

Draft-November 12, 2012

ANIMAL HEALTH & VETERINARY PUBLIC HEALTH ACT
of the
ISLAMIC REPUBLIC OF AFGHANISTAN

CHAPTER ONE GENERAL PROVISIONS

Article 1 Justification

- (1) This Act is enacted in accordance with Article No 14 of the Constitution of the Islamic Republic of Afghanistan to make provisions for the protection and regulation of animal health, animal welfare, food safety and public health within the Islamic Republic of Afghanistan, hereinafter referred to as the territory of Afghanistan.

Article 2 Objectives

- (1) The specific areas of regulation included in this Act shall be the following:
- (i) the protection of animal health and public health;
 - (ii) the prevention and control of animal diseases, including zoonoses;
 - (iii) the regulation of veterinary diagnostic laboratory services;
 - (iv) the import and export of animals, animal products and biological materials;
 - (v) the safety and quality of products of animal origin destined for human or animal consumption and commercial purposes; and,
 - (vi) Animal Welfare.

Article 3 Definition of terms

- (1) In this Act, unless the context indicates otherwise:
- (i) "Agreement on the application of Sanitary and Phytosanitary (SPS) Measures" is the set of principles, established by the World Trade Organization, binding Member countries to undertake to only apply conditions or sanitary measures for the import or export of commodities which would result in an appropriate level of protection and at the same time be least trade restrictive;
 - (ii) "animal" means:
 - (a) any mammal, bird, fish, reptile or amphibian which is a member of the phylum vertebrates, other than humans;
 - (b) any invertebrate which is prescribed as an animal for the purpose of this Act;
 - (iii) "animal disease" means an impairment or disturbance of the normal function of any organ or the body of any animal that is caused by any protozoon, bacterium, virus, fungus, prion, rickettsia, parasite, other organism or substance;
 - (iv) "animal disease control scheme"; a scheme whereby the Veterinary Authority assumes joint responsibility for the control of certain notifiable diseases through a Memorandum of Agreement between the Chief Veterinary Officer and other stakeholders with an interest in the control of such notifiable disease made according to the Regulations and prescribed procedures.

- (v) "animal product" means any carcass, part or portion of, or product derived from or yielded by, any animal, including any such part, portion or product that has been processed that is not intended for human consumption and any such part, portion or processed product intended for human consumption that is subject to veterinary oversight.
- (vi) "animal welfare" means how an animal is coping with the conditions in which it lives. An animal is in a good state of welfare if, as indicated by scientific evidence, it is healthy, comfortable, well nourished, safe, able to express innate behaviour, and if it is not suffering from unpleasant states such as pain, fear, and distress;
- (vii) "appropriate level of protection" means the level of protection deemed appropriate by the Veterinary Authority for establishing sanitary measures to protect human or animal life or health within the territory of Afghanistan;
- (viii) "article" means any object or material which is an infectious or contaminated article or which is suspected to be an infectious or contaminated article;
- (ix) "assignee" means any person, undertaking, body, institution or association who may be delegated to perform certain functions or exercise certain powers defined within the terms of a sanitary mandate contract or under the direction of the Chief Veterinary Officer;
- (x) "biological material" means any product of a biological process, including ova, semen or embryos or any other biological materials used in animal husbandry if they are stated to alter the bodily functions or performance of an animal; this definition does not include animal disease agents or veterinary medicinal products, including organic and synthetic hormones used for laboratory research, therapeutic and diagnostic purposes or commercial vaccine production, which are regulated in the Veterinary Medicinal Products Act (*being drafted*).
- (xi) "Border inspection post" means an inspection facility established at any airport, railway station or road checkpoint in the territory of Afghanistan prescribed to be open to international trade of commodities, where veterinary inspections can be performed, as established under Regulations;
- (xii) "Chief Veterinary Officer" means the Chief Veterinary Officer of the General Directorate of Animal Health and Production, designated as such in terms of Article 4 (4) herein;
- (xiii) "Codex Alimentarius standards", means the internationally agreed and approved standards, prepared and published by the Codex Alimentarius Commission of the United Nations, relating to the application of laboratory tests and the interpretation of laboratory test results to ensure the safety and quality of foods of animal and plant origin destined for human consumption;
- (xiv) "commodity" means live animals, products of animal origin, and pathological material, animal genetic material, biological products and any other articles;
- (xv) "compartment" means an animal subpopulation contained in one or more establishments under a common biosecurity management system with a distinct health status with respect to a specific disease or specific diseases for which required surveillance, control and biosecurity measures have been applied for the purpose of international trade.
- (xvi) "Competent Authority" means the Veterinary Authority or other government authority of an OIE member country having the responsibility and competence for ensuring or supervising the implementation of animal health and welfare measures, international veterinary certification and other standards and recommendations in the Terrestrial and Aquatic Animal Health Codes of the OIE in the whole territory of Afghanistan;
- (xvii) "contaminated article" means any object other than an animal or an infectious article, including a conveyance, by means of which an animal disease can be spread; or which, in the prescribed manner, is declared to be a contaminated article for the purposes of this Act;

- (xviii) “controlled article” means an article which is either suspected or confirmed to be an infected article or a contaminated article which is controlled for the purposes of import into, transit through or export from the territory of Afghanistan;
- (xix) “controlled animal disease” means any notifiable animal disease which it is deemed to be necessary to control as a public good through prescribed sanitary measures and is declared by the Minister to be a controlled animal disease according to the authority provided in the Regulations and according to prescribed procedures, therein.
- (xx) “conveyance” means any aircraft, boat, train, motor vehicle, truck, cart or other vehicle, or transport animal including the harness, fittings and equipment of an animal used for the purpose of moving animals, animal products or biological materials.
- (xxi) “conveyer” means a person who conveys any imported animal, animal product or article in transit through or within the territory of Afghanistan;
- (xxii) “infectious article” means:
- (a) an animal, animal product or object that is infected, or is suspected of being infected with an animal disease,
 - (b) any protozoon, bacterium, virus, fungus, prion, rickettsia, parasite or other organism or substance that can cause an animal disease; and,
 - (c) any other article that is prescribed to be an infectious article for the purposes of this Act;
- (xxiii) “infectious organism” means any organism that is detrimental to the health of any animal, or which is capable of causing or spreading any animal disease or zoonoses;
- (xxiv) “inspector” means an officer or assignee of the Veterinary Authority with the specific responsibility of inspecting land, premises, facilities, businesses, conveyances, animals, animal products or biological materials for the purpose of assuring compliance with the relevant Regulations and procedures regarding animal health, animal and zoonotic disease control, public health, food safety and animal welfare.
- (xxv) “in transit” means the conveyance of an animal, animal product or article that has been imported through a port of entry into the territory of Afghanistan, in transit through the territory of Afghanistan to another country after its release from the port of entry;
- (xxvi) “land” includes any defined area of land, building, structure, enclosure, premises, harbor, jetty, quay or mooring;
- (xxvii) “Minister” means, for the time being, the national Minister of Agriculture, Irrigation and Livestock or the Minister responsible for Animal Health and Production.
- (xxviii) “National SPS Enquiry and Notification Point” means the office designated under other legislation as the authority for the submission and receipt of notifications to and from the World Trade Organization and Member States, and addressing enquiries from Member States and the public on sanitary measures.
- (xxix) “notifiable animal disease” means any animal disease which is declared to be a notifiable animal disease by the Minister through a prescribed procedure, that as soon as it is detected or suspected by any person must be brought to the attention of an officer of the Veterinary Authority in accordance with prescribed procedures.
- (xxx) “officer” means any registered veterinarian in the employment of the Veterinary Authority, as established under Article 5 and working under the direction of the Chief Veterinary Officer who may, under the provisions of Article 7 (1), delegate responsibility to perform certain functions or exercise certain powers to such persons;

- (xxxix) “owner”, in relation to:
- (a) animals, animal products or articles, conveyances and other movable property, means the person in whom ownership in respect thereof is vested and includes a person who is responsible for the control or management thereof or a person who has such animal, animal product or article, conveyance or movable property in his or her possession, but in the case of wild animals or animals for which the ownership cannot readily be established, the user of the land on which such wild animal or animals are present is deemed to be the owner thereof; and,
 - (b) land,
 - (i) means the person in whose name that land is registered;
 - (ii) which has been purchased by a person but has not yet been registered in his or her name, means such purchaser;
 - (iii) which is subject to a legally binding partnership whereby more than one owner share responsibility for the management or occupation of that land, and;
 - (iv) of which the owner or purchaser is a mentally disabled person, insolvent or is otherwise incompetent in law to administer his or her estate, or is deceased, or is a body corporate under judicial management or liquidation, means the agent or legal representative of such owner or purchaser or another person authorized by law to administer his or her affairs or, in the case of a body corporate, the judicial manager or liquidator thereof;
- (xxxii) "permit" means any permit issued under procedures prescribed by the Minister under the authority conferred in Regulations;
- (xxxiii) "prescribed procedure" means explicit guidelines, directions, operating procedures or rules of action for the purpose of implementing sanitary measures, established by the Minister in the Procedures (Tarzulamal);
- (xxxiv) "quarantine station" means any quarantine station established under Regulations which designates an establishment under the control of the Veterinary Authority where animals are maintained in isolation with no direct or indirect contact with other animals, to ensure that there is no transmission of specified pathogen(s) outside the establishment while the animals are undergoing observation for a specified length of time and, if appropriate, testing and treatment.;
- (xxxv) "quarantine facility" means any temporary quarantine station declared as such by prescribed procedure in the Tarzulamal;
- (xxxvi) “provincial veterinary officer” is a registered veterinarian, as defined in the Veterinary Professions and Para-professions Act (*in Draft*) and as designated in Article 8 (1);
- (xxxvii) "registered veterinary para-professional" means a person as defined in the Veterinary Professions and Para-professions Act (*in Draft*) and who is registered by the Afghanistan Veterinary Board (*to be established by the Veterinary Professions and Para-professions Act*);
- (xxxviii) "registered veterinarian" means a veterinarian as defined in the Veterinary Professions and Para-professions Act and who is registered by the Afghanistan Veterinary Board (*to be established*);
- (xxxix) “Regulations” means the regulations approved by the Council of Ministers in accordance with Article 10 of this Act;
- (xl) “sanitary emergency” means a situation when the Chief Veterinary Officer is authorized to impose emergency sanitary measures under the authority provided to him in the Regulations and in accordance with prescribed procedures, when he or she has reason to believe that such measures are necessary to avoid the introduction or spread of a notifiable animal disease or an emerging animal

disease before that disease has been officially prescribed as a notifiable animal disease or a controlled animal disease.

- (xli) “sanitary measure” means any compulsory measure in respect of any animal, animal product, biological material, animal disease agent, land or article applied at the ports of entry and exit and within the territory of Afghanistan, including all relevant laws, regulations, and procedures as may be prescribed under provisions defined in Article 4 (2) of this Act and including, but not necessarily restricted to:
- (a) the isolation, detention, restraint, inspection, counting, examination, testing, immunization, treatment, disinfection, dipping, observation, sampling, marking, movement restriction, treatment, care, destruction or burial, burning, incineration or any other disposal thereof, according to prescribed procedures;
 - (b) the carrying out of any intervention or other examination thereon; or
 - (c) the designation of an area as an infected place, restricted area or zone or infected area or zone.
 - (d) the protection of animal life or health within the territory of Afghanistan from risks arising from the entry, establishment or spread of infectious organisms and the diseases caused by those organisms.
 - (e) the protection of human or animal life or health within the territory of Afghanistan from risks arising from additives, contaminants, toxins or disease-causing organisms in foods subject to the oversight of the Veterinary Authority or feedstuffs; and
 - (f) the protection of human life or health within the territory of Afghanistan from risks arising from diseases carried by animals that are transmissible to humans.
- (xlii) “Terrestrial and Aquatic Animal Health Codes” are the documents prepared and published by the World Organisation for Animal Health (OIE), which contain the internationally agreed standards detailing sanitary measures which may be applied by the Veterinary Authorities of importing and exporting countries to ensure animal welfare and to avoid the transfer of agents pathogenic to animals or humans and to assure the sanitary safety of international trade in animals, animal products, , whilst avoiding unjustified sanitary barriers;
- (xliii) "user", in relation to land –
- (a) means any person who has a personal or real right in respect of land in his or her capacity as legally entitled occupant, tenant, owner, lessee or occupier, irrespective of whether or not he or she resides thereon;
 - (b) in the case of land under the control of a local government body means that local government body;
 - (c) means any other person who is generally recognized as having a right of tenure on the land concerned;
- (xliv) "
- (xlv) “Veterinary Authority” means the officers of the Directorate of Animal Health which is the Competent Authority responsible for Animal Health, selected according to technical qualification through appropriate civil service procedures and then approved by the Minister, having the responsibility and competence for ensuring or supervising the implementation of animal health and welfare measures and prescribed sanitary measures concerning:
- (a) animal health, including the detection, identification, prevention and control of controlled or notifiable animal diseases, as well as zoonotic diseases;

- (b) the designation and quality of veterinary diagnostic and research laboratories and diagnostic or research laboratory services;
 - (c) the import and export of animals, animal products and biological materials,
 - (d) the safety and quality of animal products destined for human consumption or other commercial uses;
 - (e) animal welfare
- (xlvi) “veterinary officer” means a registered veterinarian who is appointed as a member of the Veterinary Authority.
- (xlvii) "zoonosis" means any disease or infection which is naturally transmissible from animals to humans.
- (xlviii) “Zone” or “region” means a clearly defined part of a territory containing an animal subpopulation with a distinct health status with respect to a specific disease for which required surveillance, control and biosecurity measures have been applied for the purpose of international trade;
- 2) For the purposes of this Act, unless the context indicates otherwise, any reference to land, in the case of land registered under a separate title deed as a separate unit in any deeds registry and that is adjoined by other land separately registered in the name of the same owner, shall, irrespective of the respective pieces of land being divided physically by natural means or by roads, railway lines, aqueducts or otherwise, be construed as a reference to such land and such adjoining land as one unit.

CHAPTER TWO AUTHORITY, POWERS AND FUNCTIONS

Article 4 Authority of the Minister

- (1) The Minister is hereby authorized to enforce the Regulations of this Act according to prescribed procedures, which shall be published by Notice in the Gazette, subject to the provisions of Articles 11 – 19;
- (2) such procedures as contemplated in sub-article (1) shall be made, amended or revoked by the Minister, only upon the advice of the Technical Standing Committee established under Article 9 of this Act, to give effect to any of the purposes of this Act and Regulations on all or any of the following matters:
- (i) procedures to be followed by designated officers of the Veterinary Authority, or assignees in the exercise of their powers or performance of their functions under this Act or Regulations;
 - (ii) procedures for the notification, detection and verification of the occurrence of, notifiable diseases;
 - (iii) procedures for the prevention and control of notifiable animal diseases, including the declaration of controlled animal diseases and animal disease control schemes;
 - (iv) procedures to be adopted following the declaration of a sanitary emergency;
 - (v) procedures for the designation and operating procedures of official veterinary diagnostic laboratories designated under this Act; and for the establishment and operation of private veterinary diagnostic or research laboratories involving the use of animals for experimentation or biological materials;
 - (vi) conditions for the import of any animal, animal products, biological materials, commodities or other regulated articles;

- (vii) designation of ports of entry or exit in Afghanistan appropriate for the import and export of animals, animal products, biological materials and other regulated articles;
- (viii) the circumstances under which sanitary requirements for import may be modified based on disease risk analysis;
- (ix) procedures and guidelines for pre-clearance inspections;
- (x) the manner in which permits, licenses and certificates shall be issued under this Act and their form, content and language;
- (xi) the procedures by which an importer may apply for inspection to take place at any location other than the port of entry, and/or outside of regular business hours, and payment of any applicable fees;
- (xii) the manner in which containers must be sealed and marked if they are to be inspected at their final destination rather than at the port of entry;
- (xiii) the manner in which animals, animal products, biological materials and other regulated articles must be housed, stored, transported, disposed of or destroyed in Afghanistan, as appropriate;
- (xiv) procedures to be adopted, as necessary, for the disinfection, disinfestation or other sanitary treatment of imported animals, animal products, biological materials or other regulated articles and the conveyances bringing them into or conveying them in transit through Afghanistan;
- (xv) the location, management and functioning of any animal quarantine stations or quarantine facilities established under this Act or Regulations;
- (xvi) the requirements for the control and care of animals, animal products, biological materials or other regulated articles kept or maintained at animal quarantine stations;
- (xvii) the manner in which designated officers of the Veterinary Authority shall arrange for the destruction, disposal, or treatment of animals, animal products, biological materials or other regulated articles within an area or location declared as under quarantine;
- (xviii) the period within which it shall not be lawful to introduce animals in all or part of an area declared as under quarantine;
- (xix) the manner in which any samples shall be taken, marked and retained under this Act;
- (xx) the procedures through which a compartment, zone or region may be declared disease free or a zone or region of low disease prevalence;
- (xxi) requirements for the export of any animals, animal products, biological materials or other regulated articles;
- (xxii) requirements and procedures for the design and implementation of an animal identification system to achieve animal traceability;
- (xxiii) in consultation with the Minister of Finance, prescribing the fees to be levied in respect of the application for and the issuance of permits, licenses and certificates and for the provision of any other official services by the Veterinary Authority under this Act and Regulations;
- (xxiv) operating procedures for the inspection, sampling and testing of animals, animal products, biological materials or other regulated articles within the domestic market of Afghanistan and for purposes of import and export;
- (xxv) the offences subject to the fixed penalty procedure outlined in Article 24;
- (xxvi) the procedures to be followed for lodging an appeal against actions taken by designated officers of the Veterinary Authority under this Act and Regulations;

- (xxvii) procedures to ensure the safety and quality of products of animal origin, subject to veterinary oversight, destined for human or animal consumption or commercial purposes;
 - (xxviii) procedures for ensuring animal welfare for domestic animals, working animals, experimental animals, animals for display or sport, during transportation, in terms of housing, handling and management and at slaughter.
 - (xxix) additional measures to be taken for the purpose of preventing the introduction or spread of animal diseases or the infectious organisms or substances that cause them.
- (3) The Minister shall approve officers, selected according to technical qualification through appropriate civil service procedures, as members of the Veterinary Authority and may assign specific functions with regard to the implementation of certain procedures to such officers according to their specialized training or educational qualifications.
 - (4) The Minister shall appoint an officer of the General Directorate of Animal Health & Production who is a registered veterinarian as Chief Veterinary Officer on the basis of his or her technical and administrative capability or, if the Minister deems that no current officer is qualified for the position, may recruit a registered veterinarian through established civil service procedures to fill that position.
 - (5) The Minister shall appoint the members of a Technical Standing Committee established under Article 9, subject to the provisions defined in the Regulations.
 - (6) The Minister shall authorize the Chief Veterinary Officer to contract the services of suitably qualified veterinarians or veterinary para-professionals registered under the Veterinary Professions and Para-professions Act (*in preparation*), to perform certain defined functions or exercise certain powers as prescribed in procedures, on behalf of the Veterinary Authority according to Article 7 (1) (iii) and in the Regulations. Registered veterinarians and para-professionals who are not officers of the Veterinary Authority shall not be directed to perform such functions without contract or compensation except in the case of sanitary emergencies, in which case it is understood that compensation, though delayed, will be forthcoming.

Article 5 Establishment and limitations of liability of the Veterinary Authority

- (1) For the purposes of enforcement of the Regulations of this Act, and in recognition of internationally agreed standards, there is hereby established a Veterinary Authority, which shall comprise the officers of the Directorate of Animal Health, as currently organized within the General Directorate of Animal Health & Production, who, by virtue of their professional training, shall perform specific regulatory functions or provide public veterinary services defined in the Regulations and prescribed in Procedures which may from time to time be published by the Minister, by Notice in the Gazette.
- (2) No officer who is a member of the Veterinary Authority or person who is assigned to perform a prescribed service or function on behalf of the Veterinary Authority shall be liable in respect of anything done in good faith in the exercise or performance of a power or duty conferred or imposed by or under this Act and the Regulations except in the event that such an officer or assignee has been found guilty of unprofessional or improper conduct according to an enquiry conducted by the Afghanistan Veterinary Board under provisions set out in the Veterinary Professions and Para-professions Act. (*being drafted*)

Article 6 Designation of powers and functions of the Chief Veterinary Officer

- (1) The Chief Veterinary Officer, appointed in terms of Article 4 (4) of this Act, shall exercise the powers conferred on him or her and perform the functions assigned to him or her through Regulations and procedures under this Act subject to the control and direction of the Minister.

- (2) The Chief Veterinary Officer shall respond to all applications or requests related to regulatory veterinary matters which are made to the General Directorate of Animal Health and Production according to Regulations, in the prescribed manner.
- (3) The Chief Veterinary Officer shall be responsible for the enforcement and administration of animal health, veterinary diagnostic laboratories, import and export of animals, animal products, biological materials and other controlled articles, food safety and animal welfare Regulations and procedures in a manner consistent with the Agreement on the application of Sanitary and Phytosanitary Measures (SPS Agreement) and, where possible, in accordance with the standards set in the Terrestrial and Aquatic Animal Health Codes and the Codex Alimentarius standards.
- (4) The Chief Veterinary Officer shall direct and coordinate the activities of Provincial Veterinary Officers with regard to declared sanitary emergencies, animal disease control schemes, sanitary mandates and other technical veterinary matters involving animal or zoonotic disease that may affect the national interest
- (5) In the event that the Director General of the General Directorate of Animal Health and Production is not a registered veterinarian, then the Chief Veterinary Officer shall report directly to the Minister with regard to the management of declared sanitary emergencies involving animal or zoonotic diseases.

Article 7 Delegation of powers or authority to perform defined functions by the Chief Veterinary Officer

- (1) The Chief Veterinary Officer may delegate certain powers conferred upon him or the authority to perform certain functions assigned to him or her by or under this Act and Regulations;
 - (i) to any officer who is designated as a member of the Veterinary Authority under his or her control according to the Regulations;
 - (ii) to a provincial veterinary officer as appointed under Article 8 (1) of this Act and according to Article 3 of the Regulations.
 - (iii) to any assignee, registered under the Veterinary Professions and Para-Professions Act (*being drafted*) who has been trained according to a prescribed standard to exercise the power so delegated and perform the function so assigned, who is not an officer, according to Regulations and prescribed procedures.

Article 8 Appointment, powers and functions and suspension or termination of appointment of Provincial Veterinary Officers

- (1) The Minister shall appoint an officer of the Veterinary Authority who is a registered veterinarian as Provincial Veterinary Officer in each province.
- (2) A Provincial Veterinary Officer shall exercise the powers delegated and perform the functions assigned to him or her, under Article 3 of the Regulations, in his or her province.
- (3) A Provincial Veterinary Officer so appointed shall provide the Chief Veterinary Officer with such reports regarding the powers assigned or the functions delegated referred to in Article 3 of the Regulations as the Chief Veterinary Officer may require.
- (4) The Chief Veterinary Officer shall monitor the performance of the functions assigned under sub- article (2) in order to verify that essential relevant sanitary measures, as defined in the Regulations, are being maintained throughout the territory of Afghanistan, and,
 - (i) at prescribed intervals the Chief Veterinary Officer shall compile reports of the functions monitored and furnish a copy to the relevant Provincial Veterinary Officer.

- (ii) the Chief Veterinary Officer may, by notice in writing require the Provincial Veterinary Officer or any other person in possession of information required by the Chief Veterinary Officer for the purposes of monitoring the performance of functions delegated under sub-article (2) to provide such information to the Chief Veterinary Officer within the period specified in the notice.
 - (iii) if, in a particular case, the Chief Veterinary Officer or the Governor of his or her province is of the opinion that an act or omission by a particular provincial veterinary officer or officer under his control, represents a material deviation from the powers assigned or the functions delegated, he or she shall inform the provincial veterinary officer concerned and take such steps in connection with such an instance as may be necessary, including:
 - (a) request that the provincial veterinary officer or officer concerned shall take whatever steps are required to correct the act or omission cited above;
 - (b) refer the case to the Minister, in writing for further disciplinary action as deemed necessary.
- (5) The Minister may suspend or terminate an appointment contemplated in Article 8 (1) of this Act or a power or function delegated to a provincial veterinary officer or other officer of the Veterinary Authority by Notice in the Gazette, in general or in a particular instance in the event of:
- (i) contravention of any provision of this Act or Regulations by the Provincial Veterinary Officer or other officer concerned, or the occurrence, in a province or in a country adjacent to a province, of any event of such a nature that it could detrimentally affect animal health in a Province or in the territory of Afghanistan as a whole, or,
 - (ii) upon the written request of the Governor of the province or the Chief Veterinary Officer when the governor or the Chief Veterinary Officer, according to sub-article (4) section (iii), can provide evidence that the provincial veterinary officer or other officer has either failed to exercise the powers delegated to him or perform any of the functions assigned to him or her according to Article 3 of the Regulations or has performed an act which he considers to be a material deviation from his or her powers or functions.
 - (iii) that officer being found guilty of unprofessional or improper conduct according to an enquiry conducted by the Afghanistan Veterinary Board under provisions set out in the Veterinary Professions and Para-professions Act (in Draft),
- (6) A suspension or termination of appointment as contemplated in sub-article (5) may be:
- (i) in respect of one or more specified provinces, or specified portions of a province or the territory of Afghanistan as a whole;
 - (ii) in general or with regard to a particular matter;
 - (iii) in the case of a suspension, for such period or subject to such conditions as the Minister may determine.
- (7) In the event of such a termination or suspension, the Chief Veterinary Officer shall ensure that arrangements are made immediately to ensure that essential national standards and such other provisions of this Act are maintained in the province(s) concerned for such period as may be necessary.

Article 9 Establishment and functions of a Technical Standing Committee

- (1) There is hereby established a Technical Standing Committee which shall have the following functions:
- (i) formulate, review and, when necessary, revise national livestock policies and development strategies;
 - (ii) prepare, review and revise, amend as necessary, all procedures for implementation of the Regulations of this Act on behalf of the Minister;

- (iii) formulate, review and revise, as necessary, procedures for implementation of an Emergency Preparedness Plan for the prevention and control of notifiable animal diseases;
 - (iv) submit to the Minister proposed procedures for approval and publication by Notice in the Gazette;
 - (v) under the direction of the Minister, establish sub-committees as and when necessary to facilitate the duties of the Technical Standing Committee;
 - (vi) carry out any other duties as required by the Minister.
- (2) The composition of the Technical Standing Committee and the powers and authority conferred upon it shall be defined by Regulations.
- (3) The Technical Standing Committee shall report directly to the Minister.

Article 10 Regulations

- (1) For the purposes of enforcement of this Act there shall be enacted Regulations, which are declared in order to define the powers and functions of the Minister, the Chief Veterinary Officer and the Veterinary Authority for the regulation of the following:
- (i) the prevention and control of animal diseases and zoonoses;
 - (ii) the establishment and operation of veterinary diagnostic or research laboratories and the provision of veterinary diagnostic laboratory services;
 - (iii) the import and export of live animals, animal products, biological materials and other controlled articles;
 - (iv) the safety and quality of products of animal origin destined for human or animal consumption and food products of animal origin that are subject to veterinary oversight;
 - (v) animal welfare.

CHAPTER THREE CONFORMITY OF SANITARY MEASURES WITH INTERNATIONAL STANDARDS TO FACILITATE TRADE

Article 11 Compliance with standards and guidelines established by international organizations mandated by the World Trade Organization

- (1) Any sanitary measures which may be declared by the Minister through Procedures published by Notice in the Gazette shall be in conformity with:
- (i) the standards and recommendations of the Terrestrial and Aquatic Animal Health Codes and the Codex Alimentarius standards.
 - (ii) scientific justification based on risk assessment and other relevant provisions of the Agreement on the application of Sanitary and Phytosanitary Measures of the World Trade Organization.

Article 12 Notification and Publication of Sanitary Measures

- (1) The Minister shall appoint an officer of the Veterinary Authority to act as a representative to the National Sanitary and Phytosanitary Enquiry and Notification Point (SPS ENP) (established under other legislation of Afghanistan), to make timely notifications of proposed changes in animal health laws, Regulations and procedures and animal disease outbreaks and related documentation to all relevant countries and international

organizations, receive such information from all relevant countries and international organizations, and respond to all enquiries from persons, relevant international organizations and trading partners concerning Afghanistan's sanitary measures.

- (2) A notice of the availability of drafts of proposed sanitary measures shall be made in mass media which shall include information on the manner of obtaining copies of the proposed sanitary measures.
- (3) All proposed sanitary measures that do not conform to international standards or for which no international standards exist, which may have a significant effect on export opportunities of interested trading partners, shall be notified through the SPS ENP no less than 60 days before preparing a final draft sanitary measure in accordance with the provisions of relevant international agreements.
- (4) The appointed officer of the Veterinary Authority within the SPS ENP shall, immediately following their receipt, provide copies of any such proposed changes in animal health or welfare laws, Regulations, procedures and notifications of animal disease outbreaks and related documentation to WTO members.
- (5) Upon request of any person of Afghanistan or any person of another country, the SPS ENP shall provide any information concerning sanitary measures or commodities subject to sanitary measures. Such information includes the following:
 - (i) lists of all controlled commodities;
 - (ii) designated ports of entry for different commodities;
 - (iii) scientific justification for conditions or sanitary measures that are applied on both imported and domestic food products, including the conditions of their handling or transportation by air road or sea;
 - (iv) procedures and means of risk assessment of food-borne hazards for humans from food subject to veterinary oversight or for animal health from feed, as well as the data of the reports related to such risk assessment;
 - (v) procedures and means of controlling products of animal origin subject to veterinary oversight in the territory of Afghanistan;
 - (vi) current instructions, requirements and procedures of animal, animal product or biological material inspection and control;
 - (vii) information about membership and participation of the Islamic Republic of Afghanistan in the relevant international organizations or international agreements regarding sanitary measures and the texts of such agreements;
 - (viii) any other relevant information.
- (6) Comments received as a result of the notification and publication of proposed new or changed sanitary measures shall be taken into consideration in a non-discriminatory manner before such sanitary measures are adopted. When requested in writing by a person or interested trading partner, the National SPS Enquiry and Notification Point shall provide the text of the proposed sanitary measures, and whenever possible, identify the provisions, which in substance deviate from international standards, guidelines and recommendations.
- (7) In urgent circumstances however, sanitary measures may be adopted before notification, provided such notification is done promptly and without delay.
- (8) All new and revised sanitary measures after their adoption shall be published promptly by Notice in the Gazette and shall come into force no earlier than 6 months from the date of relevant publication.

- (9) In the case of urgent circumstances, and also in the case of application of sanitary measures that reduce import restrictions, a condition or sanitary measure may come into force as of the date of adoption, provided it is subsequently published by Notice in the Gazette.

Article 13 Necessity of Sanitary Measures

- (1) The Chief Veterinary Officer shall apply sanitary measures only to the extent necessary to protect human and animal health and animal welfare.
- (2) Sanitary measures shall not be more trade-restrictive than required to achieve the appropriate level of sanitary protection or animal welfare, taking into account technical and economic feasibility.

Article 14 Scientific Basis of Sanitary Measures

- (1) The Chief Veterinary Officer shall impose sanitary measures based on scientific evidence, as confirmed by the standards of the OIE.

Article 15 Equivalence of Sanitary Measures

- (1) The Chief Veterinary Officer in consultation with the Technical Standing Committee shall recognize different sanitary measures from other countries that achieve the same level of protection as sanitary measures implemented under this Act.

Article 16 Risk Assessment of Animal and Human Health Threats and Animal Welfare

- (1) The Chief Veterinary Officer in consultation with the *Technical Standing Committee* shall utilize available scientific evidence and take into account risk assessment techniques developed by relevant international organizations when conducting risk assessments of animal and human health threats and animal welfare considerations. The assessments shall ensure that sanitary measures are based on science and applied only to the extent necessary to protect animal and human health and animal welfare. The assessments shall take into account:
- (i) available scientific evidence;
 - (ii) relevant processes and production methods;
 - (iii) relevant inspection, sampling and testing methods;
 - (iv) prevalence of specific diseases;
 - (v) existence of disease-free areas;
 - (vi) relevant ecological and environmental conditions; and
 - (vii) handling, transportation facilities, quarantine or other treatment.
- (2) If additional or more stringent requirements are established, or if there is no international standard, the measures shall be based on scientific principles and evidence based on a scientific risk assessment.
- (3) In assessing the risk to animal or human life or health or animal welfare and determining the sanitary measures to be applied for achieving the appropriate level of sanitary protection or animal welfare status from such risk, the following shall be take into account as relevant economic factors:
- (i) the potential damage in terms of loss of production or sales in the event of the entry, establishment or spread of a disease;

- (ii) the costs of control or eradication in the territory of Afghanistan; and,
 - (iii) the relative cost-effectiveness of alternative approaches to limiting risks.
- (4) When determining the appropriate level of sanitary protection or animal welfare status through the imposition or the application of proposed sanitary measures the Chief Veterinary Officer in consultation with the Technical Standing Committee shall take into account the objective of minimizing negative trade effects with regard to technical and economic feasibility.

Article 17 Influence of Regional Conditions on Sanitary Measures.

- (1) The Chief Veterinary Officer shall ensure that all sanitary measures take into account the regional characteristics, both of the areas from which animals, animal products or biological materials originate and the areas for which they are destined.
- (2) Sanitary measures shall be adapted to the sanitary characteristics of the area, whether all of a country, part of a country, or all or parts of several countries from which animals, animal products or biological materials originated and to which animals, animal products or biological materials are destined.
- (3) In assessing the sanitary characteristics of a region, the following factors shall be taken into account, *inter alia*:
- (i) the level of prevalence of specific diseases;
 - (ii) the existence of eradication or control programmes, and;
 - (iii) appropriate criteria or guidelines which may be developed by the relevant international organizations.
- (4) Disease free and low prevalence zones shall be recognized in the territory of Afghanistan and in other countries if based on scientific evidence.
- (5) Determination of such zones shall be based on factors such as:
- (i) geography;
 - (ii) ecosystems;
 - (iii) epidemiological surveillance; and
 - (iv) the effectiveness of sanitary measures applied.

Article 18 Non-Discrimination of Sanitary Measures

- (1) The Chief Veterinary Officer shall ensure that any sanitary measures do not arbitrarily or unjustifiably discriminate between different countries and territories where identical or similar sanitary measures prevail or between domestic and foreign suppliers.
- (2) Sanitary measures shall not be imposed or applied in a manner which constitutes a disguised restriction on international trade.

Article 19 Control, Inspection and Approval Procedures for application of Sanitary Measures

- (1) The Chief Veterinary Officer shall ensure that any sanitary measures having control, inspection and approval procedures, shall be non-discriminatory and minimally restrictive to trade.

- (2) Such procedures shall be undertaken and completed without undue delay; and
- (i) in no less favorable manner for imported animals, animal products, animal feedstuffs, biological materials and other controlled articles than for like locally produced animals or domestically produced commodities;
 - (ii) the standard or anticipated processing period of each procedure shall be published or shall be communicated to the applicant upon request;
 - (iii) when receiving an application, the Veterinary Authority shall promptly examine the completeness of the documentation and inform the applicant in a precise and complete manner of all deficiencies;
 - (iv) the Veterinary Authority shall transmit as soon as possible the results of the procedure in a precise and complete manner to the applicant so that corrective action may be taken if necessary; when the application has deficiencies;
 - (v) the Veterinary Authority shall proceed as far as practicable with the procedure if the applicant so requests; and
 - (vi) upon request, the applicant shall be informed of the stage of the procedure, with any delay being explained;
 - (vii) information requirements shall be limited to what is necessary for appropriate control, inspection and approval procedures;
 - (viii) the confidentiality of information on imported animal products arising from or supplied in connection with control, inspection and approval shall be respected in a manner no less favorable than for domestic products and in such a manner that legitimate commercial interests are protected;
 - (ix) any requirements for control, inspection and approval of individual samples of an animal, animal product or commodity shall be limited to what is reasonable and necessary;
 - (x) any fees imposed for the testing procedures on imported animals, animal products, biological materials or other commodity shall be equitable in relation to any fees charged on like domestic products originating in any other country and shall be no higher than the actual cost of the service;
 - (xi) the same criteria shall be used in locating official laboratory testing facilities for samples from imported animals, animal products, biological materials or other commodities as for domestically produced animals, animal products, biological materials or commodities so as to minimize the inconvenience to applications, importers, exporters or their agents;
 - (xii) whenever specifications of an animal, animal product, biological material or other commodity are changed subsequent to its control and inspection in light of the applicable sanitary measures, the procedure for the modified animal, animal product, biological material or other commodity shall be limited to what is necessary to determine whether adequate confidence exists that the animal, animal product, biological material or other commodity still meets the sanitary measures concerned; and:
 - (xiii) a procedure shall be established to review complaints concerning the control, inspection and approval procedures for application of sanitary measures and to take corrective action when a complaint is justified.

CHAPTER FOUR MISCELLANEOUS

Article 20 Confidentiality

- (1) No person may disclose any information which relates to any person and which was acquired by him or her in the performance of his or her functions in terms of this Act and the Regulations contemplated in Article 10 of this Act, except-
- (i) in so far as it may be necessary for the application of this Act and the Regulations;
 - (ii) for the purposes of any legal proceedings under this Act or Regulations;
 - (iii) when required to do so by a competent court;
 - (iv) if the Minister, in the public interest, authorises the disclosure thereof; or
 - (v) to the extent necessary in order to comply with a law dealing with access to information.

Article 21 Offences.

- (1) It shall be an offence for any person, either personally or indirectly through an employee or agent to:
- (i) possess, manufacture, sell, offer for sale, transport or distribute in any manner any animal or animal product, biological material or other controlled article, as appropriate, knowing that they are infected with or contaminated by any infectious organism, toxin or harmful contaminant;
 - (ii) assault, resist, intimidate, threaten or obstruct any designated officer of the Veterinary Authority or assignee exercising powers or performing authorized functions under this Act or Regulations;
 - (iii) tamper with any samples taken under Article 4 (2) (xviii) of this Act or the Regulations;
 - (iv) fail to comply with any order or direction lawfully made or given under this Act or the Regulations;
 - (v) import any animals, animal products or biological materials or other regulated articles at a port of entry not listed or designated in the prescribed manner;
 - (vi) import any animals, animal products, biological materials or other controlled articles contrary to any other requirements prescribed under this Act and Regulations;
 - (vii) intentionally permit or cause the introduction or spread of any prescribed infectious organism, toxin or harmful contaminant;
 - (viii) export any animal, animal product, biological material or other regulated articles contrary to any requirement of this Act and Regulations;
 - (ix) fail to safeguard the sanitary security of a consignment after issuance of an import permit as required under Article 14 (2) of the Regulations;
 - (x) fail to allow a search or inspection or the taking of any sample authorized under this Act
 - (xi) break the seal on a sealed container containing animals, animal products, biological materials or other controlled articles except in the presence of a designated officer of the Veterinary Authority;
 - (xii) cause pain, suffering or distress to an animal;
 - (xiii) knowingly or recklessly provide information which is false, for the purpose of obtaining any document under this Act or Regulations;
 - (xiv) alter, forge, deface or destroy any document issued under this Act or Regulations;
 - (xv) submit any written material for publication referring to the occurrence of a notifiable disease or infectious organism in Afghanistan without prior or simultaneous communication of the existence of the notifiable disease or infectious organism to the Chief Veterinary Officer;
 - (xvi) otherwise contravene the provisions of this Act or Regulations.

Article 22 Offences by Public Officials.

- (1) In addition to the offences listed in Article 20, it shall be an offence for any designated officer of the Veterinary Authority, assignee or other authorized person performing duties under this Act to:
 - (i) directly or indirectly ask for or take any personal payment or other reward in connection with any official duties;
 - (ii) agree to do, abstain from doing, permit, conceal or connive at any act or thing which is contrary to the proper execution of official duties under this Act or otherwise contrary to the laws of Afghanistan;
 - (iii) disclose any information acquired in the performance of official duties relating to any person, firm or business, except when required by his or her supervisor in the course of official duties or where ordered to do so by any court.

Article 23 Penalties.

- (1) Any person who commits an offence under this Act or the Regulations contemplated in Article 10, shall be punishable:
 - (i) on a first conviction by a fine the amount of which shall be set in the Regulations, or by imprisonment for a period the duration of which shall be set in the Regulations or both;
 - (ii) on a subsequent conviction by a fine the amount of which shall be set in the Regulations, or by imprisonment for a period the duration of which shall be set in the Regulations or both.
- (2) A court convicting a person of an offence under this Act may, in addition to any other penalty imposed, order that anything used in the perpetration of the offence be forfeited to the government.

Article 24 Notice of Offence, Fixed Penalties

- (1) Notwithstanding anything to the contrary in this or any other Act, where a designated officer of the Veterinary Authority, or inspector has reason to believe that any person (hereafter in this article referred to as the “alleged offender”) is committing or has committed an offence specified in Article 21, such person may then and there serve notice in writing upon the alleged offender that he or she has committed an offence under this Act.
- (2) The designated officer of the Veterinary Authority or inspector shall at the time of the service of notice referred to in sub-article (1) inform the alleged offender that he or she must appear before the magistrate on the date specified, or pay the prescribed fixed penalty, in lieu of appearance before the magistrate.
- (3) For purposes of this paragraph, designated officers of the Veterinary Authority or inspectors exercise powers equal to those of police officers.
- (4) The Veterinary Authority shall maintain a record of the notices of offence served by officers and inspectors for a period of no less than 5 years.

Article 25 Appeals

- (1) Any person who feels aggrieved by a decision of the Chief Veterinary Officer, an officer, assignee, or an authorised person acting under the authority of this Act and the Regulations contemplated under Article 10 or a procedure declared by the Minister may appeal against that decision to the Minister or the Governor of the province in question, as the case may be.

- (2) An appeal referred to in subsection (1) must be lodged in the prescribed manner within the prescribed period, and the prescribed fee must be paid.
- (3) The Minister or Governor, as the case may be, may designate one or more independent senior officers to investigate and report on the grounds of appeal.
- (4) The Chief Veterinary Officer, officer, assignee, or authorised person who made the decision and the appellant may appear or be requested to appear at an investigation referred to in sub-article (3), in order to be heard or to be questioned, and are entitled to legal representation.
- (5) The Minister or Governor, as the case may be, may after considering the report and other documents relating to the appeal, confirm, set aside or amend the decision or issue such order in connection therewith as may be fit.
- (6) If the Minister or Governor, as the case may be, sets aside a decision which is the subject of an appeal or amends it in favour of an appellant, the fee referred to in subsection (2) shall be refunded to the appellant concerned.

CHAPTER FIVE FINANCES OF THE VETERINARY AUTHORITY

Article 26 Budget and utilization of revenues or other sources of financing of the Veterinary Authority

- (1) For the purpose of enforcing the Animal Health, Diagnostic Laboratories, Import and Export, Food Safety, and Animal Welfare Regulations and providing regulatory services according to prescribed procedures, the Veterinary Authority shall receive a budget approved and agreed in the prescribed manner through the Ministry of Finance.
- (2) The Minister shall maintain an Emergency Fund to be utilized in the case of the declaration of a sanitary emergency or other declared emergency according to Article 11 (3) (a) of the Regulations, on the advice of the Technical Standing Committee as prescribed under Article 8 (1) (c) and (d) of the Regulations.
- (3) Revenues derived from fees for the issuance of licenses or permits or from the provision of regulatory services or other services provided by the Veterinary Authority according to prescribed procedures shall be retained by the Chief Veterinary Officer and used to support the implementation of Regulatory functions defined within this Act, according to prescribed procedures.
- (4) The Chief Veterinary Officer shall maintain an accurate record of any such revenues as contemplated in sub-article (3) and any expenditure made by the Chief Veterinary Officer in order to implement the Regulations made under the authority of Article 10 of this Act, in the prescribed manner.
- (5) Under the control and direction of the Minister, the Chief Veterinary Officer may utilize funds provided by other national or international organizations under the following conditions.
 - (i) Any funds provided to the Veterinary Authority shall be declared to the Ministry of Finance by the Minister.
 - (ii) The Minister shall maintain an accurate record of the utilization of any such funds according to prescribed procedures.

OPTIONAL in the event that Articles 26.3 and 26.4 are unacceptable to the MoF - – 26.7 & 26.8 are provided as an alternative

- (6) The Chief Veterinary Officer shall maintain an accurate record of all revenues derived from the issuance of permits and licenses and from the provision of all regulatory and other services in the prescribed manner.
- (7) Any such revenues as contemplated in sub-article (6) shall be paid over to the Ministry of Finance in the prescribed manner.
- (8) All financial transactions of the Veterinary Authority shall be audited according to the rules laid down by the Ministry of Finance.

CHAPTER SIX ENACTMENT

Article 27 Citation

- (1) This Act may be cited as the Animal Health and Veterinary Public Health Act (2012)

Article 28 Entry into Force

- (1) This Act shall come into force upon signature of the President of Afghanistan, whereupon it shall be published in the Official Gazette.
- (2) Upon Notification in the Gazette of the enactment of the Animal Health and Veterinary Public Health Act, the Veterinary Services Act of 2002 is hereby repealed.

SIGNATURE
PRESIDENT OF THE
ISLAMIC REPUBLIC OF AFGHANISTAN