



GOVERNMENT GAZETTE

OF THE

REPUBLIC OF NAMIBIA

N\$7.20

WINDHOEK - 20 April 2011

No. 4694

CONTENTS

Page

GOVERNMENT NOTICE

No. 46 Promulgation of Animal Health Act, 2011 (Act No. 1 of 2011), of the Parliament 1

Government Notice

OFFICE OF THE PRIME MINISTER

No. 46

2011

PROMULGATION OF ACT OF PARLIAMENT

The following Act which has been passed by the Parliament and signed by the President in terms of the Namibian Constitution is hereby published in terms of Article 56 of that Constitution.

No. 1 of 2011: Animal Health Act, 2011.

Act No. 1, 2011

ANIMAL HEALTH ACT, 2011

ACT

To provide for the prevention, detection and control of animal disease; to provide for the maintenance and improvement of animal health; and to provide for incidental matters.

(Signed by the President of 3 April 2011)

ARRANGEMENT OF SECTIONS

Section

PART I

PRELIMINARY PROVISIONS

1. Definitions

PART II

ADMINISTRATION

2. Chief Veterinary Officer
3. Appointment of veterinary officials
4. Authorised persons
5. Delegation
6. General responsibilities

PART III

IMPORTATION OF ANIMALS, ANIMAL PRODUCTS
AND RESTRICTED MATERIAL

7. Permit for importation of animals, animal products and restricted material for entry into Namibia
8. Permit for importation of animals, animal products and restricted material for conveyance in transit through Namibia
9. Notice to be given and health certificate obtained before import
10. Animal, animal product or restricted material imported contrary to Act or presenting risk
11. Border security in emergency
12. Quarantine stations

PART IV

EXPORT OF ANIMALS, ANIMAL PRODUCTS
AND RESTRICTED MATERIAL

13. Health certificate required for exportation of animals, animal products and restricted material
14. Export in contravention of Act

Act No. 1, 2011**ANIMAL HEALTH ACT, 2011****PART V
DISEASE PREVENTION AND CONTROL**

15. Duties on discovery of incidence of disease
16. Treatment or disposal of infected animal, animal product or restricted material
17. Declaration of infected place
18. Declaration of quarantine area
19. Declaration of control area
20. Declaration of protected area
21. Fences
22. Straying animals

**PART VI
ANIMAL MOVEMENT CONTROL AND TRACEABILITY**

23. Definition for this Part
24. Obligation to register place on which animals are kept or received as a registered establishment
25. Permit required for moving prescribed animals from registered establishment
26. Registers and returns in relation to prescribed animals
27. Animal identification requirements

**PART VII
ENFORCEMENT AND COMPENSATION**

28. Powers of entry, search and inspection
29. Disposal of isolated, detained or seized animal or thing
30. Compensation

**PART VIII
GENERAL PROVISIONS**

31. Appeals
 32. Regulations
 33. Immunity from personal liability
 34. General offences and penalties
 35. Presumptions and evidence
 36. Act binds State
 37. Repeal of laws and savings provisions
 38. Short title and commencement
- SCHEDULE**

BE IT ENACTED by the Parliament of the Republic of Namibia as follows:

**PART I
PRELIMINARY PROVISIONS****Definitions**

1. In this Act, unless the context otherwise indicates -

Act No. 1, 2011 ANIMAL HEALTH ACT, 2011

“animal” means any member of the animal kingdom (other than a human), whether alive or dead, including -

- (a) any mammal, bird, fish, shellfish or reptile;
- (b) any invertebrate declared under paragraph (a) of subsection (2) to be an animal;

“animal product” means -

- (a) the carcass or part of the carcass of an animal;
- (b) meat, blood, hide, skin, hair, wool, feather, shell, horn, fin, hoof or any part of the viscera of an animal;
- (c) fat, milk, whey, cream, butter, cheese, eggs, or other food or foodstuffs derived from an animal;
- (d) the sperm, ova or embryo of an animal;
- (e) any secretion or excretion of an animal;
- (f) honey or other products from honey bees; and
- (g) any other thing declared under paragraph (b) of subsection (2) to be an animal product;

“authorised person” means an authorised person referred to in section 5;

“conveyance” means any vehicle, vessel or aircraft;

“disease” means -

- (a) a disease that affects or may affect an animal or that may be transmitted by an animal to a person; and
- (b) an infectious agent;

“health certificate” means a health certificate conforming to the format of the appropriate model certificate of the *Office International des Epizooties*;

“import” means to bring or cause to bring into Namibia from a place outside Namibia by land, sea or air;

“importer” in relation to any imported animal, animal product or restricted material, means a person who, whether as owner, consignor, consignee, agent or broker, is in possession of or in any way entitled to the custody or control of that animal, animal product or restricted material;

“infected” means -

- (a) infected with a disease; or

Act No. 1, 2011 ANIMAL HEALTH ACT, 2011

(b) harbouring an infectious agent;

“infectious agent” means -

- (a) any bacterium, virus, prion, fungus, parasite, pest or other organism or infectious substance which may cause or transmit disease in animals;
- (b) any other thing declared under paragraph (c) of subsection (2) to be an infectious agent;

“in transit” means the conveyance of an animal, animal product or restricted material imported from one country through Namibia to another country;

“Minister” means the Minister responsible for agriculture;

“Ministry” means the Ministry responsible for the administration of agricultural matters;

“notifiable disease” means any disease declared under paragraph (e) of subsection (2) to be a notifiable disease;

“occupier” means -

- (a) a person who resides in premises;
- (b) if no person resides in premises, the owner of the premises; or
- (c) a person acting on behalf of a person referred to in paragraph (a) or (b);

“owner , in relation to -

- (a) any animal, animal product or restricted material, conveyance or any other movable property, includes a person having the possession, charge, custody or control of that animal, animal product, restricted material, conveyance or property;
- (b) any land, means the person in whose name the land is registered, and includes -
 - (i) if the land has been alienated in any way but not yet transferred, the person in whose name transfer of the land is still to be registered;
 - (ii) in the case of land subject to a usufruct, the usufructuary;
 - (iii) the executor, trustee or other legal representative recognized by law of an owner who is deceased, insolvent, a minor or subject to other legal disability;
 - (iv) if the owner is a company or close corporation under liquidation, the liquidator of the company or close corporation;

“place” means -

Act No. 1, 2011 ANIMAL HEALTH ACT, 2011

- (a) any land, including any river, dam or other body of water on land;
- (b) any premises;
- (c) any building or other structure in or on a place;
- (d) any part of a place;

“prescribed” means prescribed by regulation;

“regulation” means a regulation made under this Act;

“restricted material” means -

- (a) an infectious agent; or
- (b) anything declared by the Minister under paragraph (d) of subsection (2) to be restricted material;

“staff member” means a staff member as defined in section 1 of the Public Service Act, 1995 (Act No. 13 of 1995);

“veterinarian” means a person registered as veterinarian in terms of the Veterinary and Para-Veterinary Proclamation, 1984 (Proclamation AG. No. 14 of 1984);

“veterinary official” means a person appointed as veterinary official under section 4 and includes the Chief Veterinary Officer;

(2) For the purposes of this Act, the Minister may declare by notice in the *Gazette* -

- (a) any invertebrate to be an animal;
- (b) any thing to be an animal product;
- (c) any thing which the Minister considers may cause disease in animals to be an infectious agent;
- (d) any equipment, material or other object used for containing animals or the handling or keeping of animals by means of which disease can be spread to be restricted material; or
- (e) a disease to be a notifiable disease in relation to a specified class of animal.

PART II**ADMINISTRATION****Chief Veterinary Officer**

2. (1) Subject to the laws governing the Public Service, the Minister must designate a staff member employed in the Ministry who is a veterinarian to be Chief Veterinary Officer or to act as such.

Act No. 1, 2011 ANIMAL HEALTH ACT, 2011

(2) The Chief Veterinary Officer is responsible for the administration of this Act and exercises the powers and performs the duties conferred or imposed on him or her by or under this Act subject to the control and directions of the Minister.

Veterinary officials

3. (1) The Minister, on the recommendation of the Chief Veterinary Officer, may appoint in writing as veterinary officials for the purposes of this Act –

- (a) staff members employed in the Ministry;
- (b) with the consent of the Minister responsible for any other Ministry, staff members employed in that Ministry; and
- (c) with the consent of the governing body of any institution or body established by law, employees of that institution or body.

(2) In addition to appointing veterinary officials referred to in subsection (1), the Minister, on the recommendation of the Chief Veterinary Officer, may appoint, by notice in the *Gazette*, members of a class of persons specified in the notice to be veterinary officials if the Minister considers it necessary to do so for controlling a notifiable disease or any other disease specified in the notice.

(3) A veterinary official must perform the duties and functions conferred on or assigned to a veterinary official by or under this Act subject to the control and directions of the Chief Veterinary Officer.

- (4) The Minister may –
- (a) revoke, by notice in writing, an appointment made under subsection (1); or
 - (b) by notice in the *Gazette*, amend or revoke a notice published under subsection (2).

(5) The Minister must cause to be issued to each veterinary official an identity card containing a photograph and the signature of the veterinary official.

(6) A veterinary official must produce his or her identity card for inspection when so required by a person in relation to whom the veterinary official seeks to perform a function or exercise a power under this Act.

Authorised persons

4. (1) The Minister, on the recommendation of the Chief Veterinary Officer, may in writing authorise a person to perform the functions and exercise the powers, of a veterinary official that are specified in the authority.

(2) An authority under subsection (1) has effect for the period specified in the authority or, if no period is so specified, until the authority is revoked by the Minister.

Act No. 1, 2011 ANIMAL HEALTH ACT, 2011

(3) An authorised person must produce his or her authority for inspection when so required by a person in relation to whom the authorised person seeks to perform a function or exercise a power under this Act.

Delegation

5. (1) The Minister may delegate to the Permanent Secretary of the Ministry or the Chief Veterinary Officer any of the Minister's functions or powers under this Act, other than the power to make regulations or the power of delegation conferred by this subsection.

(2) The Chief Veterinary Officer may delegate or assign to a veterinary official any of the powers or functions conferred upon or assigned to the Chief Veterinary Officer by or under this Act.

(3) A delegation or assignment under subsection (1) or (2) -

- (a) must be in writing;
- (b) does not divest or discharge the Minister or the Chief Veterinary Officer, from the power or duty delegated or assigned;
- (c) may be revoked at any time by the Minister or the Chief Veterinary Officer.

General responsibilities of veterinary officials

6. The responsibilities of a veterinary official include -

- (a) the detection and investigation of disease;
- (b) the prevention of disease;
- (c) the controlling of disease;
- (d) the surveillance of disease;
- (e) where appropriate, the eradication of disease;
- (f) ascertaining whether the provisions of this Act have been or are being complied with and determining whether a person may have contravened any provision; and
- (g) other functions as are assigned to a veterinary official by or under this Act.

Act No. 1, 2011**ANIMAL HEALTH ACT, 2011****PART III****IMPORTATION OF ANIMALS, ANIMAL PRODUCTS AND
RESTRICTED MATERIAL****Permit for importation of animals, animal products and restricted material for
entry into Namibia**

7. (1) A person may not import for entry into Namibia -
- (a) any animal;
 - (b) any animal product; or
 - (c) any restricted material,

except if the person holds an import permit issued under this Act authorising the importation for entry into Namibia, and the importation is carried out in accordance with the conditions as prescribed and as specified in the permit.

(2) Despite that an import permit authorises the importation of any animal, animal product or restricted material, a person may not import such animal, animal product or restricted material if -

- (a) the person knows or has reason to believe that the animal, animal product or restricted material is infected; and
 - (b) the permit does not specifically authorise the importation of the animal, animal product or restricted material in infected condition.
- (3) An application for an import permit must –
- (a) be made in the prescribed manner and form; and
 - (b) be accompanied by the prescribed fee.

(4) The Chief Veterinary Officer may require an applicant for an import permit to provide further information or documents that the Chief Veterinary Officer considers relevant for determining whether to issue the permit.

(5) An import permit authorises the importation of any animal, animal product or restricted material specified therein only within the period specified in the permit.

(6) In addition to any permit conditions, the Chief Veterinary Officer may specify any other conditions with which the importer must comply when importing any animal, animal product or restricted material to which the import permit relates.

(7) Without limiting the generality of the power conferred by subsection (6), conditions specified under subsection (6) may include conditions relating to -

- (a) the identification, inspection, testing or treatment of any animal, animal product or restricted material at any time before, during or after importation;

Act No. 1, 2011 ANIMAL HEALTH ACT, 2011

- (b) the isolation of any animal, animal product or restricted material at any time before, during or after importation;
 - (c) the quarantine of any animal, animal product or restricted material before or after importation;
 - (d) the certification of any aspect of the identity, health status, origin or history of any animal, animal product or restricted material to be imported.
- (8) Any animal, animal product or restricted material in respect of which an import permit has been issued –
- (a) may not be brought into Namibia at a place other than the place of entry specified in the permit;
 - (b) must be made available to a veterinary official at the place of entry for the purpose of inspection or carrying out any function under this Act or the requirement of a condition to which the permit is subject; and
 - (c) may not be removed from the place of entry without the consent in writing of a veterinary official or contrary to any condition to which the permit is subject.
- (9) Any imported animal, animal product or restricted material which, in terms of this Act or a condition to which the import permit is subject, is required to be removed for the purpose of being –
- (a) tested or treated; or
 - (b) kept in isolation,

must be removed at the owner's expense by or under the supervision of a veterinary official to a place designated by the veterinary official for that purpose.

(10) A person may not remove any animal, animal product or restricted material from a place referred to in subsection (9) without the written authority of a veterinary official or contrary to any condition imposed by the veterinary official in granting the authority.

(11) A person who contravenes or fails to comply with any provision of subsection (1), (2), (8) or (10) commits an offence and is liable to a fine not exceeding N\$1 000 000 or to imprisonment for a term not exceeding 20 years or to both such fine and such imprisonment.

Permit for importation of animals, animal products and restricted material for conveyance in transit through Namibia

- 8.** (1) A person may not import for conveyance in transit through Namibia to another country –
- (a) any animal;

Act No. 1, 2011 ANIMAL HEALTH ACT, 2011

- (b) any animal product; or
- (c) any restricted material,

except if the person holds an import and transit permit issued under this Act authorising the importation and conveyance in transit, and the importation and conveyance through Namibia are carried out in accordance with the conditions as prescribed or as specified in the permit.

(2) Despite that an import and transit permit authorises the importation of any animal, animal product or restricted material for transit through Namibia, a person may not import such animal, animal product or restricted material if -

- (a) the person knows or has reason to believe that the animal, animal product or restricted material is infected; and
- (b) the permit does not specifically authorise the importation and conveyance in transit of the animal, animal product or restricted material in infected condition.

(3) An application for an import and transit permit must -

- (a) be made in the prescribed manner and form; and
- (b) be accompanied by the prescribed fee.

(4) The Chief Veterinary Officer may require an applicant for an import and transit permit to provide further information or documents that the Chief Veterinary Officer considers relevant for determining whether to issue the permit.

(5) An import and transit permit authorises the importation and conveyance through Namibia of any animal, animal product or restricted material specified therein only within the period and to another country specified in the permit.

(6) In addition to any permit conditions, the Chief Veterinary Officer may specify other conditions to be complied with by the importer or other person in charge of the animal, animal product or restricted to which the permit relates before or during the importation and conveyance in transit.

(7) A person who contravenes subsection (1) or a permit condition specified under subsection (6) commits an offence and is liable to a fine not exceeding N\$1 000 000 or to imprisonment for a term not exceeding 20 years, or to both such fine and such imprisonment.

Notice to be given and health certificate obtained before import

9. A person who proposes to import any animal, animal product or restricted material for entry into Namibia or for conveyance in transit through Namibia must -

- (a) give prior notice in the prescribed manner to the Chief Veterinary Officer of the importation arrangements; and

Act No. 1, 2011 ANIMAL HEALTH ACT, 2011

- (b) before the animal, animal product or restricted material enters Namibia, obtain a health certificate from a competent authority of the country from where it is exported.

Animal, animal product or restricted material imported contrary to Act or presenting risk

10. (1) If a veterinary official knows or has reason to suspect that any animal, animal product or restricted article is being imported or proposed to be imported contrary to this Act or a condition of a permit, the veterinary official may direct that the animal, animal product or restricted material -

- (a) may not be brought into Namibia; or
- (b) if it has entered Namibia, may not be removed from the place of entry,

except with the written authority of the veterinary official and in accordance with conditions imposed by the veterinary official in granting the authority.

(2) If it is ascertained or suspected on reasonable grounds that any imported animal, animal product or restricted material is infected or poses a health risk, a veterinary official may direct the importer or other person in charge of the animal, animal product or restricted material to destroy or dispose of the animal, animal product or restricted material in the manner and within the period determined by the veterinary official, at the expense of the importer or that person.

(3) If the direction of a veterinary official under subsection (2) is not carried out, the veterinary official may cause any action to be taken for the destruction or disposal of the animal and the expense connected with that action may be recovered from the importer as a debt owing to the State.

(4) Neither the State, nor a veterinary official or a person taking any action directed by a veterinary official under subsection (3) is liable for any damage or loss suffered because of the destruction or disposal of any animal, animal product or restricted material.

Border security in emergency

11. (1) If the Chief Veterinary Officer, or any other veterinary official, reasonably suspects that there is an immediate risk of a disease being introduced into or further spread in Namibia from another country, the Chief Veterinary Officer, or any other veterinary official acting with the consent of the Chief Veterinary Officer, may issue an emergency restriction notice that prohibits, either absolutely or subject to compliance with conditions specified in the notice, the importation or entry into Namibia from that country of -

- (a) animals, animal products or restricted material, either of any description or of a class specified in the notice; and
- (b) vehicles of a type usually used for the transportation of animals, animal products or restricted material as specified in the notice.

Act No. 1, 2011 ANIMAL HEALTH ACT, 2011

(2) Without limiting the generality of the powers conferred by subsection (1), a notice may –

- (a) prohibit or restrict the importation or entry of any description of animals, animal products, restricted material or vehicles except at places specified in the notice; and
- (b) specify tests or treatment to be applied to any description of animals, animal products, restricted material or vehicles upon entry into Namibia.

(3) An emergency restriction notice takes effect on the date it is issued by the Chief Veterinary Officer or other veterinary official and must be published in the *Gazette* as soon as practicable after it has been issued.

(4) A person who contravenes, or fails to comply with, any provision of an emergency restriction notice commits an offence and is liable to a fine not exceeding N\$1 000 000 or to imprisonment for a term not exceeding 20 years, or to both such fine and such imprisonment.

Quarantine stations

12. (1) The Chief Veterinary Officer, with the approval of the Minister, may establish at any place in Namibia on land owned or controlled by the State a quarantine station where facilities are provided for –

- (a) the detention or isolation of imported animals, animal products and restricted material that are required in terms of this Act to be detained or isolated;
- (b) the inspection, examination, testing, observation, disinfection, destruction or disposal of animals, animal products, restricted material, the carrying out of other procedures, the rendering of services in relation to animals, animal products, restricted material for preventing the introduction or spread of disease in animals.

(2) The Chief Veterinary Officer may –

- (a) establish rules for the management and use of facilities at a quarantine station;
- (b) levy fees and charges as prescribed for the keeping and care of animals, animal products or restricted material and for procedures carried out or services rendered in relation to animals, animal products or restricted material at a quarantine station.

Act No. 1, 2011

ANIMAL HEALTH ACT, 2011

PART VI

EXPORT OF ANIMALS, ANIMAL PRODUCTS
AND RESTRICTED MATERIAL**Health certificate required for exportation of animals, animal products and restricted material**

13. (1) Subject to subsection (4), a person may not export any animal, animal product or restricted material from Namibia except if the person has obtained a health certificate from the Chief Veterinary Officer.

(2) A certificate referred to in subsection (1), must contain specific information required by the competent authority in the country of import with regard to –

- (a) the health status of the animal, animal product or restricted material to be exported;
- (b) the occurrence or non-occurrence of particular animal diseases in Namibia and the area of origin of the animal, animal product or restricted material; and
- (c) any other information required by that competent authority.

(3) An application for a health certificate must –

- (a) be made to the Chief Veterinary Officer in the prescribed manner and form; and
- (b) be accompanied by a document issued by the competent authority of the importing country authorizing the importation.

(4) The Chief Veterinary Officer may require an applicant for a health certificate to provide further information or documents that the Chief Veterinary Officer considers relevant for the purposes of the application.

(5) If, upon examination of the animal, animal product or restricted material to be exported, the Chief Veterinary Officer, with due regard to the requirements of the importing country –

- (a) is satisfied that the conditions for issuing a health certificate have been met, he or she must issue the health certificate to the applicant upon payment of the prescribed fee;
- (b) is not satisfied that the animal, animal product or restricted material to be exported is free of any risk for the exportation and spreading of disease or does not otherwise comply with any requirement of this Act, he or she must refuse the health certificate.

(6) If the Chief Veterinary Officer refuses to issue a health certificate, he or she may give directions to the owner of the animal, animal product or restricted material in relation to the action to be taken by the owner, at his or her own expense for –

Act No. 1, 2011 ANIMAL HEALTH ACT, 2011

- (a) the appropriate treatment of the animal, animal product or restricted material in order to remove the risk; or
- (b) the destruction or disposal otherwise of the animal, animal product or restricted material.

(7) Subsection (1) does not apply to the exportation of any animal, animal product or restricted material to a country in respect of which the competent authority in that country does not require a certificate referred to in that subsection if the exporter provides the Chief Veterinary Officer with written proof thereof.

(8) A person who contravenes subsection (1) commits an offence and is liable to a fine not exceeding N\$1 000 000 or to imprisonment for a term not exceeding 20 years, or to both such fine and such imprisonment.

Export in contravention of Act

14. (1) If a veterinary official has reason to suspect that a person intends to export, or cause to be exported, any animal, animal product or restricted material in contravention of section 14, the veterinary official may by notice in writing -

- (a) direct the person to cease with any action for the exportation of that animal, animal product or restricted material; and
- (b) require the person immediately to cause the animal, animal product or restricted material to be removed to and detained at a place specified in the notice and to take other action in relation to it as may be so specified.

(2) If a notice under subsection (1) is not complied with, the veterinary official may seize or cause to be seized any animal, animal product or restricted material to which the notice relates and arrange for the requirements of the notice to be complied with.

(3) A person who fails to comply with a direction or requirement of a notice given under subsection (1) commits an offence and is liable to a fine not exceeding N\$100 000 or to imprisonment for a term not exceeding 5 years, or to both such fine and such imprisonment.

PART V
DISEASE PREVENTION AND CONTROL

Duties on discovery of incidence of animal disease

15. (1) An owner of an animal who knows or has reason to suspect that the animal is infected with a disease must -

- (a) take all reasonable steps -
 - (i) to isolate the infected animal;
 - (ii) to prevent the spread of the disease; and

Act No. 1, 2011 ANIMAL HEALTH ACT, 2011

(iii) to ensure that the infected animal is subjected to appropriate treatment; and

(b) if the owner knows or has reason to suspect that the animal is infected with a notifiable disease, immediately notify a veterinary official of that incidence or suspected incidence.

(2) Any veterinarian who has reason to suspect that an animal is infected with a notifiable disease must immediately notify a veterinary official of the facts of that incidence or suspected incidence.

(3) A person who becomes aware of the presence of a disease which the person knows or on reasonable grounds believes is not at the time known to occur in Namibia, must immediately notify a veterinary official of the presence of the disease.

(4) An owner of animals who knows or has reason to believe that an unknown disease is causing an unusual level or manifestation of disease or number of deaths amongst those animals, or a particular group, must –

(a) engage a veterinarian to investigate the disease and its cause; or

(b) notify a veterinary official of the occurrence of the disease or deaths,

and isolate those animals or the group of animals.

(5) If, after due investigation, a veterinarian knows or has reason to believe a disease to be an unknown disease is present, must immediately notify the Chief Veterinary Officer of the facts in the quickest manner practicable.

(6) A person who contravenes, or fails to comply with, any of the provisions of this section commits an offence and is liable to a fine not exceeding N\$100 000 or to imprisonment for a term not exceeding five years, or to both such fine and such imprisonment.

Treatment or disposal of infected animal, animal product or restricted material

16. If a veterinary official knows or has reason to suspect that any animal, animal product or restricted material is infected or has been in contact with an infected animal, the veterinary official may -

(a) seize the animal, animal product, or restricted material and any thing which may have been in contact therewith and, in his or her opinion, may be infected;

(b) give directions to the owner of the animal, animal product or restricted material regarding its cleansing, disinfection or treatment otherwise;

(c) destroy or otherwise dispose of the animal, animal product, restricted material or give directions to the owner in connection with its destruction or disposal otherwise;

(d) give directions that the animal be quarantined;

Act No. 1, 2011 ANIMAL HEALTH ACT, 2011

- (e) order the cleansing, disinfection or destruction of any premises, conveyance or things that may have become contaminated by the disease.

Declaration of infected place

17. (1) A veterinary official may in writing declare a place or conveyance to be an infected place if the veterinary official knows or reasonably suspects that a disease is present in that place or conveyance and considers it necessary to make the declaration for the purpose of controlling the disease.

(2) A declaration of an infected place or conveyance -

- (a) takes effect when it is served on the owner of the place or conveyance;
- (b) may be amended in writing; and
- (c) remains in force for the period specified or, if no period is specified, until it is revoked in writing by a veterinary official.

(3) A declaration of an infected place, or an amendment or the revocation, must be served on the owner of the place or conveyance in the prescribed manner.

(4) A declaration of an infected place may specify prohibitions, restrictions or requirements which the veterinary official considers necessary or expedient to impose for the control of a disease in the infected place, which may relate to -

- (a) the entry to or movement within or out of an infected place of persons or a specified class of persons or conveyances or a specified type of conveyance;
 - (b) the introduction into, movement within or removal from an infected place of any animal, animal product or other thing specified in the declaration.
- (5) A person who contravenes or fails to comply with -
- (a) any prohibition, restriction or requirement of a declaration of an infected place without a written permission issued in accordance with that declaration; or
 - (b) any conditions specified in permission,

commits an offence and is liable to a fine not exceeding N\$100 000 or a term of imprisonment not exceeding five years, or to both such fine and such imprisonment.

Declaration of quarantine area

18. (1) The Minister, on the recommendation of the Chief Veterinary Officer, may declare, by notice in the *Gazette*, any place or area described in the notice to be a quarantine area on account of the presence or suspected presence in that place or area of a disease specified in the notice.

Act No. 1, 2011 ANIMAL HEALTH ACT, 2011

(2) A notice under subsection (1) may declare the objects and nature of the quarantine imposed and may -

- (a) prohibit, either absolutely or subject to compliance with conditions specified in the notice, the introduction into or removal from the quarantine area of any animal or animal product or any thing specified in the notice;
- (b) prohibit or regulate the entry to and movement within or from the quarantine area of conveyances or conveyances of a specified description;
- (c) prohibit or regulate the removal of any animal or animal product or thing specified in the notice from any place within the quarantine area to any other place therein;
- (d) require an owner or occupier of land or any place within the quarantine area to take measures as are imposed in the notice for the purpose of controlling a disease specified in the notice;
- (e) impose measures to be observed by persons when entering or moving from a quarantine area, whether by means of a conveyance or otherwise;
- (f) authorise the closing of any road in or adjacent to the quarantine area or the erecting of fences or gates across any road to regulate or prevent the movement of animals;
- (g) impose any other prohibitions, restrictions or requirements as the Minister considers necessary or expedient for achieving the objects of the quarantine.

(3) The Minister, on the recommendation of the Chief Veterinary Officer, may prescribe rules in relation to -

- (a) the management, maintenance operation and security of a quarantine area; and
 - (b) the handling, keeping, examination, testing, vaccination, identification and treatment of any animal or animal product or any thing capable of harbouring or transmitting a disease in the quarantine area.
- (4) A person who contravenes or fails to comply with -
- (a) any prohibition, restriction or requirement of a notice of declaration of a quarantine area without a written permission issued in accordance with that notice; or
 - (b) any conditions specified in a permission,

commits an offence and is liable to a fine not exceeding N\$100 000 or a term of imprisonment not exceeding five years, or to both such fine and such imprisonment.

Act No. 1, 2011**ANIMAL HEALTH ACT, 2011****Declaration of control area**

19. (1) The Minister, on the recommendation of the Chief Veterinary Officer, may declare, by notice in the Gazette, the whole or a specified part of Namibia to be a control area if the Minister considers it necessary to do so for the purpose of controlling a disease present in Namibia or another country, whether the disease is a known disease or an unknown disease.

(2) A declaration of a control area may, with respect to the whole or a specified part of the control area, prohibit, regulate or control -

- (a) the presence or exposure of specified animals or animal products or classes of animals or animal products at any place where animals or animal products are exposed for sale, exhibition, parade, race meetings or any form of recreation or competition;
- (b) the sale, presence or exposure of specified animals, animal products, classes of animals or animal products, or other things in places where animals or animal products are commonly prepared for human consumption;
- (c) the purposes for which specified animals, animal products, classes of animals or animal products, conveyances or other things may be used;
- (d) the treatment of animals, animal products, classes of animals or animal products, or other things or any other action of a specified kind;
- (e) the keeping, transport or management of specified animals, animal products, classes of animals or animal products, or other things;
- (f) the identification of specified animals, animal products, classes of animals or animal products, conveyances or other things;
- (g) the movement of specified persons, animals, animal products, classes of persons, animals or animal products, conveyances or other things into, within or out of the control area;
- (h) the cleansing or disinfecting of persons, animals, animal products, clothing, conveyances or other things that may enter, remain in, move within or leave the control area.

(3) A veterinary official may issue a permit authorizing the movement of specified persons, animals, animal products, classes of persons, animals or animal products, conveyances or other things into, within or out of a control area, subject to conditions as may be specified in the permit.

(4) A person who contravenes or fails to comply with -

- (a) any prohibition, restriction or requirement of a notice under subsection (1), except as authorised by a permit issued under subsection (3); or
- (b) any condition specified in a permit under subsection (3),

Act No. 1, 2011 ANIMAL HEALTH ACT, 2011

commits an offence and is liable to a fine not exceeding N\$100 000 or a term of imprisonment not exceeding five years, or to both such fine and such imprisonment.

Declaration of protected area

20. (1) The Minister, on the recommendation of the Chief Veterinary Officer, may declare, by notice in the Gazette, an area of Namibia to be a protected area if the Minister considers it prudent to do so for the purpose of preventing the introduction into, or the spread in, that area of a disease.

- (2) A declaration of a protected area may specify -
- (a) any classes of animals, animal products, conveyances or other things -
- (i) that may not be brought or moved, or permitted to be brought or moved, into a protected area; or
- (ii) that may only be brought or moved into a protected area if conditions specified in the declaration are complied with; and
- (b) any conditions with which every person or a class of persons must comply before or when entering the protected area.

(3) A veterinary official may issue a permit authorising the movement into a protected area of any animal or animal product, or any class of animal, animal product, conveyance or other thing, subject to conditions as may be specified in the permit.

- (4) A person who contravenes or fails to comply with -
- (a) any prohibition, restriction or requirement specified in a declaration of a protected area, except as authorised by a permit issued under subsection (3); or
- (b) any condition specified in a permit under subsection (3),

commits an offence and is liable to a fine not exceeding N\$100 000 or to imprisonment for a term not exceeding five years, or to both such fine and such imprisonment.

Fences

21. (1) The Chief Veterinary Officer may cause a fence, with gates, grids or other passages, to be constructed -

- (a) on any land situated along the international boundaries of Namibia to prevent the straying of animals into or out of Namibia;
- (b) along the boundaries of any game park or private game reserve established by or under the laws relating to nature conservation to prevent the movement of animals into or out of park or reserve;
- (c) along, on or across public or private roads, or along the boundaries of, or on or across any land for the purpose of controlling animal disease,

Act No. 1, 2011 ANIMAL HEALTH ACT, 2011

and may cause any road, including any bridge, causeway, culvert or drift, to be constructed over any land as may be reasonably required for purposes of access for erecting, inspecting and maintaining fence.

(2) The Chief Veterinary Officer must notify, in the prescribed manner, the owner or occupier of the land in question of the intention to exercise any power under subsection (1).

(3) A veterinary official may enter upon any land with persons, conveyances, tents, materials, tools or other things as may reasonably be required for carrying out work referred to in subsection (1), and may -

- (a) temporarily remain on the land for a reasonable period for that purpose;
- (b) subject to subsection (4), dig out and remove any sand, soil, clay, gravel or stone and use any water, wood or other material on the land reasonably required for that purpose; and
- (c) remove any vegetation.

(4) If material is removed or used in accordance with subsection (3)(b), the owner of the land concerned is entitled to reasonable compensation in respect thereof, in the amount as agreed upon between the owner and the Chief Veterinary Officer or, failing agreement, as determined by the Chief Veterinary Officer.

(5) The Chief Veterinary Officer -

- (a) must maintain any fence erected and any gate, grid and other passage installed in terms of subsection (1); and
- (b) may from time to time effect alterations or replacements thereto as may be considered necessary.

(6) A person may not, without the written authority of the Chief Veterinary Officer -

- (a) remove, alter or impair the efficacy of any fence or of any gate, grid or passage erected or installed under subsection (1);
- (b) alter, obstruct or damage any road or associated work constructed under that subsection.

(7) A person who contravenes subsection (6) commits an offence and is liable, on to a fine not exceeding N\$100 000 or to imprisonment for a term not exceeding five years, or to both such fine and such imprisonment.

Straying animals

22. (1) An owner or occupier of any land who finds an animal that has strayed onto the land must -

- (a) isolate that animal; and

Act No. 1, 2011 ANIMAL HEALTH ACT, 2011

- (b) forthwith report the presence of the animal to a veterinary official in the prescribed manner.
- (2) A veterinary official -
 - (a) may seize a stray animal reported to, or found by, the veterinary official and cause it to be detained in a manner that the veterinary official considers appropriate; and
 - (b) must give written notice of the seizure to the owner of the animal if the identity and whereabouts of that owner are known to the veterinary official.
- (3) The notice to the owner of a stray animal must state that the animal –
 - (a) must be claimed within 7 days after the notice is given; and
 - (b) if not claimed within 7 days may be disposed of in the prescribed manner.
- (4) If a person claims the seized animal, the veterinary official may release the animal to the person only if the person –
 - (a) satisfies the veterinary official that he or she is entitled to the possession of the animal; and
 - (b) pays the prescribed fees and any reasonable expenses incurred in connection with the seizure, removal and detention of the animal.
- (5) The Chief Veterinary Officer may cause the seized animal to be destroyed or otherwise disposed of in the prescribed manner for the benefit of the State if –
 - (a) the identity of the owner of the animal cannot be ascertained;
 - (b) the whereabouts of the owner cannot be established after reasonable enquiry; or
 - (c) the owner fails to claim the animal within 7 days after having been given notice of the seizure of the animal.
- (6) Despite this section, the Chief Veterinary Officer may cause any stray animal seized to be destroyed at any time, in a way the Chief Veterinary Officer considers appropriate, if the animal is infected and the Chief Veterinary Officer considers the destruction of the animal necessary to prevent the spread of disease.
- (7) Compensation is not payable for an animal destroyed under subsection (5) or (6).

Act No. 1, 2011

ANIMAL HEALTH ACT, 2011

PART VI

ANIMAL MOVEMENT CONTROL AND TRACEABILITY

Definitions for this part

- 23.** In this part, unless the context otherwise indicates -
- (a) “prescribed animal” means any animal belonging to a species of animal to which the Minister, on the recommendation of the Chief Veterinary Officer, has by regulation prescribed, or by notice in the *Gazette* declared, that the provisions of this Part are applicable; and
 - (b) “registered establishment” means any place registered as a registered establishment under section 24(5).

Obligation to register place on which animals are kept as a registered establishment

24. (1) Any person who holds, keeps or handles any prescribed animal on any place which under the regulations is required to be registered as a registered establishment for the purposes of this Part, must apply to the Chief Veterinary Officer in the prescribed manner for the registration of that place as a registered establishment within a period of 90 days as specified in the regulations.

(2) The Minister may extend, by notice in the *Gazette*, the period specified in the regulations contemplated in subsection (1) by further period as the Minister, on the recommendation of the Chief Veterinary Officer, may determine.

(3) Regulations contemplated in subsection (1) may prescribe requirements to be complied with in respect of any place in order to be eligible for registration as a registered establishment.

(4) An application for registration of a place as a registered establishment must be made to the Chief Veterinary Officer in the manner, and be accompanied by the documents, as the Chief Veterinary Officer may determine.

(5) The Chief Veterinary Officer must register a place specified in an application for registration in terms of subsection (1) unless the Chief Veterinary Officer is satisfied that the application is not a bona fide application, any requirement prescribed under subsection (3) is not complied with, or the place is not required to be registered as a registered establishment under the regulations.

(6) With effect from the date immediately following the expiry of the period specified under subsection (1), as extended, if applicable, under subsection (2), a person may not keep or handle or have in his or her possession or under his or her control on any place required to be registered as a registered establishment under the regulations any prescribed animal -

- (a) unless the place has been registered by the Chief Veterinary Officer as a registered establishment; and

Act No. 1, 2011 ANIMAL HEALTH ACT, 2011

- (b) the requirements prescribed under subsection (3) are complied with in respect of the place.

(7) A person who contravenes subsection (6) commits an offence and is liable to a fine not exceeding N\$100 000 or to imprisonment for a term not exceeding five years, or to both such fine and such imprisonment.

Permit required for movement of prescribed animals from registered establishment

25. (1) A person may not remove any prescribed animal from a registered establishment to any other place within Namibia, unless -

- (a) the person holds a movement permit granted under subsection (3) which authorises the movement of the prescribed animal from the registered establishment to that other place; and
- (b) the movement is carried out in accordance with the conditions as prescribed and as specified in the movement permit.

(2) Despite that a movement permit authorises the movement of a prescribed animal specified in the permit, a person may not move that animal from its registered establishment if -

- (a) the person knows or has reason to believe that the animal is infected; and
- (b) the permit does not specifically authorise the movement of the animal so infected.

(3) An application for a movement permit must –

- (a) be made to a veterinary official in the prescribed manner in a form approved by the Chief Veterinary Officer; and
- (b) be accompanied by the prescribed fee.

(4) The veterinary official may require an applicant for a movement permit to provide further information or documents that the veterinary official considers relevant for determining whether to issue the permit.

(5) A movement permit authorises the movement of any specified animal only within the period specified in the permit.

(6) In addition to any permit conditions as may be prescribed in respect of a movement permit, the veterinary official may specify any conditions with which the holder of the movement permit must comply in moving any animal.

(7) Conditions specified under subsection (6) may include conditions relating to -

- (a) the identification, inspection, testing or treatment of the prescribed animal at any time before, during or after the movement;

Act No. 1, 2011 ANIMAL HEALTH ACT, 2011

- (b) the isolation of the prescribed animal at any time before, during or after the movement;
- (c) the quarantine of the prescribed animal before or after the movement;
- (d) the certification of any aspect of the identity, health status, origin or history of the prescribed animal to be moved.

(8) Any animal in respect of which a movement permit has been issued -

- (a) may not be moved through any area infected or suspected of being infected with any disease which can affect the animal being moved;
- (b) must when required be made available to a veterinary official at the place of destination for the purpose of inspection or carrying out any function under this Act or the requirement of a condition to which the permit is subject.

(9) A person who contravenes, or fails to comply with, any provision of subsection (1), (2), or (8) commits an offence and is liable, on conviction, to a fine not exceeding N\$100 000 or to imprisonment for a term not exceeding five years, or to both such fine and such imprisonment.

Registers and returns in relation to prescribed animals

26. (1) A person who holds, keeps or handles prescribed animals on a registered establishment must -

- (a) keep registers, and record information; and
- (b) provide the Chief Veterinary Officer with returns, giving information,

in respect of the birth, death, loss and movement of prescribed animals on or from the registered establishment as may be prescribed.

(2) A person may not enter in a register or provide in a return referred to in subsection (1) any information which the person knows to be false or does not know to be true, or recklessly enter or provide information which is false or which the person does not know to be true.

(3) A person who contravenes, or fails to comply with, subsection (1) or (2) commits an offence and is liable, on conviction, to a fine not exceeding N\$20 000 or to imprisonment for a term not exceeding one year, or to both such fine and such imprisonment.

Animal identification requirements

27. (1) With effect from a date as prescribed, a person may not –

- (a) keep, or cause or permit to be kept, on any registered establishment;
- (b) move, or cause or permit to be moved, from a registered establishment;

Act No. 1, 2011 ANIMAL HEALTH ACT, 2011

- (c) receive, or cause or permit to be received onto a registered establishment for any purpose other than to keep;
- (d) by means of any conveyance or otherwise move, or cause or permit to be moved, along any road or any other place not being on the registered establishment,

any prescribed animal, unless that animal is distinctly identified in the prescribed manner by means of a mark, tag, transponder or other indicator approved by the Chief Veterinary Officer for the purpose of ascertaining the ownership, origin, location, movement history and fate of the animal

(2) A person, other than a veterinary official or a veterinarian, may not remove or replace an approved identification tag, mark, transponder or other indicator attached or applied to a live animal for the purposes of this Act.

(3) A person must not alter, obliterate or deface the information on any identification tag, mark, transponder or other indicator attached or applied to an animal for the purposes of this Act.

(4) A person slaughtering a prescribed animal may, when required by a veterinary official, cause any meat or offal derived from the carcass of the slaughtered animal to be marked or labelled in a manner approved by the veterinary official so as to ensure a link between the meat or offal and the individual animal or the group of animals from which the individual animal was taken and to facilitate the tracing of the origin of animal or group of animals.

(5) A person who contravenes or fails to comply with subsection (1), (3) or (4) commits an offence and is liable to a fine not exceeding N\$20 000 or to imprisonment for a term not exceeding two years, or to both such fine and such imprisonment.

PART VII
ENFORCEMENT AND COMPENSATION

Powers of entry, search and inspection

28. (1) For the purpose of exercising any power or performing any duty conferred upon or assigned to a veterinary official by this Act or determining whether this Act is being or has been complied with, a veterinary official may, at any reasonable time –

- (a) subject to subsection (3), enter and search any conveyance or any place;
- (b) proceed over any land in order to reach any conveyance or place required to be entered and searched;
- (c) order any conveyance to be stopped for purpose of entry and search at any place within Namibia or in the territorial waters of Namibia.

(2) When conducting a search of a conveyance or place, a veterinary official may -

Act No. 1, 2011**ANIMAL HEALTH ACT, 2011**

- (a) open, if necessary with force, any door or other structure giving access to any conveyance or premises or part of any premises or any other enclosure in or on the place or any box, container, package or other receptacle in or on the conveyance or place;
- (b) require the owner of the conveyance or place, or a person apparently in charge of the conveyance or place, or any other person who the veterinary official reasonably believes is able to comply with the requirement, to provide, or to take reasonable steps to provide, information reasonably required for the purpose of the search;
- (c) require a person to produce any document reasonably required for ascertaining whether this Act is being or has been complied with, and –
 - (i) examine that document;
 - (ii) make copies of, or take extracts from, the document; and
 - (iii) remove the document for as long as reasonably necessary to make copies or take extracts;
- (d) operate, or require assistance from any person to operate, any computer or other electronic equipment on any premises to determine whether it or a disk, tape or other storage device that can be used with it or is associated with it, contains any information that is relevant to the purpose of the search and copy or print any information relevant to the purpose of the search contained in or on computer, disk, tape or other storage device;
- (e) require the owner or a person in control of or employed at or on any place or conveyance, or of any animals, animal products, restricted material or other things –
 - (i) to produce or secure, either immediately or at a time and place specified by the veterinary official, any animals, animal products, restricted material or other things that the veterinary official requires to be inspected or examined;
 - (ii) to give assistance in connection with the inspection or examination as may reasonably be required in the circumstances and which the owner or person is capable of giving; and
 - (iii) to provide any facilities in the possession or control of the person as the veterinary official considers reasonable to allow the safe and efficient handling of animals during inspection or examination;
- (f) inspect, count, examine, identify by marking, tagging or otherwise, test, vaccinate, treat or disinfect any animal, animal product, restricted material or other thing or receptacle;
- (g) take and remove for analysis or examination samples of or from or specimens of any animal, animal product, restricted material or

Act No. 1, 2011 ANIMAL HEALTH ACT, 2011

other thing, land, place or conveyance which the veterinary official reasonably believes is infected with or contaminated by a disease;

- (h) carry out any analysis or examination of any animal, animal product or a sample or specimen of the animal or animal product and if necessary for that purpose, destroy or cause the death of the animal, including an animal protected by any law;
- (i) isolate, detain or seize any animal, animal product, restricted material or other thing reasonably suspected of being infected or contaminated by disease; or
- (j) seize anything that is suspected on reasonable grounds of being connected to the commission of an offence under this Act.

(3) A veterinary official may not under subsection (1) or (2) enter any premises or part of premises which is a residence or is being used as a residence, except if -

- (a) the occupier of the premises consents to the entry and search;
- (b) a warrant authorising the entry and search of the premises has been obtained from a judge of the High Court or a magistrate who has jurisdiction in the area in which the premises are situated; or
- (c) the veterinary official on reasonable grounds believes -
 - (i) that a warrant of entry and search would be issued to him or her if he or she applied for it; and
 - (ii) that the delay in obtaining the warrant would defeat the object of the investigation.

(4) To the extent that subsections (1), (2) and (3) authorise the interference with a person's fundamental right to privacy by authorising the entry and search of premises, those provisions are enacted on the authority of Article 13 of the Namibian Constitution for the protection of health, the prevention of crime and the protection of the rights or freedoms of others.

(5) A warrant may be issued under subsection (3)(b) if it appears to the judge or magistrate from information on oath that there are reasonable grounds to believe that any animal, animal product, restricted material, substance or thing or any book, statement or document that may relate to a contravention of this Act or may present a health risk, is upon or in the premises.

(6) A veterinary official, in performing a function under this Act, may be assisted by persons reasonably required to perform the function.

(7) If a person refuses or fails to comply with a requirement of the veterinary official under this section, the veterinary official may take the action required to be taken or cause it to be taken.

Act No. 1, 2011 ANIMAL HEALTH ACT, 2011

(8) Costs and expenses reasonably incurred by a veterinary official under subsection (7) may be recovered as a debt owing to the State from the person for whom the requirement was made.

Disposal of isolated, detained or seized animal or thing

29. (1) Any animal, animal product, restricted material or other thing isolated, detained or seized in terms of section 28(2)(i) may –

- (a) be placed in the care of the owner or occupier of the place concerned or the owner of the animal, animal product, restricted material or other thing on conditions agreed upon by the veterinary official and the person if the veterinary official considers that the person has adequate means available for the isolation or detention and care of the animal, animal product, restricted material or other thing in a manner that prevents the spread of disease;
- (b) be removed to a place that the veterinary official considers suitable for the keeping and treatment;
- (c) in the case of an animal, be slaughtered if the veterinary official considers a post-mortem examination of the animal necessary;
- (d) be destroyed or otherwise disposed of if the veterinary official considers that –
 - (i) it is not practical to isolate or treat it adequately;
 - (ii) the calculated cost of its isolation and treatment would exceed the estimated value; or
 - (iii) no means, remedy or equipment is available for effectively isolating or treating it,

and the veterinary official may cause it to be destroyed or disposed of or direct the owner concerned to destroy or dispose of it in the manner determined by the veterinary official; or

- (e) in the case of an outbreak or suspected outbreak of a disease that is not known to be established in Namibia and –
 - (i) is a fast spreading disease;
 - (ii) is capable of causing a serious risk for human or animal health; or
 - (iii) poses a potential risk of becoming established or further spreading in Namibia,

be destroyed or otherwise disposed of by, or with the approval of, the Chief Veterinary Officer.

Act No. 1, 2011 ANIMAL HEALTH ACT, 2011

(2) A veterinary official, if satisfied that the isolation or detention of any animal, animal product, restricted material or other thing seized under section 28(2)(i) is no longer necessary, must release that animal, animal product, restricted material or other thing to the owner or any other person who satisfies the veterinary official that he or she is entitled to possess it.

(3) If the identity of neither the owner nor a person entitled to the possession of any animal, animal product, restricted material or other thing to be released is known, or the owner or that person cannot be located, the veterinary official may dispose of the animal or thing in a manner beneficial to the State.

(4) An owner of any animal, animal product, restricted material or other thing seized under 28(2)(i), must reimburse the State for any reasonable expenses incurred in terms of this section for the removal, keeping, care treatment or other services rendered in relation to the animal, animal product, restricted material or other thing and expenses may be recovered from that owner as a debt owing to the State.

Compensation

30. (1) An owner of any animal, animal product, restricted material or other thing is entitled to compensation if -

- (a) the animal, animal product, restricted material or other thing is destroyed by or at the direction of a veterinary official for the purpose of controlling a disease; and
- (b) the owner has suffered loss as a result of the destruction.

(2) Despite subsection (1), a person is not entitled to compensation for the destruction of any animal, animal product, restricted material or other thing if -

- (a) it was destroyed as a consequence of a contravention of this Act;
- (b) it was infected at the time it was imported into Namibia; or
- (c) it was destroyed while being conveyed in transit through Namibia.

(3) The amount of compensation payable in terms of subsection (1) may not exceed the fair market value of the animal, animal product, restricted material or other thing at the time of its destruction, as determined by the Chief Veterinary Officer, less, in the case of an animal, the value of the carcass as determined by the Chief Veterinary Officer.

(4) Compensation payable under this section may not include any amount for loss of profit or production or other consequential loss.

(5) In the event of any doubt or dispute arising as to the entitlement of a person to receive compensation under this section, the Chief Veterinary Officer may cause the whole or part of the compensation payable to be retained until the right of the person to receive compensation has been established to the satisfaction of the Chief Veterinary Officer.

Act No. 1, 2011**ANIMAL HEALTH ACT, 2011****PART VIII
GENERAL****Appeals**

31. (1) A person who is unhappy with a decision or action taken by the Chief Veterinary Officer or other veterinary official may, within the period and in the manner prescribed, and on payment of the prescribed fee, appeal against the decision or action to the Minister for determination by an appeal board to be appointed by the Minister.

(2) The Minister must appoint the appeal board within 30 days from the date of the receipt of the appeal, which must consist of a chairperson, being a legal practitioner with at least five years standing, and one or more persons with expert knowledge in the field of animal diseases and related fields.

(3) A member of the appeal board must withdraw as a member if he or she has any direct or indirect interest in the subject matter of the appeal or if, for any other reason, there is likely to be a conflict of interests as a result of his or her membership of the appeal board.

(4) An appeal board may make orders as it thinks fit, confirming, varying or setting aside the decision or action appealed against or referring the matter back for reconsideration by the Chief Veterinary Officer or other veterinary official.

(5) If the appeal board makes an order –

- (a) setting aside the decision or action appealed against, the prescribed fee paid for the appeal must be refunded to the appellant; or
- (b) varying the decision or action appealed against, a portion of that prescribed fee as the appeal board determines must be refunded to the appellant.

(6) The chairperson of the appeal board must cause copies of the decision of the appeal board, and the reasons for the decision to be furnished to the Minister, the appellant and the Chief Veterinary Officer within 14 days after the date on which the final decision is taken.

Regulations

32. (1) The Minister may make regulations relating to -

- (a) any matter which in terms of this Act is required or permitted to be prescribed;
- (b) the manner in and periods within which specified applications must be submitted and the documents to accompany the applications;
- (c) the fees payable in respect of any matter under this Act;
- (d) the classification of veterinary officials and the duties of various classes of veterinary officials;

Act No. 1, 2011**ANIMAL HEALTH ACT, 2011**

- (e) conditions on which animals, animal products or restricted material may be introduced into Namibia or a specified part of Namibia;
- (f) the testing, vaccination and inoculation of animals and the use, manufacture, testing, distribution storage, sale or display for sale of any vaccine, serum, diagnostic agent or other biological substance used for testing, vaccinating or inoculating animals;
- (g) the treatment to be applied to animals, animal products or restricted material found to be infected or suspected of being infected;
- (h) the examination, testing and treatment of any animals or class of animals within a quarantine area, control area or protected area;
- (i) the manner of isolation, care and treatment of any animal required to be isolated;
- (j) the manner of dealing with animal products derived from an infected animal;
- (k) the manner of disposal of any carcass of an animal;
- (l) imposition of obligations on the owners or occupiers of land, owners of animals or other persons engaged in business or other operations involving the importation, sale, handling, conveyance, manufacturing or processing of, or any other dealing with, animals, animal products or restricted material in relation to the keeping of registers or other records and the giving of notices or the furnishing of returns in respect of any matter as prescribed;
- (m) the sale, transport, delivery for slaughter at a place or facility for the slaughtering of animals or disposal in any other specified manner of any prescribed animal not bearing the prescribed means of identification in accordance with the requirements of this Act;
- (n) the holding of markets, fairs, exhibitions, public sales, parades or race meetings of animals or any other event where animals are brought together for any purpose;
- (o) the inspection or examination of any animal of a specified class referred to in paragraph (m) by any veterinarian or other persons handling animals, the recording of the results of the inspection or examination together with any identification codes or numbers required to be tagged, marked or branded on the animal and the forwarding of those results and codes or numbers to the Chief Veterinary Officer;
- (p) the carrying out of artificial breeding, artificial breeding procedures and any matter connected with artificial breeding, including –
 - (i) sanitary and health measures for establishments in which animal semen, embryos and ova are collected, stored, frozen or sold or otherwise distributed;

Act No. 1, 2011**ANIMAL HEALTH ACT, 2011**

- (ii) the registration of establishments referred to in subparagraph (i);
- (iii) the licensing or approval of persons to collect, process animal semen, embryos, ova or to conduct training courses on artificial breeding;
- (q) any other matter or action that the Minister considers necessary for the purpose of protecting human and animal health.
- (2) Regulations made under subsection (1) –
 - (a) may be of general or limited application;
 - (b) may differ according to differences in time, place or circumstances;
 - (c) may authorise any matter to be approved or determined by a veterinary official;
 - (d) may confer powers or impose duties on any person;
 - (e) may provide that a contravention of, or a failure to comply with any of the provisions thereof is an offence and provide in respect thereof for the imposition of a fine not exceeding N\$100 000 or imprisonment for a term not exceeding five years, or to both such fine and such imprisonment, and in the case of a continuing offence a further fine not exceeding N\$1 000 for each day during which the offence continues.

Immunity from personal liability

33. The Minister, a veterinary official, or an authorised person or any other person engaged in the administration or enforcement of this Act is not personally liable in respect of any act done or omitted in good faith in the exercise or performance, or the purported exercise or performance of any power or function under this Act.

General offences and penalties

- 34.** (1) A person who –
- (a) removes from isolation or detention any animal, animal product, restricted material or other thing that has been isolated or is being detained under any provision of this Act, without the written authority of the Chief Veterinary Officer or contrary to any condition of authority;
 - (b) obstructs or hinders a veterinary official or an authorised person to perform any function under this Act;
 - (c) refuses or fails to comply with any prohibition, restriction or obligation, or any condition relating thereto, contained in a prescribed measure that applies to person or any animal, animal product restricted material or other thing belonging to or in the control of the person;

Act No. 1, 2011 ANIMAL HEALTH ACT, 2011

- (d) refuses or fails to comply with a condition or requirement subject to which a permit, certificate, authority, consent or other proof of assent or approval has been issued under this Act;
- (e) refuses or fails to comply with a direction of a veterinary official under section 28(1)(c) to stop any conveyance;
- (f) refuses or fails to comply with a request of a veterinary official under section 28(1) to render reasonable assistance for the purpose of carrying out an inspection;
- (g) refuses or fails to provide information or give an explanation or an answer to a question lawfully required in terms of section 24, or furnishes information that is false or misleading, knowing that it is false or misleading;
- (h) damages, destroys or otherwise tampers with any sample taken or any object seized under this Act;
- (i) damages, removes or otherwise tampers with any conveyance, appliance, instrument, tool, equipment, remedy or any other object belonging to or under the supervision or custody of a veterinary official or any other person to perform any function in terms of this Act with or in connection with any object or, in the case of any animal, injures it, or removes it without the consent of any person, or otherwise interferes with it;
- (j) alters or forges in any way any permit, certificate, consent or other proof of assent or approval that is issued or rendered under this Act, or obtains document or any other decision that is required or permitted to be given, from a veterinary official under false pretences;
- (k) with the intent to evade any provision of this Act, uses a document that has been altered or forged as contemplated in paragraph (j);
- (l) damages, destroys, moves, removes, erases, alters or otherwise tampers with any beacon, mark or seal that has, under any provision of this Act, been installed or affixed on, or in connection with, any land, animal, animal product, restricted material or any other thing;
- (m) performs any act for which a permit, consent or authority or other document is required under this Act, without permit, consent, authority or document having been issued, granted or given to him or her in respect thereof;
- (n) obtains, or aids and abets any other person to obtain, by means of false representations, any compensation under this Act;
- (o) contravenes any provision of a prescribed measure, or fails to comply therewith,

commits an offence.

Act No. 1, 2011 ANIMAL HEALTH ACT, 2011

- (2) A person convicted of an offence under subsection (1) is liable –
- (a) to a fine not exceeding N\$8 000 or to a term of imprisonment not exceeding two years, or to both such fine and such imprisonment; or
- (b) in the case of a second or subsequent conviction, whether the same or any other offence referred to in subsection (1), to a fine not exceeding N\$20 000 or to a term of imprisonment not exceeding four years, or to both such fine and such imprisonment.

Presumptions and evidence

- 35.** In any prosecution for any offence under this Act -
- (a) it is presumed, in the absence of evidence to the contrary, that any sample taken from an animal or thing in terms of this Act is representative of that animal or thing from which it was taken and that the animal or thing has the same properties as that sample;
- (b) any document purporting to be certified by the Chief Veterinary Officer, to the effect that it is a true copy of the document to which the proceedings relate, is admissible as evidence in a court without any further proof or the production of the original document;
- (c) any declaration or other document that purports to have been issued by the government of, or any competent authority in, any foreign State is prima facie evidence of declaration or of the event, action or facts stated therein and is, in the absence of evidence to the contrary, admissible as evidence in any court.

Act binds State

- 36.** This Act binds the State, except a provision relating to –
- (a) the payment of fees or charges; or
- (b) the commission of an offence.

Repeal of laws and savings provisions

37. (1) The laws specified in the Schedule are repealed to the extent indicated in the Schedule.

(2) Any regulation made or anything done under any provision of a law repealed by subsection (1) which is in force at the commencement of this Act and which could be made or done under a corresponding provision of this Act, is deemed to have been made or done under that corresponding provision.

Short title and commencement

38. (1) This Act is called the Animal Health Act, 2011, and comes into operation on a date determined by the Minister by notice in the *Gazette*.

Act No. 1, 2011 ANIMAL HEALTH ACT, 2011

(2) Different dates may be determined under subsection (1) in respect of different provisions of this Act.

**SCHEDULE
LAWS REPEALED
(Section 37)**

No. and year of law	Title of law	Extent of repeal
Act No. 13 Of 1956	Animal Diseases and Parasites Act, 1956	The whole
Act No. 18 of 1967	Animal Diseases and Parasites Amendment Act, 1967	The whole
Act No. 70 of 1968	General Law Amendment Act,1968	Section 42
Act No. 51 of 1969	Animal Diseases and Parasites Amendment Act, 1969	The whole
Act No. 46 of 1970	Animal Diseases and Para-sites Amendment Act, 1970	The whole
Act No. 9 of 1973	Animal Diseases and Parasites Amendment Act, 1973	The whole
Act No. 3 of 1996	Animal Diseases and Parasites Amendment Act, 1973	The whole
Act No. 10 of 2005	Animal Diseases and Parasites Amendment Act, 2005	The whole