mark in or on a log, chart or other document required to be maintained under this Act or under the [national fisheries Act] used to record the activities of a vessel shall be deemed to be that of the operator and master of the vessel, unless the contrary is proved.

(5) Where, in legal proceedings –

(a) an inspector or veterinarian gives evidence of reasonable grounds to believe that an aquatic animal to which the charge relates was captured in a specified area of the fisheries waters; and

(b) the Court considers that, having regard to the evidence, the grounds are reasonable,

the aquatic animal shall be presumed to have been so captured, unless the contrary is proved.

124. Presumption as to manufacture

Evidence that a package containing an aquatic animal product to which this Act applies bore a name, address or registered trademark of the aquaculture establishment by which it was produced, manufactured or packed or its operator, shall be *prima facie* evidence that the aquatic animal product was produced, manufactured or packed, as the case may be, by the aquaculture establishment or operator.

125. Certificate evidence

(1) A certificate signed by a person in charge of an official laboratory stating that an object or substance has been analysed or examined and stating the results of the analysis or examination, is admissible in any proceeding under this Act as *prima facie* evidence of the matters stated in the certificate and of the correctness of the results of the analysis or examination, provided that –

(a) the party against whom it is produced may require the attendance of the person in charge of the official laboratory or the analyst who performed the analysis, for the purpose of cross examination;

(b) no such certificate shall be admissible in evidence unless the party intending to produce it has, before the trial, given the party against whom

it is intended to be produced reasonable notice of such intention together with a copy of the certificate.

(2) In any proceedings, the defendant cannot adduce evidence in rebuttal of a certificate issued by an official laboratory in relation to any matter of which the certificate is evidence unless, within fourteen days after a copy of the certificate is given to the defendant, or such further time as the Court may allow, the defendant gives to the prosecutor notice in writing of the defendant's intention to adduce such rebuttal evidence.

126. Photographic evidence[48]

(1) Subject to subsection (2), where a photograph is taken of an item or activity, and -

(a) simultaneously the date, time and position from which the photograph is taken are superimposed on the photograph; or

(b) the date, time and position are certified on the photograph at a later date by an authorised officer who was present at the time the photograph was taken,

it is presumed, unless the contrary is proved, that the photograph was taken on the date, at the time and in the position so appearing and shall be received in evidence by the Court.

(2) The presumption set out under subsection (1) shall arise only if –

(a) in the case of subsection (1)(a), the camera taking the photograph is connected directly to the instruments which provided the date, time and position concerned; and

(b) in either case, the photograph was taken by an inspector or other representative of the NAAHO.

[48] Member States will determine at the national level whether clause 120 is in keeping with their respective Evidence Acts. Additionally, Member States are remined that the primary purpose of the model is to establish a minimum regulatory standard for matters concerning aquatic animal health. Given the substance of clause 120, presumptions as to photographic evidence, Member States are encouraged to consider the clause, compare it to the manner in which photographic evidence is treated in their legislation and to use the clause as precedent if they consider the clause to be an improvement on what currently obtains in their respective jurisdictions. If the language in the Member State's Evidence Act is preferred the Member State has the discretion to amend the clause in the legislation modelled on this Bill accordingly.

(3) An inspector or other representative of the NAAHO who takes a photograph of the kind described in subsection (1) may issue a certificate in relation to that photograph stating-

(a) his name, address, official position and the authority under which he is appointed;
(b) the name and call sign, if known, of any vessel appearing in the photograph;
(c) the matters, as appropriate, in subsection (2)(a); and
(d) the maximum possible distance and the direction of the subject of the photograph away from the camera at the time the photograph was taken.

127. Disclosure of information

(1) Subject to subsection (2), an inspector or other representative of the NAAHO shall not disclose to a third party any information acquired in the performance of the inspector's or other representative's duties, unless otherwise ordered to do so in writing by the Minister or by a Court.

(2) Notwithstanding subsection (1), where an inspector or other representative of the NAAHO is of the reasonable opinion that –

(a) there is a health or safety risk; and
(b) disclosure of the information to a person specified in subsection (3) is necessary to protect the health or safety of the public or an individual,

he may disclose the information to a person specified in subsection (3).

(3) A disclosure under subsection (2) shall be made to –

(a) the Minister;
(b) the Chief Medical Officer or a medical officer where the risk occurs; or
(c) a person the Chief Veterinary Officer considers is affected or may be affected by the risk or who may contribute to the prevention, reduction or elimination of the risk.

(4) Where an inspector or other representative of the NAAHO obtains information from a person who asserts that the information provided should be treated as a trade secret or as confidential business information, he shall treat that information as a trade secret or as confidential.

128. Strict liability

(1) In a prosecution for an offence against this Act, it shall not be necessary for the prosecution to prove that the defendant intended to commit an offence.

(2) It shall be a defence to a charge if the defendant proves that –

(a) he did not intend to commit the offence; and

(b) in a case where it is alleged that anything required to be done was not done, that he took all reasonable steps to ensure that it was done; or

(c) in a case where it is alleged that anything prohibited was done, that the defendant took all reasonable steps to ensure that it was not done.

PART XV
MISCELLANEOUS

129. Regulations

(1) The Minister may make regulations for the purposes of giving effect to the provisions of this Act.

(2) Without prejudice to the generality of subsection (1), regulations may contain provisions in relation to –

(a) the carrying into effect of international standards, protocols and recommended practices or health requirements for the harvesting, processing, handling, storage and transport of aquatic animals, aquatic animal products and aquatic animal-related items;

(b) the procedures and requirements for the registration of aquaculture establishments;

(c) procedures for the issuing of, and conditions as to the validity of, export health certificates;

(d) monitoring, control and enforcement of matters in relation to the export of aquatic animals, aquatic animal products and aquatic animal-related items including –

(i) procedures for, and the frequency of, inspection of aquaculture establishments;

(ii) the monitoring and control of production areas in relation to microbiological, chemical and environmental contamination and marine bio-toxins;

(iii) the monitoring of water used in aquaculture establishments and the sampling, testing and examination of water; and

(iv) procedures and conditions relating to the microbiological and chemical examination and testing of fishery products, at production areas, landing sites, processing establishments and licensed fishing vessels and at all stages of the handling, transportation, processing and export of such products and by-products;

(e) the conditions for and the methods of demarcation, approval and listing of production areas, changes or closure of production areas, and communication of the list of, changes to or closure of production areas to an importing country or a person requesting same;

(f) the prohibition of production, and harvesting, of aquatic animals and aquatic animal products in production areas considered unsuitable by the Chief Veterinary Officer;

(g) the establishment, operation and maintenance of laboratories or laboratory activities;

(h) requirements as to details to be documented regarding health checks, including hazard analysis critical control points system for the production, harvesting, handling and processing of aquatic animals and aquatic animal products for export;

(i) standards, requirements and methods concerning aquatic animals and aquatic animal products intended for export, including wrapping, labelling and packaging standards, requirements and methods;

(j) the use of chemicals, chemical compounds, hormones or additives in the production, harvesting, handling and processing of aquatic animals, aquatic animal products and aquatic animal-related items;

(k) fees payable in respect of registration, a permit, a certificate, an inspection, sampling and such other service as the Chief Veterinary Officer determine;

(l) the conditions under which a register shall be made available for inspection by the public and the fees payable in relation to the inspection of register; and

(m) any other matter that is required to be prescribed under this Act.

(3) Subject to subsection (4), when making regulations under this section, the Minister shall, before the regulations in question are made consult with the Chief Veterinary Officer, the Advisory Committee and, to the extent reasonable in light of the proposed regulations, such other persons as may have an interest in, or be affected by, the proposed regulations.

(4) The requirement to consult, pursuant to subsection (3), may be dispensed with if the Minister considers that regulations are required on an urgent basis, in which case the consultation shall be carried out as far in advance as is reasonably practicable prior to the making of the regulations and shall be completed as soon as is reasonably practicable before the making of the regulations.

(5) Regulations made under this section may prescribe specific offences and penalties.

130. Repeal and savings

(1) [Reference to repealed provisions, according to national circumstances].

(2) Subject to subsection (3), all permits, licences and certificates granted, and appointments made, under a provision repealed pursuant to subsection (1) which are valid and in force immediately before the coming into operation of this Act shall continue, on such coming into operation, to have full force and effect for the term for which they were granted

or made or until they expire or are revoked according to law as if the provisions under which they were granted or made had not been repealed.

(3) Where the Minister is reasonably satisfied that a term or condition of a licence, permit, certificate or an authorisation granted or an appointment made under a repealed provision is at variance with the provisions of this Act to an extent which makes the term or condition incompatible with the object and purpose of this Act, he shall by written notice –

(a) advise the holder of the licence, permit certificate or authorisation, the operator of a licensed fishing vessel in respect of which the licence, permit certificate or authorisation is granted, or the person appointed, as the case may be, of the term or condition that is incompatible with the object and purpose of this Act;

(b) specify the variation in the term or condition required to ensure compliance and compatibility with this Act; and

(c) advise that the variation shall apply in respect of the licence, permit, certificate or authorisation, or appointment, as the case may be, with effect from a date specified in the notice, unless he receives notice in writing from the holder of the licence, permit, certificate or authorisation or the operator of the licensed fishing vessel in respect of which the licence, permit, certificate or authorisation is granted or the person appointed, as the case may be, that such variation is unacceptable, in which case the licence, permit, certificate, authorisation or appointment, as the case may be, shall cease to have effect from the date specified.

(4) An agreement made under or in relation to a repealed provision, which is substantially at variance with the provisions of this Act shall continue in full force and effect until the earliest possible date of its re-negotiation or renewal according to its terms, at which time it shall be re-negotiated so as to ensure compliance with the provisions of this Act.

Schedule 1
Constitution of the Advisory Committee

Composition of the Advisory Committee

(1) Members of the Advisory Committee shall be appointed by the Minister, in accordance with paragraphs (2) to (4).

(2) The membership of the Advisory Committee shall include at least the following—

(a) a representative of the NAAHO;

(b) a representative of the Ministry responsible for fisheries;

(c) a representative of the Ministry responsible for food safety;

(d) a representative of the Ministry responsible for public health;

(e) a representative of a fisherfolk or other non-government organisation with an interest in the export of fishery products;

(f) a representative of the scientific or research sector with expertise in fisheries hygiene matters.

(3) A person appointed by the Minister under paragraph (1) shall be of sufficient seniority and have sufficient knowledge to enable him to participate competently in the activities of the Advisory Committee.

(4) A member of the Advisory Committee shall hold office for a period of three years and shall at the expiry of that period be eligible for re-appointment.

(5) The Minister may replace a member of the Advisory Committee prior to the expiry of the member's period of office—

(a) if the member is absent without reasonable excuse from three consecutive meetings of the Advisory Committee; or

(b) if the member is unable to perform his responsibilities to the Advisory Committee, whether arising from infirmity of body or mind, absence, misconduct or any other cause.

Meetings and Rules of Procedure

(6) A representative of the NAAHO shall be the Chairperson of the Advisory Committee.

(7) The members shall elect one of their number to be Vice-Chairperson, who shall perform the functions of the Chairperson at any meeting at which the Chairperson is unavailable.

(8) The functions of the Chairperson shall be—

(a) to declare the opening and closing of each meeting;

(b) to preside at meetings;

(c) to rule on points of order;

(d) to call for and announce the results of votes;

(e) to determine, after consultation with other members, the draft provisional agenda for each meeting;

(f) to arrange for the appointment of the members of Sub-Committees as required;

(g) to sign a report of the proceedings of each meeting of the Advisory Committee, for transmission to the Minister; and

(h) generally, to make such decisions and give such directions as will ensure, especially in the interval between meetings, that the business of the Advisory Committee is carried out efficiently and in accordance with its functions.

(9) A draft report of the proceedings of each meeting of the Advisory Committee shall be prepared and distributed as soon as possible to members by the Chairperson.

(10) Each member shall submit to the Chairperson within seven days of receiving a draft report any comments or corrections that he or she wishes to be taken into account, after which the Chairperson shall compile as soon as possible the final report of the proceedings.

(11) The Chairperson shall cause the final summary record to be—

(a) submitted to the Minister as soon as possible after it is compiled; and

(b) made available to stakeholders within forty days of the meeting through any reasonable means.

(12) Nothing in paragraphs (9) to (11) shall be construed as authorising or requiring a person to disclose any information which is to be treated as confidential under this Act.

(13) Subject to the other provisions of this Constitution, the Advisory Committee shall determine its own rules of procedure for meetings.

Sub-committees

(14) The Advisory Committee may establish such sub-committees as it considers necessary for the effective performance of its functions.

(15) A sub-committee established under paragraph (14) may consist of members of the Advisory Committee or a combination members and non-members.

(16) The Advisory Committee shall determine the scope, functions and rules of procedure of a sub-committee established under paragraph (14).

Disclosure of Interest

(17) A member of the Advisory Committee or of a sub-committee who has a personal interest in a matter being considered or dealt with by the Advisory Committee or sub-committee shall disclose to the Chairperson, verbally or in writing, the nature of the interest and shall not take part in a deliberation or decision of the Advisory Committee or sub-committee with respect to that matter.

(18) Without prejudice to any other action that is permitted by law, the Minister may in writing, remove a person who contravenes paragraph (17) from his position on the Advisory Committee or a sub-committee.

Allowances for Members of the Advisory Committee

(19) Members of the Advisory Committee, including a sub-committee, shall be paid an allowance to compensate for the reasonable costs of attending meetings of the Advisory

Committee or a sub-committee, at a rate and in such manner as determined by the Minister, with the consent of the Minister responsible for finance.

(20) Observers shall not be entitled to any payment of an allowance or other compensation for attendance at a meeting of the Advisory Committee or a sub- committee.

Schedule 2

Aquatic Animal Health[49] Act

Application Form to Register an Aquaculture Establishment

Application No. _____
Date of Application _____
Name of owner of aquaculture establishment_____
Existing registration no. (if any) _____
Business address of owner of aquaculture establishment

_____
Name of operator of aquaculture establishment

_____
Business address of operator, if different from address of aquaculture establishment

_____
Particulars of export operations _____

_____

_____
Other operations at the aquaculture establishment if any, likely to affect the export operations carried on at the establishment _____

_____

_____

MISCELLANEOUS
Your application shall be accompanied by the following:-

1. [*NAAHO to insert what has been prescribed to accompany an application pursuant to section 17(2) of the Act*.]
2. the application and inspection fees.

Signature of Applicant _____

FOR OFFICIAL USE ONLY

_____
Date Application Received _____
Document(s) Received _____
Fees Received _____ Date of Inspection _____
Results of Inspection _____
Application Granted/Refused _____If Granted: Certificate No. _____
Operating Certificate No._____ _____
If refused, reasons for refusal _____

[49] Member States may determine, at the national level, whether to place the form in Regulations when preparing their respective legislation.

Sections 17(2), 18(1) and 73(1)

Schedule 3

Fees[50]

In respect of an application of a type described in column 1 of the Table below, a person shall pay to the NAAHO the fee specified in column 2 in relation to the type of application.

Type of Fee	Fee ($)
Application for Registered Aquaculture Establishment Certificate	[100]
Application to modify Registered Aquaculture Establishment Certificate	[20]
Inspection	

[50] When preparing their respective legislation, Member States may determine at the national level whether to place the fees specified in the model Bill in Regulations.

Section 18(2)

Schedule 4

Aquatic Animal Health Act

Registered[51] Aquaculture Establishment Certificate

Certificate No. _____

_____
(Name of Operator)
of_____
(Business Address of Operator)

is hereby authorised to operate an aquaculture establishment at_____

_____
(Registered Address of Premises)

This certificate is valid for a period of 12 months, unless earlier suspended or revoked, and is not transferable.

The operations which may be carried out under the authority of this certificate are –

This certificate is granted under the following conditions—

Breach of the Act or Regulations may result in suspension or revocation of this certificate.

Dated the day of , 20

(**Affix Stamp of NAAHO**)

Signed:_____
Chief Veterinary Officer
National Aquatic Animal Health Organisation

[51] When preparing their respective legislation, Member States may determine at the national level whether to place the form in Regulations.

Schedule 5 Section 25

Information to be kept in Public Register of Aquaculture Establishments

Part I: Aquaculture Production Business

The following minimum information on each registered aquaculture establishment that operates as an aquaculture production business shall be kept in the Register of Aquaculture Establishments, hereinafter referred to as the "Register"—

(a) the name, registered address and physical address of the aquaculture production business and its contact details, including telephone number and e-mail address;
(b) the registration number and particulars of the authorisation given, such as dates for specific authorisations, identification codes or numbers, specified conditions for production, any other matter relevant to the authorisation;

(c) the geographical position of the aquaculture production business defined by a suitable system of coordinates, if possible GIS coordinates;

(d) the purpose, type, that is type of culture system, or facilities such as land-based facilities, sea cages, earth ponds, and maximum volume of production, where regulated;

(e) details on the water supply and discharges of the aquaculture production business;

(f) where the aquaculture production business is a farm, the species of aquatic animal reared at the farm; and

(g) where the aquaculture production business is a multi-species farm or an ornamental farm, it shall as a minimum be recorded whether any of the reared species of aquatic animal are known to be susceptible to listed diseases, or to be known vectors of listed diseases);

Part II: Processing Establishments

The following minimum information on each registered aquaculture establishment that operates as a processing establishment shall be kept in the Register—

(a) the name, registered address and physical address of the processing establishment, and its contact details, including telephone number and e-mail address;
(b) the registration number and particulars of the authorisation given, such as dates for specific authorisations, identification codes or numbers, specified conditions for production, any other matter relevant to the authorisation;

(c) the geographical position of the processing establishment defined by a suitable system of coordinates, if possible GIS coordinates;

(d) details on the processing establishment's water effluent treatment systems;

(e) the species of aquatic animal handled in the processing establishment.

Sections 2, 30 (2), 31, 66 (1), 68 and Schedule 5

Schedule 6
Listed Diseases

1. Fish diseases

Disease	Susceptible species
Epizootic haematopoietic necrosis disease	*redfin perch (Perca fluviatilis)* *rainbow trout (Oncorhynchus mykiss)*
Infection with Aphanomyces invadans (epizootic ulcerative syndrome)	*Etc. [to be aligned with World Organisation for Animal Health Aquatic Code and/or national requirements]*
Infection with Gyrodactylus salaris	
Infection with HPR-deleted or HPR0 infectious salmon anaemia virus	
Infection with salmonid alphavirus	
Infectious haematopoietic necrosis	
Koi herpesvirus disease	
Red sea bream iridoviral disease	
Spring viraemia of carp	
Viral haemorrhagic septicaemia	

2. Mollusc diseases

Infection with abalone herpesvirus	
Infection with Bonamia exitiosa	
Infection with Bonamia ostreae	
Infection with Marteilia refringens	
Infection with Perkinsus marinus	
Infection with Perkinsus olseni	
Infection with Xenohaliotis californiensis	

3. Crustacean diseases

Acute hepatopancreatic necrosis disease	
Crayfish plague (Aphanomyces astaci)	
Infection with Yellowhead virus	

Infectious hypodermal and haematopoietic necrosis	
Infectious myonecrosis	
Necrotising hepatopancreatitis	
Taura syndrome	
White spot disease	
White tail disease	

4. Amphibian diseases

Infection with Batrachochytrium dendrobatidis	
Infection with ranavirus	

5. Echinoderm diseases[52]

[52] Member States are advised that the items listed in Schedule 6 are subject to change and other diseases and susceptible species added to the list. Therefore, based on national policy guidance, Member States will be equipped, and expected, to insert the relevant information in their corresponding national legislation.