

ANIMAL HEALTH AND VETERINARY PUBLIC HEALTH BILL, 2022

EXPLANATORY MEMORANDUM

This Bill would provide for the establishment of a Veterinary Authority to regulate terrestrial and aquatic animal health in Barbados by the implementation of animal health and animal welfare standards in accordance with the World Organization for Animal Health; and for related matters.

PART I PRELIMINARY

- Clause 1:* Clause 1 of the Bill provides for the short title.
- Clause 2:* Clause 2 of the Bill provides for definitions of various terms appearing in the Bill. The terms in subsection (1) are aligned with those included in the Glossary to the Terrestrial Animal Health Code and the Glossary to the Aquatic Animal Health Code.

PART II ADMINISTRATION

- Clause 3:* Clause 3 of the Bill in sub-clause (1) establishes the Veterinary Authority as the competent authority for the regulation of terrestrial and aquatic animal health in Barbados. It is important to note that the Veterinary Authority is not an independent agency but is intended to be a department within the Ministry of Agriculture. Sub-clause (2) provides that the head of the Veterinary Authority is the Chief Veterinary Officer.

- Clause 4:** Clause 4 of the Bill makes provision for the post of Chief Veterinary Officer and sets out the role and responsibility of the Chief Veterinary Officer.
- Clause 5:** Clause 5 of the Bill provides for the functions of the Veterinary Authority and removes any ambiguity regarding the scope of responsibilities of the Veterinary Authority. This addresses a major gap in the current legislation by enumerating the responsibilities of the Veterinary Authority with respect to animal health. The functions listed in sub-clause (3) relate to: the obligations established by the World Organization of Animal Health; trade (e.g. risk analysis, equivalence) and other activities relevant to animal health and welfare and veterinary public health.
- Clause 6:** Clause 6 of the Bill provides that the Minister may by order delegate to the Chief Veterinary Officer, any power or function conferred or imposed on him under the Act except the power to make subsidiary legislation. This clause in sub-clause (2) provides for the Chief Veterinary Officer to authorize any public or private veterinarians or veterinary paraprofessional to perform some of the functions of the Veterinary Authority. This allows the Veterinary Authority to use veterinarians that are not part of its staff to carry out certain tasks and to use staff of other ministries or departments (e.g. Ministry of Health, Customs etc.) or private persons. However, certain functions must not be delegated, to guarantee the independence and impartiality of the control system. These exceptions are also stated in sub-clause (2) which mirrors part of Article 3.4.5 of the Terrestrial Animal Health Code on delegation of powers. The exceptions are: functions relating to official liaison duties with other ministries or foreign authorities; any notification

responsibilities with trading partners; the approval of standards, requirements, rules or sanitary measures; or the designation of emergencies, free compartment zones, free zones, containment zones or infected zones.

Clause 7: Clause 7 of the Bill provides the foundation for the establishment of laboratories for the analysis of official samples; and for validating or confirming results or the quality control of results. This clause is directly in line with Article 3.4.7 of the Terrestrial Animal Health Code which stipulates that veterinary legislation should define the role, responsibilities, obligations and quality requirements of official laboratories, designated by the Veterinary Authority for carrying out the analysis of official samples; and also laboratories recognized to conduct analyses required under the legislation e.g. for the purposes of quality control. This clause is sufficiently broad to facilitate the recognition of public or private facilities or even those located outside of Barbados. Sub-clause (3) establishes the standards under which the operation of official laboratories and reference laboratories is to be conducted: impartially and independently.

Clause 8: Clause 8 of the Bill enables the Chief Veterinary Officer with the approval of the Minister to designate premises that meet certain prescribed requirements to be used for veterinary purposes. This clause states that the designation is not permanent and may be amended, cancelled or reinstated at any time.

Clause 9: Clause 9 of the Bill makes provision for the Veterinary Authority to contract the services of veterinarians. Sub-clause (2) provides that the terms and conditions of the contract are to be determined by the Minister.

- Clause 10:** Clause 10 of the Bill provides for the appointment of inspectors. Sub-clause (2) provides for the appointment of inspectors in accordance with the *Public Service Act*, Cap. 29 and sub-clause (3) makes provision for the Veterinary Authority to employ inspectors on a contractual basis. Sub-clause (4) makes provision that a person appointed to the post of inspector may be removed from office in accordance with the *Public Service Act*, Cap. 29 in circumstances where there is a conflict of interest. Where a person contracted to be an inspector has any similar conflict of interest, that person will cease to be an inspector as a result of the termination of their contract. In this clause the key characteristics of inspectors are that they are duly qualified in terms of skills, training and experience; impartial, independent and free of improper or undue influence or conflict of interest. Similar characteristics can be applied to veterinarians and veterinary paraprofessionals. This clause provides that where an inspector has any interest in a matter or action of the Veterinary Authority, that interest is to be communicated to the Chief Veterinary Officer. Where it is found that the interest conflicts with the impartiality or independence of the inspector, the Chief Veterinary Officer may recommend that the appointment of the inspector, be withdrawn.
- Clause 11:** Clause 11 of the Bill provides for the issue of identification cards to inspectors and that inspectors should have the identification card in their possession at all times. This clause makes provision that an inspector is required to produce his identification card to any relevant person.
- Clause 12:** Clause 12 of the Bill provides for the Veterinary Authority to be assessed both externally and internally. This is an important mechanism by which the Veterinary Authority can

periodically gauge its performance in the implementation of the Act and in the effectiveness of the measures adopted. In sub-clause (3), the Bill provides for collaboration between the Veterinary Authority and any entity responsible for agricultural health and food control to monitor and evaluate the implementation of the provisions and based on the findings, to prepare a report which is to be published in the first instance, five years after the Act comes into force and thereafter at intervals not exceeding 3 years.

PART III
CONTROL OF ANIMAL DISEASES AND ZOOSES

Clause 13: Clause 13 of the Bill provides that the Veterinary Authority is responsible for the development and maintenance of a list of notifiable disease for both terrestrial and aquatic animals.

Clause 14: Clause 14 of the Bill identifies that it is the responsibility of Veterinary Authority to establish a surveillance system for notifiable diseases or other animal diseases to demonstrate the absence or distribution of a disease. This clause also establishes the duty to be transparent in its management of data as it is also the responsibility of the Veterinary Authority to determine, report on and make available to the public the animal health status of Barbados with respect to animal diseases. The World Organization for Animal Health encourages such surveillance systems to be developed having regard to: the need to provide assurance of disease status for trade purposes; the resources of the country; the financial impact or threat posed by the different diseases; and the importance of an industry-wide disease control programme within a country or region.

Clause 15: Clause 15 of the Bill provides that the Veterinary Authority is required to establish an early detection system for the purposes of detecting animal diseases. This clause is an extension of clause 14 as some surveillance systems are established as early detection systems. Sub-clause (1) sets out the minimum requirements for an early detection system and also sets out that an effective detection system should involve the participation of veterinarians and veterinary paraprofessionals, livestock owners and other stakeholders involved in the management and handling of terrestrial animals; owners and operators of abattoirs; and fish inspectors and other persons involved in the handling of aquatic animals to detect and report, notifiable disease to report that disease to the Veterinary Authority. Sub-clause (4) sets out a key requirement of the Veterinary Authority as indicated in the World Organization for Animal Health, namely, a chain of command that is as effective as possible. A chain of command is important not only to disease response ('war time') but also to proactive disease surveillance and reporting ('peace time') as well as on-going regulatory activity. The integrity of the chain of command assures the credibility of the Veterinary Authority and the international veterinary certificates issued in the context of international trade.

Clause 16: Clause 16 of the Bill provides for an inspector to take action where a notifiable disease or an emerging disease is suspected or confirmed as immediate steps must be taken in order to prevent the spread of a notifiable or emerging disease. This clause together with clause 14, empowers inspectors to act immediately to manage potential risks to health pending confirmation by the Chief Veterinary Officer of the presence of a notifiable or emerging disease. The action required under sub-clause (1) includes the issuing of a written notice to the

owner or occupier of the premises. The notice should specify the provisional measures that are to be taken to prevent the spread of disease. In addition, provisional measures may require that the owner or occupier of the adjacent premises be served with a written notice also specifying the provisional measures that are to be taken. In each case, the inspector is required to submit copies of any notice issued, to the Veterinary Authority which in turn is to cause an investigation involving the collection and testing of samples. Sub-clause (3) provides that where a notifiable disease or an emerging disease is confirmed the Veterinary Authority shall issue written notices stipulating the measures that are to be taken and the time within which the measures are to be implemented to prevent the spread of disease.

- Clause 17:** Clause 17 of the Bill makes provision for an area or premises to be declared an infected area and for that declaration to be made by order by the Minister. Sub-clause (2) requires that the Chief Veterinary Officer performs certain functions among which is to inform the competent authority for veterinary matters in the countries with which Barbados trades of the status of the infected area and to suspend the issue of veterinary certificate for exports, in effect, recognizing the obligations to trading partners.
- Clause 18:** Clause 18 of the Bill seeks to set out the conditions under which a declaration of an infected area is to be revoked. The conditions are: where the Chief Veterinary Officer determines that the circumstances that gave rise to the declaration of an infected area are no longer present.
- Clause 19:** Clause 19 of the Bill seeks to provide for animal disease contingency plans in relation to notifiable diseases and the implementation of animal disease control procedures that are

consistent with World Organization for Animal Health guidelines. Sub-clause (2) sets out what an animal disease contingency plan is to be based on and what such a plan should take account of for example, the capacity for response of the Veterinary Authority; the geographical, ecological and epidemiological environments; animal production and animal or animal products marketing practices; and any other factors considered necessary to control, contain or eradicate the animal disease. Sub-clause (3) provides for the elements of a contingency plan and sub-clause (4), provides the duties of the Veterinary Authority with respect to the development of training programmes to ensure that there is capacity for disease diagnosis and control and the implementation of disease simulation exercises to test the effectiveness of the contingency plans. This provision is important because it identifies the responsibility of the Veterinary Authority to lead the response in animal health emergencies, with cooperation from other authorities for example, the Police Service, ministries responsible for public health and the environment, depending on the particular circumstances.

Clause 20:

Clause 20 of the Bill gives effect to Article 3.4.9 of the Terrestrial Animal Health Code and provides for the response of the Veterinary Authority where there is an animal disease emergency. As the powers outlined in this clause are significant, it is important that the legislation is clear and transparent regarding the procedures to be followed; the grounds on which action can be taken, and who may take that action. This provision reiterates the key principles that measures must be based on a risk assessment, ensuring measures are proportional to risks and that measures are publicized widely.

- Clause 21:** Clause 21 of the Bill seeks to make provision for the Minister on the advice of the Chief Veterinary Officer to declare by order, a zone to be a free zone, a free compartment zone or a containment zone. However, a declaration can only be made if the Veterinary Authority establishes the measures to set up the respective zones.
- Clause 22:** Clause 22 of the Bill sets out in broad terms the scope of response measures available to the Veterinary Authority to control or eradicate and to prevent the introduction or spread of animal diseases. This clause seeks to implement Article 3.4.9 of the Terrestrial Animal Health Code which stipulates that veterinary legislation should include general animal health measures applicable to all diseases. This provision does not restrict Veterinary Authority action to notifiable diseases but special or specific measures could apply to notifiable diseases. This clause focuses on the different options available to the Veterinary Authority such as disinfection, movement control, vaccination schemes etc. This provision improves the transparency of the Bill in furtherance of the SPS Agreement requirements and World Organization for Animal Health standards.
- Clause 23:** Clause 23 of the Bill recognizes that moving animals, animal products or animal related items increase the risk of the spread of disease. To limit the risk of the spread of a disease, the Veterinary Authority must have the power to restrict the movement of animals, animal products or other items that may serve as disease carriers. Sub-clauses (2) to (4) enhance the procedural guarantees and transparency of the Bill by setting out the actions that are to be taken by an inspector if an item that should not be moved is in fact moved. Where an animal, animal product or animal-related item is moved, an inspector

under sub-clause (4) is required to personally serve a notice on the owner or the person in possession, care or control of the animal, animal product or animal-related item for the purpose of implementing a remedy.

Clause 24: Clause 24 of the Bill imposes an obligation on animal keepers who suspect that an animal in their care is suffering from a notifiable disease, to act in a timely manner in order to prevent the spread of the suspected disease. The two critical elements of the obligation under this clause are: separation of the animal from others; and immediate notification to the authorities.

Clause 25: Clause 25 of the Bill allows the Chief Veterinary Officer to disinfect premises or establishments where it has been confirmed that a notifiable disease is present. This clause provides that the Chief Veterinary Officer is empowered to choose the disinfectant to be used and the procedure to be used having regard for example to the nature of the premises, the equipment; and vehicles to be treated. The technical aspects of disinfection, such as the chemicals and process used should be included arguably, in operational manuals.

Clause 26: Clause 26 of the Bill empowers an inspector to cause an animal infected or suspected of being infected with a notifiable disease; or has come into contact with or has been in the same place as an animal that has a notifiable disease, to be humanely killed in order to prevent the spread of an animal disease. Sub-clause (2) provides for an inspector to exercise discretion to observe and treat an animal prior to destroying it, for example removing it to a place for observation and control.

Clause 27: Clause 27 of the Bill provides for the disposal of animals that are killed for the purpose of diseases control as a result of an

infection with a notifiable disease. According to sub-clause (1) such disposal is to be done in a manner that avoids the spread of pathogenic organisms. Sub-clause (2) stipulates that the destruction and disposal of an animal infected with a notifiable disease is to be carried out as soon as is practical and according to the direction of the Veterinary Authority. Recognizing the risk involved, sub-clause (3) provides that for the purpose of disposing of an animal infected with a notifiable disease, the Veterinary Authority is required to collaborate with the ministries responsible for public health and the environment and any other organization as the case requires. Sub-clause (4) provides that the meat of an animal infected with a notifiable disease should be regarded as not fit for human consumption.

Clause 28:

Clause 28 of the Bill makes provision in sub-clause (1) for the Minister on the advice of the Chief Veterinary Officer to order compensation to be paid to owners in circumstances for example, where an animal has been destroyed in order to achieve eradication, control or prevention of the spread in or introduction of a notifiable disease; where the owners of the animals have complied with the order and directions of the Veterinary Authority; or otherwise comply with the requirements of the Bill. Sub-clause (2) provides that compensation is not to exceed the fair market value of the animal immediately before it was destroyed. Sub-clause (3) provides that the amount of compensation paid may be reduced or refused where the owner of the animal is found guilty of an offence under the Bill. In addition, sub-clause (4) provides that an owner is not entitled to compensation where an animal dies or is compulsorily killed while in a quarantine station.

PART IV
VETERINARY PUBLIC HEALTH

Clause 29: Clause 29 of the Bill provides the legal foundation for a system for the control of veterinary medicinal products (including animal feed containing veterinary medicinal products) for both aquatic and terrestrial animals. Sub-clause (1) prohibits the importation, sale, advertisement and distribution of veterinary medicinal products in Barbados except they are registered by the Veterinary Authority. Sub-clause (2) creates an exception to sub-clause (1), providing three circumstances under which unregistered veterinary medicinal products may be imported, sold, advertised or distributed in Barbados. These circumstances are where there is an animal disease emergency which justifies the importation, production or use; the Veterinary Authority recognizes that the registered veterinary medicinal products are insufficient to meet local needs; or for the purpose of testing, trial and research. Sub-clause (3) also creates an exception to sub-clause (1), exempting traditional animal remedies from the requirement of registration. Provision is also made in sub-clause (4) for the Veterinary Authority and the ministry responsible for public health to co-ordinate the registration and labelling of veterinary medicinal products so that the systems for which each is responsible do not circumvent the other. Moreover, the Food and Agricultural Organisation, World Organization for Animal Health and the World Health Organisation recommend the co-ordination of controls, including sharing lists of approved products and dossiers on active ingredients. Provision is made in sub-clause (5) for the Veterinary Authority to establish standards and requirement relating *inter alia* to the categories of professionals that are entitled to prescribe veterinary medicinal products, the conditions and

the forms to be used for veterinary products and the distribution of veterinary medicinal products. Provision is also made in sub-clause (6) for the Minister on the recommendation of the Chief Veterinary Officer to prohibit the use of ingredients and substances used as veterinary medicinal products and the non-therapeutic use of antimicrobials. Sub-clause (7) provides that for the purposes of the Bill, animal feed containing veterinary medicinal products shall be considered as a veterinary medicinal product.

Clause 30:

Clause 30 of the Bill seeks to regulate ante-mortem and post-mortem inspections at slaughterhouses to control the spread of animal diseases and for the benefit of veterinary public health by establishing Veterinary Authority control over facilities that are established by private operators, or by the Veterinary Authority directly. In this clause provision is made for the operation of slaughterhouses to fall within the ambit of the *Market and Slaughterhouses Act*, Cap. 265 and further that failure to comply with the conditions of registration may cause operations to be suspended and in serious cases revoked where there is an immediate risk to animal, human or environmental health. Sub-clauses (2) to (4) set out the basics of a registration system for facilities that are not publicly operated, and set out the safeguards to ensure that there is transparency and predictability in decision making, thus preventing arbitrary decision-making while at the same time allowing inspectors to shut down premises if there is a risk to animal or human health or the environment. Sub-clause (5) sets out a range of areas for which regulations may be made. Sub-clause (6) provides for collaboration between the Veterinary Authority and the ministry of responsible for public health to ensure that inspection systems meet public

health and food safety requirements; and the Markets Division to ensure that inspections meet the requirements under the *Market and Slaughtehouses Act*, Cap. 265.

- Clause 31:** Clause 31 of the Bill seeks to provide that the Veterinary Authority is under an obligation to control the spread of animal diseases at knackeries and rendering facilities. According to this clause, this is to be achieved by collaborating with the ministry responsible for public health and the Markets Division of the *Markets and Slaughtehouses Act*, Cap. 265.
- Clause 32:** Clause 32 of the Bill seeks to provide that the Veterinary Authority is under an obligation to prevent the introduction and spread of zoonotic and emerging diseases.

PART V
HEALTH PROVISIONS RELATING TO ANIMAL PRODUCTION

- Clause 33:** Clause 33 of the Bill is broad in its scope and in a general way addresses all aspects of feed control. In this clause provision is made for animal feed and animal feed ingredients to meet safety standards; it is the responsibility of the Veterinary Authority to issue the safety standards. Sub-clause (1) prohibits the importation, production, manufacture, sale and distribution of feed in Barbados except it is registered by the Veterinary Authority. Sub-clause (2) creates an exception to sub-clause (1), providing three circumstances under which unregistered feed may be imported into Barbados. These circumstances are where: there is an animal disease emergency which justifies the importation, production or use; the Veterinary Authority recognizes that the registered animal feed is insufficient to meet local needs; or for the purpose of testing, trial and research. Provision is made in clause (3) for

the Veterinary Authority to makes regulations to establish standards and requirements relating *inter alia* to, the ingredients and composition of animal feed, the production, manufacture, importation and exportation of animal feed. Sub-clause (4) prohibits the use of animal feed and animal feed ingredients in food for human consumption unless they meet the safety standards issued by the Veterinary Authority. Provision is made in sub-clause (5) for the collaboration between the Veterinary Authority and the ministry responsible for food safety to set the limits and tolerance levels for biological, chemical or physical hazards in animal feed and feed ingredients.

Clause 34: Clause 34 of the Bill provides that the Veterinary Authority is responsible for establishing a system to identify and trace certain species of animals, to be provided for in regulations. According to sub-clause (2), the Veterinary Authority should collaborate with the ministry responsible for health when developing traceability systems for foods of animal origin, as required for food safety purposes. Important considerations in the development of the system include: ensuring the confidentiality of information collected; and ensuring that the information is used for the specified purposes i.e. animal health and production and human health. It is not to be used for other purposes, such as taxation and levies.

Clause 35: Clause 35 of the Bill seeks to provide that the Veterinary Authority is responsible for the establishment of conditions and requirements governing the reproduction of animals. The objective of this provision is to create a framework to prevent the spread of pathogenic micro-organisms.

PART VI
IMPORT, EXPORT AND TRANSIT

Clause 36: Clause 36 of the Bill provides for the establishment of standards and requirements for the provision and maintenance of facilities to accommodate inspections of animals and related products at the designated ports of entry. Through this provision, whether the owner of a facility is public or private, the required space and furnishings must be provided to enable the Veterinary Authority to carry out its functions. Sub-clause (3) allows for the Minister to serve a notice to the owner or operator of an inspection facility of desired improvements to an inspection facility where that facility does not comply with the established standards and requirements. An exception is made where the inspection is conducted at a private residence. In that case the Minister has no jurisdiction to cause any improvements to be made.

Clause 37: Clause 37 of the Bill identifies designated ports of entry as the only points at which an animal, animal product or animal-related item is to enter Barbados. Sub-clause (2) prohibits the importation of an animal, animal product or animal-related item that does not comply with the provisions of the import permit issued by the Veterinary Authority and is not accompanied by an international veterinary certificate or any other document which is required by the Veterinary Authority, a provision which recognizes that not all items require a veterinary certificate and gives the Veterinary Authority the flexibility to accept an alternative document. Sub-clause (3) allows the Minister to prohibit the importation of an animal, animal product or animal-related item to prevent the introduction or spread of any vector, pathogen, disease or toxic substance. Sub-clause (4) places an obligation on the

Veterinary Authority, based on a risk analysis, to develop and maintain a list of animals and animal products the importation of which is to be restricted or prohibited on the basis of their own decision or that of an international agreement. Sub-clause (5) provides the penalty for not complying with the provisions of this clause.

Clause 38: Clause 38 of the Bill provides in sub-clause (1), the documents that are required to import an animal, animal product or animal-related item into Barbados. They are an international veterinary certificate, an import permit or approval in writing from the Veterinary Authority. Sub-clause (2) provides that the lists of animals and animal products that require an international veterinary certificate or import permit and animal-related items are to be prescribed by order to facilitate and control entry of different types of animals, animal products and animal related items. Sub-clause (2) creates a distinction for animal-related items that would not be subject to an import permit and recognizes that because they can serve as a disease pathway, that control is necessary. Sub-clause (3) reflects the obligations under the SPS Agreement, that import requirements are to be based on international standards or a science-based risk assessment. Also important is that the clause provides that the Veterinary Authority is to keep import requirements under review. Sub-clause (4) makes provision for the making of various import requirements regulations.

Clause 39: Clause 39 of the Bill provides that where an import permit is required, an application is to be made to the Veterinary Authority. There is a fee attached. Sub-clause (4) provides that the Veterinary Authority is required to have regard for the import requirements when evaluating an application. This is important for the transparency and predictability of the permit

issuance process to reduce the likelihood of arbitrary decision making. Sub-clause (5) establishes the duty of the Veterinary Authority to keep records of applications and the issuance of import permits.

Clause 40: Clause 40 of the Bill places the obligation on the importer to inform the Veterinary Authority in advance of the arrival of animals, animal products or animal related items.

Clause 41: Clause 41 of the Bill seeks to makes provision for the mandatory inspections at designated ports of entry. Sub-clause (2) is a practical measure that allows for inspections to take place in facilities other than quarantine stations or border inspection facilities, where such places have prior approval from the Veterinary Authority. Sub-clause (3) makes provision for the place and times for which an inspection may take place, either at a designated port of entry during regular business hours or, with the approval of the Veterinary Authority, at the port of final destination. Sub-clause (4) allows for animal-related items that do not require prior written approval to be submitted for inspection at the designated ports of entry. Sub-clause (5) provides for an inspector to release an animal, animal product or animal-related item for clearance to a customs officer or the importer or person in charge of the shipment where it is found not to pose a risk for the introduction and spread of disease. This clause also prevents a customs officer from releasing an animal, animal product or animal related item without the approval of the Veterinary Authority. Sub-clause (7) specifies that a written notice should normally be provided to the importer, but if urgent action is required, the inspector may take any required action and notify the importer after such action has been taken. Sub-clause (8) provides that an

inspector may forego the required notice and apply any of the measures provided for in sub-clause (7). This sub-clause also imposes the duty on the inspector to inform the importer in writing of the reasons why notice was not given. Sub-clause (9) makes clear provisions for the destruction of shipments that are not claimed. Sub-clause (10) is a reiteration of the principle that all actions should be based on an assessment of disease risks. Sub-clause (11) is important to protect the Veterinary Authority from liability for actions taken in good faith to prevent the introduction and spread of diseases into Barbados.

Clause 42: Clause 42 of the Bill provides that the cost of the care and welfare of any animal subject to a pre-shipment inspection and any measures applied by an inspector in the course of an inspection of an imported animal, animal product or animal-related item suspected of posing a risk of the introduction and spread of disease is to be borne by the importer.

Clause 43: Clause 43 of the Bill provides for the Veterinary Authority to determine with an exporting country any arrangements relating to pre-shipment inspections and the equivalence of animal health measures. This is an important principle of the SPS Agreement and is designed to facilitate trade, where the Veterinary Authority recognizes the measures taken by its trading partners, offer the same protection as its own measures. Article 5.3 of both the Terrestrial Animal Health Code and the Aquatic Animal Health Code devotes significant attention to the concept of making equivalence judgments.

Clause 44: Clause 44 of the Bill seeks to provide the circumstances under which an inspector may refuse entry to an animal or animal-related item which is suspected of being infected with a notifiable disease or other infectious disease. In addition,

provision is made for the procedures which an inspector must follow in circumstances where the suspected disease is capable of being treated. Provision is also made for the circumstances in which an animal or animal related item may be seized and disposed.

Clause 45:

Clause 45 of the Bill corresponds to Chapter 5.5 of the Terrestrial Animal Health Code and Chapter 5.7 of the Aquatic Animal Health Code and sets out the procedures for applying to the Veterinary Authority for a transit permit. Sub-clause (5) contributes to the predictability and clarity of the system by enumerating the actions that can be taken and the grounds for doing so to verify the health status of an animal, animal product or animal-related item. Transit may be denied, for example if certain diseases exist in the exporting country, or in a transit country which precedes it in the itinerary; or if on arrival, an inspection shows that the animal is affected by a notifiable disease. Sub-clause (6) provides that an owner or person in charge of the animal, animal product or animal-related item is not to be compensated where any measure is applied. Sub-clause (7) places an obligation on the captain of a vessel carrying animals, animal products or animal-related items to comply with prescribed by the Veterinary Authority where the vessel stops in a port in Barbados or transits through a port in Barbados to a port outside Barbados.

Clause 46:

Clause 46 of the Bill empowers public officers other than the Veterinary Authority to detain imports of prescribed products, and to inform the Veterinary Authority of their arrival to the country as soon as possible. An item detained by any of the persons listed in sub-clause (1) is to be treated as an action on the behalf of the Veterinary Authority and the item to be

detained is to be conveyed to the Veterinary Authority within 3 days.

Clause 47: Clause 47 of the Bill seeks to provide for the conditions and requirements relating to the issue of a veterinary certificate. Sub-clause (1) prohibits the exportation of an animal product or animal-related item from a place other than a designated port of exit and without a veterinary certificate issued by the Veterinary Authority. In sub-clause (2) provision is made for mandatory inspections as a condition to the issue of a veterinary certificate for export. Sub-clause (3) provides that the Veterinary Authority in the course of an inspection is required to consider the requirements of the importing country and should not issue a veterinary certificate if the animal, animal product or animal related item does not meet the requirements of the importing country. In addition, provision is made for an exporter to remedy any instances of non-compliance with the requirements of an importing country by subjecting the animal, animal product or animal-related item to treatment in order to comply with the requirements of the importing country. Sub-clause (4) provides factors that the Veterinary Authority considers in determining whether to issue an international veterinary certificate.

Clause 48: Clause 48 of the Bill makes provisions for quarantine stations for terrestrial animals and is aligned with Chapter 5.6 of the Terrestrial Animal Health Code, in particular Article 5.6.2. This clause provides that quarantine stations should be recommended by the Chief Veterinary Officer and designated by the Minister. While a quarantine station is most likely public, the wording of the clause allows for flexibility to designate private facilities that meet prescribed standards either as a permanent quarantine facility or on a temporary or

restricted basis. The key elements of this clause are that these facilities are to meet prescribed standards and are to be under the oversight or supervision of the Veterinary Authority even if the day-to-day operations are contracted or assigned to the private sector.

- Clause 49:** Clause 49 of the Bill applies only to terrestrial animals. Sub-clause (1) sets out the grounds for which an animal may be placed in quarantine. Those grounds are: for the purpose of trade; or where an inspector has reason to believe that an animal while being transported may be suffering from a notifiable disease or other contagious animal disease; may have been in contact with an animal which is or may be suffering from a notifiable disease or other contagious disease or one whose disease status is unknown; or has otherwise been exposed to the risk of contracting a notifiable or other contagious disease. Sub-clause (2) empowers an inspector to either seize and detain, destroy or otherwise dispose of an animal if that animal is removed from quarantine without written authorization. Sub-clause (3) empowers an inspector to destroy an animal as a result of specific causes listed without payment of compensation to the owner and sub-clause (4) reiterates the right of the Veterinary Authority to impose quarantine as an import condition.
- Clause 50:** Clause 50 of the Bill seeks to protect the welfare and safety of animals and to prevent the spread of disease by making provision for the Veterinary Authority to regulate the conditions under which animals are transported by vehicles.
- Clause 51:** Clause 51 of the Bill seeks to provide for the methods available to the Veterinary Authority to dispose of waste arising from foods of animal origin, animal-related items or other items associated with the transport of animals aboard a

vehicle coming into Barbados. This clause provides that the waste may be destroyed at the expense of the importer at the port of entry; reshipped to the country of origin, at the expense of the importer or denied entry into Barbados; the method will be determined based on the requirements established by the Veterinary Authority.

PART VII
ANIMAL WELFARE

- Clause 52:** Clause 52 of the Bill prohibits the mistreatment of and cruelty to animals and in particular prohibits an owner of an animal from allowing a third party to cause suffering to an animal. This provision is primarily directed at terrestrial animals. Sub-clause (3) provides the penalty for torturing, beating, injuring, mutilating, neglecting, cruelly treating any animal or overloading any working animal.
- Clause 53:** Clause 53 of the Bill seeks to make provision for the welfare of terrestrial animals. Sub-clause (1) is aligned with Article 7.1.2 of the Terrestrial Animal Health Code, which contains guiding principles for animal welfare, including the “five freedoms” which are stated at paragraph (a) to (e) of sub-clause (1). Sub-clause (2) makes provision for the Veterinary Authority to prescribe animal welfare standards and aligns with chapter 7 of the Terrestrial Animal Health Code. The standards relating to animal welfare are extensive and include: farms, transportation, slaughter and production
- Clause 54:** Clause 54 of the Bill seeks to make provision for the Veterinary Authority to prescribe aquatic animal welfare standards for farmed fish. The welfare standards for farmed fish included in this clause relate to aquaculture facilities; transportation; killing of farmed fish for human consumption

or to control disease; research and testing, recreation, entertainment and companionship.

PART VIII
MANAGEMENT OF STRAY ANIMALS

Clause 55: Clause 55 of the Bill allows for the Veterinary Authority to ensure that stray animals do not spread diseases and do not become a public nuisance or hazard. Sub-clause (3) requires co-operation among different stakeholders for the proper implementation of this clause. The Veterinary Authority should work in cooperation with other agencies, the private sector to establish programmes. Article 7.7.4 expressly recognizes the role of other authorities in collaborating with the Veterinary Authority in the implementation of programs. Article 7.7.3 guides what the objectives are of a control program and article 7.7.6 sets out control measures. The control of stray livestock may be a responsibility of the Veterinary Authority, insofar as this relates to control of livestock diseases.

PART IX
ENFORCEMENT

Clause 56: Clause 56 of the Bill is an extensive and important provision which seeks to provide robust powers to inspectors in accordance with Article 3.4.5 of the Terrestrial Animal Health Code. The powers listed are extensive but necessary for inspectors to carry out their duties *inter alia* stopping the sale and distribution of animals and animal products. It is to be borne in mind that the robust powers granted to inspectors are to protect the rights of stakeholders and the general public against any abuse of authority Sub-clause (4) indicates that

dwelling places are excluded (on Constitutional grounds) unless an inspector obtains a warrant, and sub-clause (5) is an additional safeguard for the public by requiring all inspectors to identify themselves and show their identification card, and importantly not disclose any confidential information. Recognizing the risks that may be associated with entering and searching premises, provision is made in sub-clause (6) for a member of the Police Service to accompany an inspector in the execution of his duties.

Clause 57: Clause 57 of the Bill provides for the guiding principles on which measures and requirements should be based. This clause seeks to incorporate Articles 2.2, 3 and 5 of the SPS Agreement, to establish the basis on which sanitary measures are developed and implemented in Barbados. Sub-clause (1) lists that measures are to be harmonized with international standards, technically based on risk assessments and science-based decisions; be favourable to the development of regionalization; be favourable to trade and proportionate to the risk. These principles must directly inform and shape the measures that are implemented under the Bill. Sub-clause (2) places the obligation on the Veterinary Authority to keep the measures under review every 3 years to ensure they are current with frequently evolving international standards.

Clause 58: Clause 58 of the Bill empowers inspectors to issue written notices setting out the grounds for which corrective action must be taken and the time period for complying with the order. Ensuring that this is done in writing protects the individual against whom the notice is written and ensures the specific date is captured. Manuals and Standard Operating Procedures can further detail the specifics that must be set out in the written notice. However, the latter is provided for in

paragraph (d) of sub-clause (1) where a notice serves to inform the violator of the facts, the date and nature of the offence and the assessed sanction. Notice is served prior to the imposition of a penalty so as to afford the accused a reasonable opportunity to object, either in writing or in person. In addition, an offender is granted the right to appeal a decision under clause 62.

Clause 59: Clause 59 of the Bill reiterates some of the powers set out in the foregoing clauses. This clause seeks to allow an inspector to direct the owner of the animal, animal product or animal-related item to move it to a place specified by the inspector and gives the inspector an alternative option to directly confiscate the item.

Clause 60: Clause 60 of the Bill seeks to prohibit any person whose item is confiscated or detained by an inspector, to attempt to recover or move the item in a manner contrary to the written authority of the Veterinary Authority.

Clause 61: Clause 61 of the Bill seeks to make provision for the detention and disposal of animals, animal products and animal-related items. Where an animal, animal product or animal-related item is seized and detained by an inspector, sub-clause (1) requires that the Veterinary Authority returns the animal, animal product or animal-related item where it is found that the provisions of the Bill are not breached and that there is no risk of the spread of disease. This creates a safeguard for the public not to have an item detained without cause and also protects the Veterinary Authority when having to dispose of items that are not in compliance with the Bill. In addition, sub-clause (2) provides that where an animal, animal product or animal-related item is seized and detained, the Veterinary Authority has the power to institute proceedings to sell or

destroy that animal or animal-related item if the owner or person in charge of the item cannot be identified. The time-frame within which the Veterinary Authority may institute proceedings is to be prescribed by regulations. Sub-clause (3) allows the Veterinary Authority to dispose an animal or animal product to prevent the possible spread of disease and sub-clause (4) allows for the sale or destruction of an unclaimed animal where the Authority serves notice on the owner to claim the animal.

Clause 62: Clause 62 of the Bill makes provision for a two-tier system of review where any person is aggrieved by a decision or action taken by an inspector or an official analyst. In the first instance an aggrieved person may appeal in writing to the Chief Veterinary Officer within 7 days of any decision or action taken. Sub-clause (2) provides that the Chief Veterinary Officer is required to give a decision on technical matters within 14 days after receiving the appeal. Sub-clause (3) provides that an appeal of an action or a decision of the Chief Veterinary Officer is to be made to the Minister within 7 days after the decision. According to sub-clause (4) the Minister's decision is to be given within 14 days of receiving the appeal. In addition, sub-clause (5) provides that an aggrieved person may appeal to a Judge in Chambers from a decision given by the Chief Veterinary Officer or the Minister, on a matter of law. Sub-clause (6) requires that the Chief Veterinary Officer acts in a timely manner in responding to a appeal involving a notifiable disease.

PART X
OFFENCES AND PENALTIES

- Clause 63:** Clause 63 of the Bill seeks to list the specific actions that are to be treated as criminal offences and the corresponding penalties. The penalties range from a fine of \$100 000 to \$200 000 or to imprisonment for a term of 2 years or to both. Under this clause, offences are to be tried summarily.
- Clause 64:** Clause 64 of the Bill lists the categories of behaviour that are to be treated as offences for an inspector, official analyst or other official of the Veterinary Authority, where that behaviour is outside of their authority. These behaviours include a failure to take action, as well as more specifically, abuse of power, taking bribes, failing to disclose a financial interest. Sub-clause (3) provides the penalties to which an inspector, official analyst or other official of the Veterinary Authority is subject: ineligible for reappointment or disciplinary action under the *Public Service Act*, Cap. 29.
- Clause 65:** Clause 65 of the Bill makes provision for how contraventions of the provisions of the Bill are to be treated. Under this clause, an inspector is under an obligation to inform the Chief Veterinary Officer where he reasonably believes that there has been a contravention. Sub-clause (2) provides that the Chief Veterinary Officer may determine whether the contravention warrants criminal prosecution, an administrative penalty or both.
- Clause 66:** Clause 66 of the Bill seeks to provide for the Veterinary Authority to issue administrative penalty notices in circumstances where it is satisfied that the act which a person has committed does not warrant criminal prosecution. An administrative penalty provides an enforcement mechanism,

which can be more cost-effective, timely and practical than criminal penalties. Sub-clause (1) provides the following forms of penalties: the suspension or revocation of any permit or other authorization; the suspension or closure of the operations of an establishment; the seizure or confiscation of an animal, animal product or animal-related item. In these circumstances sub-clause (2) makes provision for an inspector to issue an administrative penalty notice, setting out the reasons for the sanction and an obligation to pay a fine not exceeding \$10 000. Sub-clause (3) makes provision for appeal where a person to whom an administrative penalty notice is addressed and who wishes to challenge the notice. Sub-clause (4) makes provision for the revocation of a business licence in cases of repeated violations. Sub-clause (5) provides that where a person fails to comply with the provisions of an administrative notice and that failure to comply results in the spread of disease or poses a serious risk to the animal health status of Barbados, that establishment may be closed or any licence issued may be cancelled.

Clause 67: Clause 67 of the Bill sets out the matters that the Chief Veterinary Officer may settle administratively and includes the seizure of animals, animal products or animal-related items and the restoration of anything seized under the Bill.

Clause 68: Clause 68 of the Bill provides for the issue of fixed penalty notices for offences prescribed in regulations as fixed penalty offences. Sub-clause (2) provides the maximum penalty for a fixed penalty offence. Sub-clause (3) sets out the procedure for the issue of a fixed penalty notice. Sub-clause (4) describes the consequences where a person to whom a notice is issued, pays the fine or fails to pay the fine. Sub-clause (5) describes the form of and particulars to be contained in a fixed penalty

notice. Sub-clause (6) makes provision for the Chief Veterinary Officer to extend the period for the payment of the fixed penalty notice. Sub-clause (7) provides that fixed penalty notices are to be treated in the same way as an offence for summary conviction for which no conviction is recorded.

- Clause 69:** Clause 69 of the Bill provides that in any prosecution for an offence under the Bill, matters that are certified by the Veterinary Authority or other public official, shall be taken as *prima facie* evidence of the matters stated therein unless there is evidence or grounds to believe that such matters are inaccurate or false and are inadmissible in evidence.
- Clause 70:** Clause 70 of the Bill seeks to protect certain officers and functionaries from actions that are taken in good faith and on a scientific basis where an animal, animal product or animal-related item is destroyed for the purposes of preventing the introduction or spread of disease in the country.
- Clause 71:** Clause 71 of the Bill provides that a member of staff of the Veterinary Authority, inspector, official laboratory or any other entity involved in phytosanitary matters is not liable to a civil suit or to prosecution for anything done in good faith while performing their functions set out in the Bill.
- Clause 72:** Clause of 72 the Bill provides that unpaid administrative fines will be treated as a debt to the State and may be recovered as a debt due to the State in civil proceedings before a magistrate for District “A”.
- Clause 73:** Clause 73 of the Bill makes provisions for persons who are not attorneys-at-law, namely an inspector or any other officer of the Veterinary Authority to prosecute or conduct proceedings.

Clause 74: Clause 74 of the Bill seeks to provide that where a person is convicted of an offence, the Court may order that any item used in the perpetration of that offence may be forfeited to the Crown in addition to any penalty imposed under sub-clause (2) provided that where a fine is imposed, the animal, animal product or animal-related item may be detained until the fine is paid ; sold in satisfaction of the fine or destroyed. Sub-clause (3) provides that in the case of an animal, the owner or person in charge is liable for the cost associated with the welfare, food and shelter of the animal while it is detained by the Veterinary Authority which shifts the burden from the Veterinary Authority. Sub-clause (4) provides that where forfeiture is not ordered, that the animal, animal product or animal-related item is to be returned to the owner and where it has been disposed, the proceeds realised from the disposition are to be transferred to the owner or person in charge of the animal, animal product or animal-related item. Sub-clause (5) provides that the Veterinary Authority is responsible for determining the conditions under which an animal, animal product or animal-related item is to be held prior to the Magistrate’s ruling. This is an important provision to ensure that any goods that may carry disease are treated in a manner that does not increase the risk of spread of that disease.

PART XI
MISCELLANEOUS

Clause 75: Clause 75 of the Bill empowers a range of different authorities to collaborate and co-operate with the Veterinary Authority in the execution of their duties. Sub-clauses (1) and (2) specifically recognizes the importance of collaboration on veterinary public health matters.

- Clause 76:** Clause 76 of the Bill seeks to provide that where any notice is required in writing or a document is required to be submitted that it may be submitted in an electronic format.
- Clause 77:** Clause 77 of the Bill provides for the Minister on the advice of the Veterinary Authority to make regulations to give effect to the provisions of the Bill.
- Clause 78:** Clause 78 of the Bill seeks to make provision for the *Schedules* to the Bill to be amended by Order.
- Clause 79:** Clause 79 provides that the standards for animal health and welfare provided for are consistent with international standards of the World Organisation for Animal Health and the Codex Alimentarius Commission.
- Clause 80:** Clause 80 of the Bill repeals the *Animal (Diseases and Importation Control) Act*, Cap. 253, and saves all statutory instruments made under that Act.
- Clause 81:** Clause 80 of the Bill provides that in circumstances where there is a conflict between the provisions of this Bill and the *Animals (Civil Liability) Act*, Cap. 194A, *Dog (Licensing and Control) Act*, Cap. 177, *Health Services Act*, Cap. 44, *Livestock (Control of Strays) Act*, Cap. 139A, *Markets and Slaughterhouses Act*, Cap. 265, *Prevention of Cruelty to Animals Act*, Cap. 144A and *Swine Fever Act*, Cap. 273, this Bill shall prevail to the extent of the conflict.
- Clause 82:** Clause 82 of the Bill provides that the provisions shall apply to the State.
- Clause 83:** Clause 83 of the Bill provides that the Bill shall come into force on a date to be fixed by Proclamation.