



REPUBLIC OF NAURU

Agricultural Quarantine Act 1999

As in force from 3 November 2011

This consolidation comprises Act No. 5 of 1999 as amended and in force from 3 November 2011 (being, at the time the consolidation was prepared on 26 September 2014, the date of commencement of the most recent amendment).

The notes section at the end of the consolidation includes a reference to the law by which each amendment was made. The Table of Amendments in the notes section sets out the legislative history of individual provisions.

The operation of amendments that have been incorporated in the text of the consolidation may be affected by application provisions that are set out in the notes section at the end of the consolidation

This consolidation is prepared and published in a legislation database by the Department of Justice and Border Control under the *Legislation Publication Act 2011*.

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REPUBLIC OF NAURU

Agricultural Quarantine Act 1999

Act No. 5 of 1999

An Act to provide for the protection of plants, animals and public health and the protection, development and utilisation of natural resources and the environment by preventing the introduction and further spread of injurious diseases and pests; to provide procedures and facilities for services to ensure the safe movement of plants and animals into, out of and within the Republic; to extend obligatory international cooperation in the prevention of the movement of diseases and pests in international trade and traffic; and for related purposes

Certified on 18 October 1999

Enacted by the Parliament of Nauru as follows:

PART I – PRELIMINARY

1 Short title and commencement

This Act may be cited as the *Agricultural Quarantine Act 1999* and shall come into operation on a date to be notified by the Minister in the Gazette.¹

2 Interpretation

In this Act, unless the context otherwise requires:

‘animal’ includes a dead animal and any part of an animal;

‘animal product’ means any part of an animal or any product that is wholly or partly derived from an animal or part of an animal, that has not been processed, treated or sterilised to the stage where it is rendered free from any diseases and pests and from the capacity to carry any diseases or pests;

‘arrive in Nauru’ means:

- (a) in the case of a vessel – arrival at pilot point in Nauruan waters; and

¹ This Act is taken to have commenced on 18 October 1999. See section 3 of the *Statute Law Revision Act 2011*.

- (b) in the case of an aircraft – landing at an established aerodrome;

‘baggage’ means any thing brought into Nauru by a passenger arriving from overseas, whether or not it arrives in Nauru at the same time as the passenger;

‘cargo’ includes passenger baggage, personal effects, clothing, ship’s stores, provisions, passenger meals, containers, garbage, ballast or any other thing brought or sent into Nauru or Nauruan waters by any means;

‘communicable disease’ means a disease or pest affecting plants or animals which is capable of being communicated to humans or causing a disease or infestation in humans;

‘container’ includes a case, box, package, crate and other receptacle;

‘conveyance’ includes a vessel or aircraft;

‘customs’ means the system of customs regulation adopted for and applied in the Republic by the *Customs Regulations Ordinance 1922-1967*;

‘disease’ means:

- (a) in relation to animals – a harmful deviation, parasite or pest that may directly or indirectly injure or cause an unhealthy condition in an animal; or
- (b) in relation to plants – any pest or form of fungus, bacteria, virus, viroid, microplasma or algal disease or any other organism including flowering parasite that may directly or indirectly injure or cause an unhealthy condition in a plant; or
- (c) a communicable disease;

‘disease agent’ includes a disease, pest, germ or microbe, or any organism of animal or plant origin, culture, virus, substance, equipment, container, article or other thing containing or likely to contain or carry any disease, pest, germ or microbe;

‘diseased’ in relation to goods, means:

- (a) infected with a disease; or
- (b) deteriorated or abnormal, whether or not the condition is dependent on the presence of, or is due to the operation, development, growth or effect of, a disease;

‘document’ includes a log, manifest, cargo stowage plan, passenger list, crew list and any similar thing, whether or not it is electronically stored;

‘enter’ means arrival from overseas into Nauru or Nauruan waters;

'established aerodrome' means an aerodrome established as an aerodrome under the *Air Navigation Act 1971*;

'examine' includes:

- (a) in relation to an animal – carry out tests on, take samples from, or carry out a veterinary procedure on, the animal; and
- (b) in relation to a plant – carry out tests on, take samples from, establish, cultivate, or undertake procedures for the diagnosis of a disease of the plant; and
- (c) in relation to any other goods – carry out tests on, or take samples from, the goods; and
- (d) in relation to conveyances – to carry out tests on or take samples from any matter aboard the conveyance;

'exporter' includes an agent for an exporter or consignor;

'garbage' means animal and human waste, organic refuse, galley scraps or other similar refuse;

'goods' means plants, animals, soil and any other organism, storage place, packaging, conveyance, container, machine, vehicle, equipment or other object or material capable of harbouring or spreading diseases or pests;

'health certificate' means:

- (a) in relation to plants and plant materials – a phytosanitary certificate; and
- (b) in relation to animals and animal products – a certificate issued by the appropriate authority of the country from which the animal or animal product is being exported, appropriate to the species of animal or type of animal product, attesting that the animal or animal product has been examined, treated where applicable and found to be free from diseases and pests; and
- (c) in relation to conveyances – a certificate of any treatment which has been applied for the control of diseases or pests prior to the entry of the conveyance;

'import' means to bring into Nauru or any part of Nauru's territorial sea or contiguous zone;

'importer' means:

- (a) a person bringing goods or other cargo into Nauru; or
- (b) a consignee of goods or other cargo entering Nauru; or
- (c) an agent of an importer,

whether the goods or other cargo are entering as general cargo, in passenger baggage whether accompanied or unaccompanied, as postal matter, or otherwise;

'in Nauru', in relation to a vessel, includes in Nauruan waters;

'infected' means a condition caused by a animal or plant disease pathogen;

'infested' means the presence of a animal or plant pest other than an animal or plant disease pathogen;

'live animal' includes viable animal material, the ovum, semen and embryo of an animal, but does not include any other matter produced from or the production of which involves the use of, organisms or the tissue or body fluids of organisms, including vaccines and toxoids;

'master' means the captain or other person in charge or command of a conveyance, but does not include a ship's pilot;

'Nauruan waters' means the territorial sea or the contiguous zone;

'operator', in relation to conveyances, means any person who is in charge of, responsible for the operations of, directs or controls the conveyance, including the owner, charterer, lessee and master;

'owner':

- (a) in relation to plants, animals or other similar goods – means the person responsible for those plants, animals or goods, the person to whom they are consigned or by whom they are being exported or the person in charge of the conveyance in which they are being carried or have been carried; and
- (b) in relation to conveyances – means any person exercising or discharging or claiming the right or accepting the obligation to exercise or discharge any of the powers or duties of an owner whether on his own behalf or of another, and includes a person who is the owner jointly with one or more other persons and the manager and secretary of any corporation which is an owner;

'passenger' includes the master and crew of a conveyance;

'pest' means a species, strain or biotype of plant, animal or pathogenic agent injurious to plants or animals;

'phytosanitary certificate' means an official certificate issued by or under the authority of the plant protection service of the country of origin of the plant or plant material to which the certificate relates, attesting that the plant or plant material has been examined, treated where applicable and found to be free from diseases and pests;

'plant' includes a dead plant and any part of a plant;

'plant material' means all goods of plant origin, including timber, wooden articles, and other items manufactured wholly or partly from a plant or its parts, that have not been processed, treated or sterilised to the stage where they are rendered free from any diseases and pests and from the capacity to carry any diseases or pests;

'port', in relation to the Republic of Nauru, means:

- (a) the Port of Nauru; or
- (b) any other place designated or for the time being accepted as a port for shipping; or
- (c) an established aerodrome;

'proclaimed place' means a place within or outside Nauru declared under section 8(1) to be a place that is infected or infested with a quarantinable disease or a quarantinable pest, or a place from or through which a quarantinable disease or quarantinable pest is capable of being brought or carried;

'quarantinable disease' means a disease which has been declared to be a quarantinable disease under section 8(1);

'quarantinable pest' means a pest which has been declared to be a quarantinable pest under section 8(1);

'quarantine' means measures for the examination, exclusion, detention, observation, segregation, isolation, protection, treatment and sanitary disinfection of vessels, aircraft, goods, animals and plants, having as their object the prevention of the introduction or spread of diseases or pests affecting human beings, animals, or plants, and the control or eradication of a disease or pest already introduced;

'quarantine emergency' means a state of emergency declared to be a quarantine emergency under section 22;

'Quarantine Officer' means:

- (a) the Chief Quarantine Officer; or
- (b) a Quarantine Officer appointed under section 5(1); or
- (c) a police officer; or
- (d) any other person who is authorised by the Minister in accordance with section 5(2) to exercise such powers or perform such duties for such times under this Act as are specified;

'quarantine order' means an order made under section 21;

'restricted area' means an area which has been declared under section 8(1) to be a restricted area for the purpose of

holding goods which are entering Nauru;

'treatment' means the use of remedial measures to ensure the removal of injurious or objectionable materials, or the elimination, sterilisation or destruction of a disease or pest to destroy or eliminate contamination, including among other measures the cleaning, spraying, fumigation, disinfection, disinfestation or re-exportation of plants, animals or other goods;

'vessel' includes any craft that is or can be used in navigation by water.

3 Act binds the Republic

- (1) This Act binds the Republic, but not so as to make the Republic liable to a pecuniary penalty or to be prosecuted for an offence.
- (2) The protection in subsection (1) does not apply to:
 - (a) a public officer or other person employed by the Republic;
or
 - (b) a statutory authority of the Republic or persons employed by it.

4 Effect on other Acts

- (1) This Act is in addition to and does not derogate from the provisions of the *Animals Act 1982*.
- (2) The powers and duties imposed by this Act do not affect any powers and duties imposed by the *Quarantine Act 1908-1920* of the Commonwealth of Australia (adopted) in relation to matters of human health and quarantine, but where those powers and duties are imposed in relation to matters of animal and plant quarantine, then the provisions of this Act, to the extent that they are in conflict, prevail.

PART II – QUARANTINE OFFICERS

5 Appointment of Quarantine Officers

- (1) The Minister may, by notice in the Gazette, appoint:
 - (a) a public officer as Chief Quarantine Officer; and
 - (b) public officers as Quarantine Officers.
- (2) The Minister may, by notice in the Gazette, appoint a person to exercise such powers or perform such duties of a Quarantine Officer under this Act as are specified in the notice.
- (3) The Chief Quarantine Officer may by written instrument of delegation delegate to a Quarantine Officer in writing any

power, duty or function of his office, other than this power of delegation.

- (4) A delegation under this section is revocable and does not prevent the exercise of a power, duty or function by the Chief Quarantine Officer.

6 Powers of Quarantine Officers

- (1) For the purposes of enforcing this Act, a Quarantine Officer has the following powers:
- (a) to stop a vessel in Nauruan waters;
 - (b) at any time and without a warrant, to board a vessel in Nauruan waters;
 - (c) to require a vessel in Nauruan waters to go to any place in Nauruan waters, or to leave Nauruan waters;
 - (d) at any time and without a warrant, to board an aircraft in Nauru;
 - (e) to give directions to the master of any conveyance regarding the movement or immobilisation of the conveyance for the purposes of examination, treatment or seizure under this Act, or other matters connected with quarantine;
 - (f) to examine any plants, animals or other goods, any cargo or any other matter on board the conveyance for the purposes of this Act;
 - (g) at any reasonable hour and without a warrant, to enter any land or building other than a private dwelling house;
 - (h) with a warrant, to enter any private dwelling house;
 - (i) to search for and examine any plant, animal or other goods;
 - (j) to examine any log, manifest, cargo stowage plan, passenger list, crew list or other similar document;
 - (k) to ask the master or any crew member of a conveyance, or any other person arriving in Nauru, any questions that he thinks proper to ask for the purposes of enforcing this Act;
 - (l) to require any person bringing or importing any cargo, baggage or other goods into Nauru, or to whom any postal matter is consigned, to open the cargo, baggage, goods or postal matter; and
 - (m) where a person referred to in paragraph (k) refuses to open as required, or where the person to whom cargo, baggage, goods or postal matter are consigned cannot

without due diligence be found – to perform that opening at the person's expense;

- (n) to affix notices in relation to quarantine on any part of a conveyance, on or near a restricted area, on goods the subject of a quarantine order or on or near a place where goods the subject of a quarantine order are being held;
 - (o) to exercise such other powers as are given to him under this or any other Act.
- (2) Before exercising any power under subsection (1), the Quarantine Officer shall upon request produce identification.
 - (3) Before exercising any powers of entry in relation to land or premises under subsection (1), the Quarantine Officer shall inform the occupier, or the person apparently occupying the land or premises, of his reasons for entering.
 - (4) A Quarantine Officer may seize any document required to be maintained by this Act or which he has reasonable grounds to believe shows or tends to show, with or without other evidence, the commission of an offence against this Act.
 - (5) A Quarantine Officer has and may exercise all the powers of a health inspector under and in relation to the *Animals Act 1982*.
 - (6) A Quarantine Officer has such other powers as are prescribed for the purposes of enforcing this Act.
 - (7) In exercising powers under this Act, a Quarantine Officer may use such force as is reasonably necessary.

7 Powers of seizure

- (1) A Quarantine Officer may seize any plant, animal or other goods which, or which he has reasonable grounds to believe:
 - (a) have entered, been moved within or are in Nauru in breach of any of the requirements of this Act relating to the prohibition or restriction of entry, movement or possession of plants, animals or goods; or
 - (b) have been unloaded from a conveyance in contravention of any provision of or order under this Act which prohibits their unloading; or
 - (c) have been removed from a restricted area without authorisation; or
 - (d) having been made the subject of a quarantine order for treatment or destruction under section 21 – have not been treated or destroyed; or
 - (e) having been made the subject of a quarantine order for re-export under section 21 – have not been re-exported; or

- (f) are infected, infested or diseased, or are harbouring a quarantinable disease or quarantinable pest; or
 - (g) is forfeited under this Act.
- (2) Where a Quarantine Officer seizes any animal, plant or other goods under subsection (1), he shall report the seizure to the Chief Quarantine Officer as soon as possible.

PART III – QUARANTINE MANAGEMENT

8 Declarations, restrictions and prohibitions

- (1) The Minister may, by notice in the Gazette:
- (a) prohibit the importation into Nauru of all or any specified animals, animal products, plants, plant material or other goods, or any specified form of them; or
 - (b) prohibit the importation into Nauru of any article which, in his opinion, is likely to introduce a communicable disease, or a disease or pest affecting animals or plants; or
 - (c) subject to section 9 – prohibit the importation into Nauru of a disease agent; or
 - (d) prohibit the movement of animals, plants or goods from any part of Nauru to any other part of Nauru; or
 - (e) declare a disease to be a quarantinable disease; or
 - (f) declare a pest to be a quarantinable pest; or
 - (g) declare an area, at a port in Nauru or otherwise, to be a restricted area for the purpose of holding goods and cargo entering Nauru or in Nauru; or
 - (h) declare a place within or outside Nauru to be a proclaimed place that is infected or infested with a quarantinable disease or quarantinable pest, or from or through which a quarantinable disease or quarantinable pest is capable of being brought or carried, declare any precautionary measures to be taken with regard to the proclaimed place and prohibit or regulate the entry of plants, animals, goods or any specified form of them from the proclaimed place; or
 - (i) declare a country to be free of diseases affecting a specified kind of animal or plant; or
 - (j) declare the procedures for the treatment and disposal of garbage aboard conveyances arriving in Nauru; or
 - (k) declare procedures in relation to the carriage and discharge of ballast on vessels entering Nauruan waters; or

- (l) declare a place to be a place approved for the examination and treatment of plants, animals and other goods prior to export; or
- (m) declare that a plant or animal of a specified species, class or kind, or that comes from a specified place or area in Nauru:
 - (i) shall not be exported; or
 - (ii) may only be exported under specified conditions.
- (2) The power of prohibition under this section extends to authorise prohibition generally or with limitations as to place and subject-matter, and absolutely or subject to specified conditions or restrictions.
- (3) Any prohibition or declaration made under this section may be made separately or in combination with any other such prohibition or declaration.

9 Importation of disease agents

- (1) Notwithstanding that the introduction into Nauru of a disease agent has been prohibited or restricted under section 8(1), the Chief Quarantine Officer may issue a permit, subject to the conditions (if any) specified in the permit, for the importation of that disease agent for the purpose of biological control or research.
- (2) An importation under subsection (1) shall be carried out in accordance with any international standards or guidelines for the importation and use of the disease agent for biological control or research (as the case may be).

10 Conveyances from proclaimed places

- (1) Where a place outside Nauru is declared to be a proclaimed place under section 8(1), the Minister may, in the notice under section 8(1) or by other notice in the Gazette, declare the precautionary measures to be taken by conveyances coming from, or calling at or touching, the proclaimed place.
- (2) The master of a conveyance that is:
 - (a) bound for Nauru; and
 - (b) comes from, or calls at or touches, a proclaimed place,shall, while the conveyance is at the proclaimed place and during the voyage from the proclaimed place to Nauru, take, in respect of the conveyance and its crew, passengers and cargo, the precautionary measures prescribed in the notice under subsection (1).
- (3) Where a conveyance has arrived from a proclaimed place and

the precautionary measures referred to in subsection (1) have not been taken, a Quarantine Officer may cause to be carried out such precautionary measures as are necessary or desirable for the prevention of the introduction or spread of a disease or pest with respect to the conveyance and its crew, passengers and cargo.

11 Goods from proclaimed places

- (1) The Minister may, in a notice under section 8(1) or by other notice in the Gazette:
 - (a) prohibit, so long as the notice remains in force, the entry into Nauru of all or specified goods from a proclaimed place; or;
 - (b) declare that goods shall not, so long as the notice remains in force, enter Nauru from a proclaimed place unless the conditions specified in the notice are complied with.
- (2) The conditions referred to in subsection (1)(b) shall be such conditions as the Minister thinks necessary or desirable for avoiding the possibility of the entry into Nauru of goods suffering from, or capable of communicating, a disease or pest.
- (3) Notwithstanding a notice under subsection (1), where:
 - (a) a conveyance has entered Nauru from a proclaimed place; and
 - (b) a Quarantine Officer upon inspecting the conveyance is satisfied that no animal or plant on board is suffering from disease or pests, but is not satisfied that the conveyance is free from infection or infestation,

the Quarantine Officer may permit all or any of the following:

- (c) that the conveyance may proceed on her voyage without making a quarantine order;
 - (d) that, plants, animals and other goods from the proclaimed place may be unloaded;
 - (e) that any other cargo on board the conveyance, whether or not it came from the proclaimed place, may be unloaded.
- (4) All cargo, plants, animals or other goods unloaded under subsection (3) shall be subject to such quarantine orders as the Quarantine Officer considers necessary or desirable.

PART IV – EXAMINATION AND QUARANTINE

12 Entry by conveyances

- (1) All vessels entering Nauru shall, unless from stress of weather or other reasonable cause, enter at a port in Nauru.

- (2) All aircraft entering Nauru shall, unless from stress of weather or other reasonable cause, enter Nauru at an established aerodrome.
- (3) The master of a conveyance entering Nauru, and every person having duties in relation to the entry of conveyances into Nauru, shall by all reasonable means facilitate the boarding of the conveyance by a Quarantine Officer.
- (4) Every person having control of a log, manifest, journal, cargo stowage plan, passenger list, crew list or other similar document relating to a conveyance entering Nauru or to any persons, animals, plants or other goods on board the conveyance shall make it available to a Quarantine Officer on request by the Quarantine Officer.

13 Restricted areas

- (1) Goods entering Nauru which have been unloaded or discharged from the conveyance on which they arrived shall be placed in and shall remain in a restricted area until a Quarantine Officer authorises their removal.
- (2) No person, other than a person authorised to do so, shall:
 - (a) enter a restricted area; or
 - (b) remove any goods from a restricted area before a Quarantine Officer has permitted that removal.
- (3) For the purposes of subsection (2), the following persons are authorised to enter a restricted area:
 - (a) a Quarantine Officer;
 - (b) a public officer entering for legitimate purposes of customs or immigration matters;
 - (c) a passenger in the process of disembarkation or embarkation;
 - (d) an importer or any other person authorised by a Quarantine Officer;
 - (e) any other person authorised by or under any law, either expressly or by necessary implication.
- (4) Permission under this section for goods to be removed from a restricted area is subject to the condition that authority for the goods to be removed has been given under the law for the time being in force relating to customs, and the permission is deemed not to have been given until and unless that authority has been given.

14 Questions and declarations

- (1) A Quarantine Officer may ask the master of a conveyance

entering Nauru any question he thinks proper to ask regarding the following matters:

- (a) the sanitary conditions of the conveyance;
 - (b) the existence of a quarantinable or infectious disease at the ports of departure or call, or on board a conveyance the master and crew have come into contact with during the voyage;
 - (c) any plant, animal or other goods on the conveyance;
 - (d) the ports or places at which the plant, animal or other goods referred to in paragraph (c) were put on board the conveyance;
 - (e) the ports or places at which the conveyance called prior to arriving in Nauru while plants, animals or other goods were on board the conveyance;
 - (f) any similar matter in relation to the conveyance.
- (2) A Quarantine Officer may ask any crew member aboard a conveyance entering Nauru any question he thinks proper to ask regarding the health status of any plant or animal aboard the conveyance.
 - (3) A Quarantine Officer may ask any person entering Nauru, including the master and crew members of a conveyance, any question he thinks proper to ask regarding the person's baggage, any plants, animals or other goods in the person's possession or baggage and any other matter related to the purposes of this Act.
 - (4) A Quarantine Officer may ask an importer of goods or other cargo any question he thinks proper to ask regarding the goods or other cargo and any other matter related to the purposes of this Act.
 - (5) Questions under this section may be asked by any practicable means of communication, or any combination of means, and may be asked prior to arrival in Nauru.
 - (6) Where a Quarantine Officer requires it, answers to questions under this section shall be in the form of a written declaration which is signed by the person making it.

15 Examination upon entry

- (1) A Quarantine Officer may examine any conveyance, cargo, plant, animal or other goods entering Nauru.
- (2) An examination by a Quarantine Officer under this section may include:
 - (a) examination of any part of the conveyance; and

- (b) examination of the cargo of or on board a conveyance; and
 - (c) examination of any cargo which is being or has been unloaded from a conveyance; and
 - (d) examination of any health certificate relating to the conveyance, cargo, plant, animal or goods; and
 - (e) examination of any other certificate relating to the health, infection or infestation status of plants, animals and other goods; and
 - (f) examination notwithstanding that a health certificate has been issued in respect of the conveyance, cargo, plant, animal or other goods; and
 - (g) re-examination, notwithstanding that examination has already been made; and
 - (h) storage pending examination; and
 - (i) any other examination which is permitted by law and which a Quarantine Officer considers necessary or desirable to prevent the introduction or spread of disease or pests in Nauru.
- (3) Examination of plants, animals and other goods shall be made as promptly as possible with due regard to their perishability or health.

16 Health certificates

- (1) All plants, plant material or animal products entering Nauru other than in passenger baggage shall be accompanied by a health certificate.
- (2) Plants, plant material or animal products entering Nauru in passenger baggage from or through a proclaimed place shall be accompanied by a health certificate.
- (3) All animals entering Nauru shall be accompanied by a health certificate.
- (4) Any plants, animals or other goods which:
 - (a) are required by this section to be accompanied by a health certificate; and
 - (b) are not accompanied by a health certificate,shall be examined by a Quarantine Officer, who may make such quarantine order as he thinks fit in relation to them.

17 Importation of live animals

- (1) No person shall import a live animal into Nauru unless the Chief

Quarantine Officer has given permission under subsection (3).

- (2) A person who intends to import a live animal into Nauru shall give written notice to the Chief Quarantine Officer at least 14 days before the expected date of arrival of the animal.
- (3) A notice under subsection (2) shall contain details of the animal, the conveyance of transportation, the expected date of arrival, and such further details as the Chief Quarantine Officer may require.
- (4) Upon receipt of a notice under subsection (2), the Chief Quarantine Officer may, subject to the provisions of the *Animals Act 1982*:
 - (a) permit; or
 - (b) refuse to permit,the importation.
- (5) A permit granted under subsection (3) may be made subject to such conditions as are specified in it.

18 Goods and cargo in transit

- (1) A Quarantine Officer may examine any conveyance, cargo, plant, animal or other goods which is or are in transit through Nauru or Nauruan waters.
- (2) Goods or cargo in transit through Nauru or Nauruan waters shall not be unloaded from the transporting conveyance unless the Chief Quarantine Officer authorises their unloading.
- (3) An authorisation under subsection (2) may be given with such conditions as the Chief Quarantine Officer considers necessary.

19 Notification of disease or infestation

Where the master of a conveyance in Nauru, entering Nauru or having Nauru as its next port of call believes or suspects, or has reason to believe or suspect that:

- (a) a disease; or
- (b) a pest infestation,

is present on board the conveyance, he shall immediately take all reasonable steps to notify a Quarantine Officer of the outbreak.

20 Examination of plants and animals within Nauru

A Quarantine Officer may at any time examine any plants or animals in Nauru, whether cultivated, domesticated or in the wild, and whether or not they are in storage or in transportation,

for the purpose of reporting and taking measures against the occurrence, outbreak and spread of diseases or pests.

21 Quarantine orders

- (1) Where a Quarantine Officer is of the opinion that:
- (a) a conveyance, cargo, plant, animal or other goods that he has examined under this Act is or are affected by disease or pests, or have been exposed to infection or contamination by diseases or pests; or
 - (b) a plant, animal or other thing has been or is being imported into Nauru contrary to any provision of this Act; or
 - (c) a health certificate or other certificate relating to a conveyance, plant, animal or other goods is not of acceptable standard; or
 - (d) an examination required by this Act has not been commenced, carried out or completed for any reason; or
 - (e) any other requirement of this Act has not been carried out to his satisfaction,

he may make a quarantine order.

- (2) A quarantine order made in respect of a conveyance or its cargo under subsection (1) may include all or any of the following:
- (a) an order that the conveyance leave Nauru or Nauruan waters, without discharging any cargo;
 - (b) an order that the conveyance remain at a place specified in the order, or in the case of a vessel, at a certain distance from the Island, until further notice;
 - (c) an order that no person, or only such persons as are specified in the order, may approach or board the conveyance until further notice or until such conditions as are specified in the order have been met;
 - (d) an order that no person, or only such persons as are specified in the order, may leave the conveyance until further notice or until such conditions as are specified in the order have been met;
 - (e) an order for the sealing of lockers and other compartments of the conveyance;
 - (f) an order for treatment of the conveyance or of all or any of the lockers and compartments of the conveyance;
 - (g) an order that no cargo, or no cargo as specified in the order, or only so much of the cargo as is specified in the order, may be discharged or unloaded from the conveyance;

- (h) an order for treatment or destruction of all or any of the cargo on board the conveyance;
 - (i) an order for the re-export of cargo which has been unloaded from the conveyance;
 - (j) subject to any notice under section 8 or any regulations made under this Act in respect of garbage – an order as to the place or location where, or means by which, the garbage may, or may not, be dumped or disposed of;
 - (k) in respect of ballast – an order that:
 - (i) the ballast shall not be discharged in Nauruan waters; or
 - (ii) where discharge has already commenced – that the discharge shall cease; or
 - (iii) such other measures shall be taken in relation to the ballast as the Quarantine Officer considers necessary or desirable;
 - (l) an order for such other measures in respect of the conveyance or its cargo as he considers necessary or desirable to prevent the introduction or spread of disease or pests in Nauru.
- (3) A quarantine order made in respect of plants, animals or other goods under subsection (1) may include all or any of the following:
- (a) an order that the plants, animals or other goods be removed to or held at a specified place;
 - (b) an order that no person, or only such persons as are authorised by the Chief Quarantine Officer, may enter or approach a place referred to in paragraph (a);
 - (c) an order for treatment of the plants, animals or other goods;
 - (d) an order for the re-export of the plants, animals or other goods;
 - (e) an order for the destruction of the plants, animals or other goods, or such parts of them as are specified in the order;
 - (f) an order for such other measures as a Quarantine Officer considers necessary or desirable to prevent the introduction or spread of disease or pests in Nauru.
- (4) A quarantine order may be made subject to such conditions as are specified in it, and where conditions have been so specified, remains in force until or unless those conditions have been met.
- (5) Where a Quarantine Officer makes a quarantine order, he shall report the making of the order to the Chief Quarantine Officer as

soon as possible.

- (6) The Chief Quarantine Officer may vary, cancel or rescind a quarantine order.
- (7) A quarantine order for the destruction of plants, animals, other goods or any other thing shall not be carried out unless the Quarantine Officer is satisfied that no less drastic measure is available to prevent the introduction or spread of diseases or pests.
- (8) No appeal shall lie from a quarantine order.

PART V – QUARANTINE EMERGENCIES

22 Declaration of quarantine emergencies

- (1) Where the Minister is satisfied that an epidemic caused by a quarantinable disease or quarantinable pest, or the danger of such an epidemic, or an emergency requiring action not otherwise authorised by this Act, exists in Nauru or a part of Nauru, he may, by notice in the Gazette, declare the existence of a quarantine emergency, together with such other details as he thinks fit to describe the quarantine emergency and to alert the public to the dangers the quarantine emergency poses.
- (2) A notice under subsection (1):
 - (a) shall specify the time not exceeding 90 days during which it is to remain in force; and
 - (b) may be extended by a further notice.

23 Action in cases of epidemic or emergency

- (1) Upon the publication of a notice under section 23, the Chief Quarantine Officer may, during the period that the notice remains in force, give such directions and take such action as he thinks necessary to control and eradicate the epidemic, or to remove the danger of the epidemic or the emergency, by quarantine measures or measures incidental to quarantine.
- (2) The measures referred to in subsection (1) may include but are not limited to:
 - (a) controlling the movement of persons, vehicles, vessels, aircraft, plants, animals or other goods into or out of any area; and
 - (b) notifying the owner or occupier of any land, in writing, of the measures to be taken aimed at the eradication or control of the epidemic, the danger of the epidemic, or the emergency, including the destruction of goods; and
 - (c) directing the owner or occupier of land or the owner or possessor of plants, animals or goods to destroy the

plants, animals or goods in accordance with the direction;
and

- (d) where a person referred to in paragraph (c) cannot be contacted or refuses to destroy the plants, animals or goods as directed – destroying them; and
- (e) making such quarantine orders in respect of any vessel, aircraft, vehicle, person, animal, plant or goods in Nauru or a part of Nauru in which a quarantinable disease or quarantinable pest, or a disease or pest affecting animals or plants, exists or is suspected to exist, as he considers necessary or desirable; and
- (f) taking such measures as may be necessary for the eradication or control of the epidemic, the danger of the epidemic or the emergency, including treatment, poisoning, baiting, trapping and destruction of plants, animals and other goods.

PART VI – EXPORT OF PLANTS AND ANIMALS

24 Prohibited exports

No plants or animals may be exported from Nauru where the export is contrary to:

- (a) a declaration under section 8(1); or
- (b) any other law prohibiting the export of plants or animals.

25 Export of plants

- (1) The Chief Quarantine Officer may issue a phytosanitary certificate to a person wishing to export plants or plant materials to assist the person to meet the quarantine entry requirements of another country.
- (2) A phytosanitary certificate under subsection (1):
 - (a) shall be substantially based on the Model Certificate adopted by the International Plant Protection Convention of 1951 as amended from time to time; and
 - (b) may only be issued in respect of plants or plant materials produced in Nauru; and
 - (c) may only be issued after the performance of such examinations and treatment as seem to the Chief Quarantine Officer to be necessary or desirable in order to enable the issue of the certificate.
- (3) The issue of a phytosanitary certificate under this section shall not release the exporter or importer from compliance with any quarantine import laws of the country to or through which the plants or plant materials are consigned.

26 Export of animals

- (1) The Chief Quarantine officer may:
 - (a) require that any animals, animal products and similar goods be examined as he directs prior to export; and
 - (b) issue a health certificate in respect of any animal, animal product or other goods to be exported to assist the exporter to meet the quarantine entry requirements of another country.
- (2) A Quarantine Officer may withhold or detain any animal, animal product or similar goods being exported until such time as he is satisfied that they meet with all or any of the terms and conditions of the importing country and are of good health and free from disease and pests.
- (3) The issue of a health certificate under this section shall not release the exporter or importer from compliance with any quarantine import laws of the country to or through which the animal or animal products are consigned.

PART VII – OFFENCES

27 Quarantine offences

- (1) A person who:
 - (a) imports, attempts to import or assumes control of a plant, animal or other goods in contravention of any provision or requirement of this Act, or of the terms of any notice, declaration or prohibition made under this Act; or
 - (b) exports or attempts to export a plant or animal in contravention of any of the provisions or requirements of this Act, or of the terms of any notice, declaration or prohibition made under this Act; or
 - (c) fails to make any report required by this Act; or
 - (a) refuses to answer any question properly put him by a Quarantine Officer; or
 - (b) furnishes to a Quarantine Officer any particulars which, to his knowledge, are false or misleading in any material respect, either in a written declaration or report or in answer to a question properly asked him by a Quarantine Officer; or
 - (c) fails to comply with a instruction or direction given by a Quarantine Officer; or
 - (d) refuses or fails to facilitate by all reasonable means the safe boarding of, entry to or examination of a conveyance, land or premises by a Quarantine Officer as required or

permitted by this Act; or

- (e) refuses or fails to facilitate examination of any thing as required or permitted by this Act; or
- (f) assaults, threatens, obstructs, hinders, resists, delays, intimidates, refuses to cooperate with, fails to comply with any instruction of or fails to take all reasonable measures to ensure the safety of, a Quarantine Officer in the performance of his duties under this Act; or
- (g) fails to comply with, impedes, interferes with, hinders or obstructs the carrying out of any provision of a quarantine order; or
- (h) forges a document under this Act, or the signature of a Quarantine Officer; or
- (i) fraudulently lends a document issued under this Act to any other person or allows it to be used by any other person; or
- (j) wilfully misleads, makes misrepresentations to, or by threats, demands or promises, attempts to influence improperly, a Quarantine Officer in the performance of his duty; or
- (k) unloads any goods in transit in contravention of section 18; or
- (l) in any way contravenes or breaches any term of a quarantine order under section 21; or
- (m) being a person obliged to comply with the requirements of section 35 – fails to comply with any of those requirements; or
- (n) contravenes or fails to comply with any provision or requirement of a notice, direction or instruction under Part V,

is guilty of an offence and is liable to a penalty of a fine:

- (a) where the offender is a natural person – not exceeding \$5,000 or imprisonment for a term not exceeding 2 years; or
- (b) where the offender is a body corporate – a fine not exceeding \$20,000.

(2) A person, other than a person authorised to do so, who:

- (a) enters a restricted area; or
- (b) removes any goods from a restricted area before a Quarantine Officer has authorised that removal,

is guilty of an offence and is liable to a penalty of a fine not

exceeding \$5,000 or imprisonment for a term not exceeding 5 years.

- (3) Any proceedings taken against, and penalty imposed on, a public officer under this section are in addition to and not in place of any proceedings which may be taken or penalty which may be imposed under the *Public Service Act 1961-1995*.

28 Offences by masters

A master of a conveyance who:

- (a) unless from stress of weather or other reasonable cause, causes or permits the conveyance to enter Nauru other than in accordance with the provisions of this Act; or
- (b) fails to take any precautionary measures in respect of the conveyance and its crew, passengers and cargo, as required by section 10; or
- (c) fails to make any report required by this Act; or
- (d) refuses to answer any question properly put to him by a Quarantine Officer; or
- (e) furnishes to a Quarantine Officer any particulars which, to his knowledge, are false or misleading in any material respect, either in a written declaration or report or in answer to a question properly asked him by a Quarantine Officer; or
- (f) fails to comply with a instruction or direction given by a Quarantine Officer; or
- (g) fails to facilitate or refuses safe boarding of, entry to or examination of the conveyance by a Quarantine Officer as required or permitted by this Act; or
- (h) refuses or fails to facilitate examination of any thing as required or permitted by this Act; or
- (i) assaults, threatens, obstructs, hinders, resists, delays, intimidates, fails to comply with an order of or fails to take all reasonable measures to ensure the safety of, a Quarantine Officer in the performance of his duties under this Act; or
- (j) fails to comply with, impedes, interferes with, hinders or obstructs the carrying out of any provision of a quarantine order; or
- (o) wilfully misleads, or by threats, demands or promises, attempts to influence improperly, a Quarantine Officer in the performance of his duty; or
- (k) knowing that a disease or a pest infestation is present on the conveyance, fails to inform a Quarantine Officer; or

- (l) fails to comply with a quarantine order made in respect of the conveyance; or
- (m) wilfully brings, or permits to be brought, a live animal into a port or place in Nauru on the conveyance in contravention of this Act; or
- (n) unloads or permits the unloading of any cargo from the conveyance contrary to section 18; or
- (o) otherwise contravenes any requirement or obligation imposed by this Act upon masters of conveyances,

is guilty of an offence and is liable to a penalty of a fine not exceeding \$20,000.

29 Offences by Quarantine Officers

- (1) A Quarantine Officer who:
 - (a) wilfully deserts from his duty; or
 - (b) accepts a bribe, recompense or reward for or on account of any neglect to perform, or non-performance of, his duty; or
 - (c) makes a collusive agreement with a person to neglect or not to perform his duty; or
 - (d) maliciously or without reasonable cause makes a quarantine order in respect of a conveyance, plant, animal or other goods; or
 - (e) wilfully damages or destroys any goods under his charge for any purpose under this Act; or
 - (f) wilfully permits a conveyance, plant, animal or other goods to depart from or to be conveyed out of any place where it or they are detained under a quarantine order; or
 - (g) fails to make any report required by this Act; or
 - (h) wilfully authorises or permits a breach of this Act,

is guilty of an offence and is liable to a penalty of a fine not exceeding \$5,000 or imprisonment for a term not exceeding 5 years.

- (2) Any proceedings taken and penalty imposed under subsection (1) are in addition to and not in place of any proceedings which may be taken or penalty which may be imposed under the *Public Service Act 1961-1995*.

30 Arrest of persons subject to quarantine orders

For the purposes of section 10 of the *Criminal Procedure Act*

1972, a person who leaves a conveyance in contravention of a quarantine order under section 21 prohibiting him from leaving the conveyance is guilty of a cognisable offence, and a police officer or a Quarantine Officer may, without warrant, arrest the person.

31 Forfeiture of plants, animals or other goods

- (1) All animals, plants or other goods imported into Nauru, or bought into a port in Nauru, or removed from one part of Nauru to another part of Nauru in contravention of this Act and all hay, straw, fodder, litter, fittings, clothing, utensils, appliances or packages moved or dealt with in contravention of this Act shall be forfeited to the Republic.
- (2) Where a person is convicted of an offence under this Act, the Court may, in addition to any penalty imposed, order the forfeiture to the Republic of any plant, animal or other goods involved in the offence and the plant, animal or goods together with any goods associated with it or them may be disposed of as directed by the Chief Quarantine Officer.
- (3) Any thing forfeited under this Act may be seized by a Quarantine Officer and destroyed or otherwise disposed of as directed by the Chief Quarantine Officer.

PART VIII – MISCELLANEOUS

32 Expenses in relation to conveyances

- (1) Expenses of examination of a conveyance under section 15 or 18 may, and in the case of a conveyance which enters Nauru at any place other than the port of Nauru or an established aerodrome, shall be borne by the operator of the conveyance.
- (2) Where the master of a conveyance has failed to carry out precautionary measures under section 9, costs and expenses of carrying out those precautionary measures shall be borne by the operator of the conveyance as a debt.
- (3) Expenses of carrying out a quarantine order or any part of it under section 21 in relation to a conveyance or its cargo, and of removal of cargo or goods from the vessel for the purposes of treatment of the conveyance under a quarantine order shall be borne by the operator of the conveyance.
- (4) Expenses and charges incurred in connection with the piloting or towing of a vessel the subject of a quarantine order into, out of or within a port shall be borne by the operator of the vessel.
- (5) Expenses incurred in providing persons removed from a conveyance the subject of a quarantine order with passages to their ports or places of destination shall be borne by the operator of the conveyance.
- (6) Expenses payable by the operator of a conveyance under this

Act shall be a charge on the conveyance, and the conveyance may be detained by a Quarantine Officer until the expenses are paid.

- (7) Before permitting any person, goods, cargo or other thing to leave or be removed from a conveyance in respect of which a quarantine order has been made, the Quarantine Officer may require the operator of the conveyance to give security to the satisfaction of the Quarantine Officer that all responsibilities under this section of the master and operator of the conveyance in respect of those persons, goods, cargo or things shall be faithfully carried out.

33 Expenses in relation to plants, animals, cargo and other goods

- (1) Expenses of examination, and storage pending examination, of cargo, plants, animals or other goods under section 15, section 18 or section 20 shall be borne by the owner of the cargo, plant, animal or goods, or his agent.
- (2) Expenses of carrying out a quarantine order or any part of it under section 21 or section 23(2) in relation to plants, animals or other goods shall be borne by the owner of the plant, animal or goods.
- (3) Expenses payable by the owner of plants, animals or other goods under this Act are a charge on the plant, animal or other goods.

34 Recovery of expenses

Expenses or charges payable under this Act may be recovered by the Republic as a debt.

35 Duties of certain officers

- (1) It shall be the duty of officers and persons having authority in relation to customs, the Post Office and ports to enforce compliance with the provisions of this Act, and to that end, to provide every assistance possible to a Quarantine Officer.
- (2) Where an officer or person referred to in subsection (1) becomes aware of a possible breach of any of the provisions of this Act, he shall:
- (a) report the matter immediately to a Quarantine Officer; and
 - (b) hold any thing which he suspects is involved in or connected with the possible breach until it is examined or otherwise dealt with by a Quarantine Officer.

36 Limitation of liability of Quarantine Officers

A Quarantine Officer is not subject to any civil or criminal liability for any act or default done or omitted to be done by him in good

faith with reasonable cause for the purposes of this Act.

37 Claims for damage

- (1) No claim shall lie against the Republic or a Quarantine Officer for damage to or destruction of goods held for examination under this Act, unless the examination was not made within a reasonable time or the goods were damaged or destroyed without reasonable cause.
- (2) Section 3 of the *Republic Proceedings Act* shall not apply to a claim made in accordance with this section.

38 Regulations

The Cabinet may make regulations prescribing matters which by this Act are required or permitted to be prescribed, or which it considers are necessary or convenient to be prescribed, for carrying out or giving effect to this Act and in particular prescribing matters providing for and in relation to:

- (a) conditions which are necessary for the prevention of the introduction of pests and diseases; and
- (b) prohibiting, restricting or imposing conditions upon the introduction or importation either generally or from any specified region, country or place of origin of any plants, animals or other goods which are likely to harbour or spread diseases or pests; and
- (c) procedures to be adopted prior to and upon the arrival of any conveyance into Nauru or Nauruan waters, including notices and treatment on or before arrival; and
- (d) the examination, quarantining and treatment of conveyances entering Nauru or Nauruan waters; and
- (e) procedures for the treatment and disposal of garbage aboard conveyances arriving in Nauru; and
- (f) the form of any information required under this Act; and
- (g) the examination, quarantining and treatment of conveyances, plants, animals or other goods; and
- (h) measures to be taken in the event of an epidemic, danger of an epidemic or emergency; and
- (i) providing for permits and prescribing permit fees for imports and exports of fresh or processed food materials, live animals and plants, examination and clearance of conveyances and related services provided to importers, exporters, shippers, air charter operators and airlines; and
- (j) regulating the duties of masters of conveyances in relation to any animal on board the conveyance, whether or not intended to be introduced into Nauru; and

- (k) the form of health certificates required from relevant government authorities of any country or place from which any plant, animal or other goods are to be brought into Nauru; and
- (l) the export of plants and animals, the procedures for the examination and certification of any plant or animal prior to export, and the procedures to be followed upon examination and after certification; and
- (m) the manner of treatment of conveyances arriving in Nauru, whether from proclaimed places or otherwise, or upon which there is, or is suspected to be, a disease, infection or infestation; and
- (n) the manner of treatment of persons coming into contact with any plant, animal or other goods which are, or are suspected of being, diseased, infected or infested; and
- (o) the procedure for the confiscation, forfeiture and destruction of plants, animals or other goods; and
- (p) the conditions under which plants, animals, disease agents and other goods the importation of which is otherwise prohibited or regulated may be imported for the purpose of scientific research, education or biological control; and
- (q) fees and charges payable in respect of services rendered, procedures carried out or goods supplied in respect of quarantine measures; and
- (r) penalties for fines not exceeding \$1,000 or imprisonment for terms not exceeding 3 months for offences against the Regulations.

Notes for Agricultural Quarantine Act 1999

Table of Constituent Legislation

Acts

Short title	Number	Certification	Commencement
<i>Agricultural Quarantine Act 1999</i>	1999/05	18.10.1999	18.10.1999
<i>Interpretation (Consequential Amendments) Act 2011</i>	2011/18	03.11.2011	03.11.2011

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision Affected	How Affected
Section 21	Sub (2) (b) am. by Act 2011/18