

-Food BILL, 2014 (Bill No. .... of 2014)

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AN ACT to ensure food safety; to establish a regulatory system in place in the country in order to protect consumer health; to facilitate international trade and cooperation relating to food; to repeal the Food Act, 1987 and for matters connected therewith and incidental thereto.

ENACTED by the President and the National Assembly.

## **Part I – Preliminary**

### **Short title and commencement**

1. This Act may be cited as the Food Act, 2014 and shall come into operation on such date as the Minister may by notice publish in the Official Gazette.

### **Interpretation**

2. In this Act –

“additives” means a substance not normally consumed as a food by itself and not normally used as a typical ingredient of the food, whether or not it has nutritive value, the intentional addition of which to food for a technological (including organoleptic) purpose in the manufacture, processing, preparation, treatment, packing, packaging, transport or holding of such food results, or may be reasonably expected to result (directly or indirectly), in it or its by-products becoming a component of or otherwise affecting the characteristics of such foods. The term does not include contaminants or substances added to food for maintaining or improving nutritional qualities;

"advertisement" means any notice, circular, label, wrapper, public announcement, display and representation, by whatever means, for the purpose of promoting directly or indirectly the sale of food;

“analysis” means the determination and/or quantification of -

- (a) one, several or all chemical constituents and substances or the nutritional composition of the sample ;
  - (b) microbiological presence and by products such as microbial toxins; and
  - (c) physical contaminants such as glass, insects and metal;
- and includes biotechnological and sensory analysis.

“animal” means any mammal (other than a human), bird (including poultry), insect,

amphibian, reptile, fish, mollusc, crustacean, or other member of the animal kingdom, whether alive or dead, and includes the egg, and any organic animal tissue from which another animal could be produced; and which is normally used for human consumption or to produce animal feed;

“appeals board” means the appeals board established under section 44;

“article” means a single unit of any goods and includes –

- (a) any food or any labelling or advertising material in respect thereof; or
- (b) item used for the preservation, preparation, manufacturing, packaging, storing, transporting and sale of any food;

“audit” means a systematic and functionally independent examination to determine whether activities and related results comply with planned objectives;

“authorised analyst” means an analyst authorised under section 5 (5) ;

“authorised officer” means an officer authorised under section 5(2);

“board” means the Food Control Board established under section 7;

“bottled water” water which has been processed and packed in plastic or glass bottles or pouches, stored, transported and sold in compliance to the requirements of this Act and conform to the microbiological and chemical requirements of this Act. It includes sparkling bottled water, spring bottled water, mineral water, flavoured water, nutrient-added water beverages, water with added carbonation and purified water such as reverse osmosis water. It does not include water abstracted for domestic use/purposes;

“contaminant” means a substance not intentionally added to food or feed which is present in such food or feed as a result of the production, including operations carried out in crop industry, animal husbandry and veterinary medicine, post harvest handling, manufacturing, processing, preparation, treatment, packing, transporting or storage or as a result of environmental contamination;

“contamination” means the introduction of or occurrence of a contaminant in food or feed;

“competent authority” means the authority established under section 6(1);

“competent authorities” means authorities of countries of import or export

“drink” means a beverage product, normally packed in bottles, carton packs or pouches intended for human consumption and includes bottled water, aerated or otherwise, alcoholic and non-alcoholic beverages, juices and energy drinks;

“export” means the customs procedure applicable to goods which, being in free circulation, leave the Customs territory and are intended to remain permanently outside it;

“feed” means any substance or product including additives, whether processed, partially processed or unprocessed, intended to be used for oral feeding of animals;

“feed business” means any undertakings, whether public or private, that carries out any of the activities related to, or any of the stages of the feed supply chain;

“feed establishments” means any place or any premises or part thereof used for the sale, preparation, manufacturing for sale, storage or packing for sale of feed, whether cooked or not, for animals intended for human consumption;

“feed business operators” means a person who is engaged in feed business including one’s agent;

“food” means any substance, whether processed, semi-processed or raw, which is prepared, sold, represented or intended for human consumption, and includes drinks, bottled and packaged water, chewing gum, other products of similar nature or use and any article, substance or ingredients used in the composition, manufacture, preparation or treatment of food but does not include –

- (a) cosmetics;
- (b) tobacco;
- (c) plants prior to harvesting;
- (d) live animals, birds or live fish which are not used for human consumption while they are alive, (excluding shellfish), unless they are prepared for placing on the market for human consumption;
- (e) fodder or feed for animals, birds or fish;
- (f) drugs or medicinal products;
- (g) hormonal products or veterinary products for use in livestock feed; and
- (h) residues and contaminants

“food business” means any undertakings, whether public or private, that carries out any of the activities related to or any of the stages of the food supply chain;

“food business operator” means a person engaged in food business including one’s agent and includes manufacturers, processors, packers, exporters, importers, distributors, retailers of food, catering establishments, cottage food operators, moveable establishments and open air and mobile vending of food;

“food establishment” means any place or any premises or part thereof used for the slaughter of animals, sale, preparation, manufacturing for sale, storage or packing for sale of food, whether cooked or not, intended for human consumption;

“food irradiation” means the processing of food products by ionizing radiation, specifically gamma rays, X-rays or accelerated electrons, in order to, control foodborne pathogens, reduce microbial load and insect infestation, inhibit the germination of root crops, and extend the durable life of perishable produce;

“food handler” means any person who directly handles packaged or unpackaged food, food equipment and utensils, or food contact surfaces;

“food handlers training” means educating a food handler in food hygiene to a level appropriate to the operation he is to perform;

“ food hygiene” means the measures and conditions necessary to ensure the safety and suitability of food at all stages of the food chain;

“food safety” means the assurance that food will not cause harm to the consumer when it is prepared or eaten according to its intended use;

“good hygienic practices” means all practices regarding the conditions and measures necessary to ensure the safety and suitability of food at all stages of the food chain;

“good manufacturing practices” means a quality assurance system aimed at ensuring that products are consistently manufactured, packed, repacked or held to quality standards appropriate for the intended use;

“hazard” means a biological, chemical or physical agent in food with a potential to cause adverse effects on health;

“hazard analysis critical control point (HACCP)” means a science-based system, which identifies, evaluates and controls hazards, which are significant for food safety at critical points during a given stage in the food supply chain;

“import” means to bring or cause goods to be brought into Seychelles;

“inspection” means the examination of food or systems for control of food, raw materials, processing, packaging materials, distribution and transportation including in-process and finished product testing, to ensure compliance with this Act Regulations made thereunder;

"label" includes any tag, brand, mark, pictorial or other descriptive matter written, printed, stencilled, marked, embossed or impressed on or attached to or included in, belonging to or accompanying any food;

"meat" means the flesh of animals and includes fat, offal and uncooked meat products;

“minister” means the Minister responsible for health;

“moveable establishments” includes charter boats, aircrafts, and mobile vans;

“official laboratory” means any laboratory designated by the Public Health Commissioner under section 5(3) to be an official laboratory for the purpose of this Act;

“official control” means all types of controls and control activities made by the Competent Authority to verify compliance with standards, operating procedures, practices and other regulatory requirements. It includes routine monitoring of food business operators and food

establishments and more intensive checks involving inspections, verifications, audits, sampling and testing of samples and recall of defective products;

"person" means -

- a) a natural person;
- b) a legal person;

“precautionary principle” means the principle that it is not unreasonable to refuse permission for an activity that has great potential negative impact, even if there is insufficient scientific data and on the basis of available pertinent information to support a refusal within a reasonable amount of time;

“premises” includes any building, tent or any other structure permanent or otherwise connected to the land and on which the same is situated, any adjoining land used in connection therewith and any vehicle, conveyance, vessel, ship, aircraft, floating craft, street, place open space or place of public resort, bicycle, tricycle, any vehicle motorized or not, used for or in connection with the preparation, preservation, packaging, storage, conveyance, used for distribution or sale of any food;

“public health commissioner” means the officer appointed under the Public Health Authority Act 2013;

“reconditioning” means the reworking and segregation, or other manipulation, which brings a product into compliance with this Act, whether or not for its original intended use;

“relabeling” means the replacement of a label by one which complies with the requirements under this Act and regulations made thereunder.

“risk” means the likelihood of an adverse health effect and the severity of this effect following exposure to the hazard;

“risk assessment” means the scientific evaluation of known or potential adverse health effects resulting from human exposure to biological, chemical and physical hazards.

"sell" means transmit, convey or deliver in pursuance of a sale, exchange, raffle or other disposal;

"slaughterhouse" means a place for slaughtering animals or poultry, the flesh of which is intended for sale for human consumption and includes a place used in connection therewith for the confinement of animals or poultry while awaiting slaughter or for keeping, or subjecting to any treatment or process, products of the slaughtering of animals or poultry, authorized under section 13(1);

“traceability” means the ability to trace and follow a food product, food ingredient or other substance intended, or expected to be incorporated into a food product, through all stages of production, processing and distribution.

### **Binding of Republic**

3. This Act binds the Republic.

## **Part II Administration**

### **Functions and Powers of the Minister**

4. (1) The Minister shall be responsible for the administration of this Act.
- (2) The Minister may delegate to the Public Health Commissioner, any duty, function or power conferred onto the Minister under this Act, with the exception of the powers conferred under subsection (3) and (4) and the power to appoint members of the Food Board under s 7(5).
- (3) The Minister may make regulations under this Act for carrying out the purposes and provisions of this Act.
- (4) The Minister may adopt international standards, regulations and guidelines on food safety for the purpose of this Act.
- (5) The Minister shall ensure that adequate resources are available for the performance of the functions under this Act, in accordance with any policy laid down by the Ministry responsible for Health.

### **Functions and Powers of the Public Health Commissioner**

5. (1) The Public Health Commissioner shall advise the Minister on matters related to food safety, food hygiene and food borne diseases for the purpose of this Act.
- (2) The Public Health Commissioner may, in writing, appoint any public officer or any other person as he may see fit, as an authorised officer for the purpose of this Act and shall cause the appointment to be published in the Official Gazette.
- (3) The Public Health Commissioner may, in writing, appoint any laboratory as an official laboratory for analytical works for the purpose of this Act and shall cause the appointment to be published in the Official Gazette.
- (4) The Public Health Commissioner may, designate any laboratory for analytical works not able to be conducted by any official laboratory appointed under subsection (3) for the purpose of this Act.
- (5) The Public Health Commissioner may, in writing, appoint any person with the prescribed qualifications and experience to be an authorised analyst for the purpose of this Act and shall cause the appointment to be published in the Official Gazette.

### **Functions and Powers of the Competent Authority**

6. (1) The Minister shall designate the department responsible for food control as the Competent Authority under this Act, which shall work with the Competent Authorities of other countries.
- (2) The designation of the Competent Authority under subsection (1) shall be published in the Gazette.
- (3) The Competent Authority shall be responsible for the implementation and enforcement of this Act
- (4) The functions of Competent Authority under the Act shall be -
  - a) to implement and maintain a food control system, that provides a high level of protection for consumers' health;
  - b) to undertake official control of domestic and imported food, at all levels and throughout the food supply chain, including food ingredients, food additives, contaminants, production chemicals such as pesticides and veterinary drugs as well as articles use in food production, to ensure that these do not pose a risk to human health;
  - c) to undertake official control of domestic and imported feed intended for food producing animals, including the food for making feed, feed ingredients, additives, contaminants and production chemicals and agricultural inputs such as pesticides and veterinary drugs as well as articles use in feed production to ensure that these do not pose a risk to human health;
  - d) to approve the importation and exportation of food and feed in accordance with this Act at the designated points of entry or exit as prescribed under the Customs Management Act;
  - e) to register, approve and regulate food and feed business operators prior to licensing of their operation to ensure appropriate requirements are met in accordance with this Act;
  - f) to register, approve and regulate food establishments;
  - g) to develop and approve the Food Handlers and Food Hygiene Training as required under the Act;
  - h) to ensure the implementation of appropriate pre requisites programmes including food hygiene and sanitation practices, food safety management system, including Good Agricultural Practices, Good Manufacturing Practices or Hazard Analysis Critical Control Point, by approved food and feed establishments, food and feed business operators, food and feed importers and exporters, for the handling, processing, manufacturing, transportation, storage and distribution and exportation of food;
  - i) to adopt the Codex Alimentarius Commission Standards, Recommendations and Guidelines as elements of its national food control system in order to protect the health of consumers;
  - j) to consider standards, recommendations or guidelines from other international inter-governmental organisations where extra protection of the consumers' health is deemed necessary;
  - k) to assess food safety risks and make decisions based on scientific information, evidence and/or risk analysis as deemed appropriate;

- l) to take steps to identify the food product concerned and to implement appropriate measures to prevent, reduce or eliminate that risk, where a food may present a risk to human health;
- m) to develop and implement appropriate food regulations and guidelines in pursuance of the Act;
- n) to develop and maintain an Operations Manual for the guidance of the implementation of this Act;
- o) to monitor the presence of food hazards in food of plant, animal and fishery origin and formulate and implement measures to address incidents of these hazards in close collaboration with other governmental agencies,
- p) to provide advice to the Public Health Commissioner, regulators, the food industry and consumers on food safety issues with the aim of achieving an integrated approach to food safety;
- q) to carry out onsite inspections of the Food and Feed Establishments of the exporting country prior to importation, where deemed necessary;
- r) to maintain a register of all categories of Food and Feed Business Operators responsible for producing and placing food and feed on the domestic and export market;
- s) to provide consumers with information for managing food safety risks under their control;
- t) to work with the academics and scientific institutions and, where necessary, outsource expertise to support the risk based and scientific foundation of the food control system;
- u) to ensure clear communication and develop interactive exchange with all stakeholders in the food chain;
- v) to participate on the Codex Committee, the Sanitary and Phytosanitary Committee, Technical Barriers to Trade Committee as well as other national and international standard setting bodies; and
- w) to maintain clear records and documentation.

(5) In carrying out its functions under the Act, the Competent Authority shall apply the following principles of food safety -

- (a) ensure official controls are carried out regularly and according to priorities determined by risk assessments undertaken in the following cases:
  - (i) where non-compliance is suspected;
  - (ii) when seeking approval to operate as required under this Act;
  - (iii) when seeking approval for importation;
- (b) ensure official controls are carried out using means proportionate to the end to be attained;
- (c) ensure official controls are enforced for food categories as deemed necessary by the Competent Authority;
- (d) ensure official controls cover all stages of production, manufacturing, processing, storage, transportation, distribution and importation ;
- (e) ensure the following is taken into account in determining whether food is injurious to health -

- (i) the probable immediate, short-term or long-term effects on the subsequent generations of that food on health;
  - (ii) the probable cumulative effects ; and
  - (iii) the particular health sensitivities of a specific category of consumers where the food is intended for that category.
- (f) presume that all food in the same batch, lot or consignment is unsafe, where unsafe food is part of that batch, lot or consignment of the same class or description.

(6) In carrying out its functions under the Act, the Competent Authority shall apply the following general principles -

- a) Applying the precautionary principle, give precedence to consumers' health in the event of insufficient relevant scientific evidence;
- b) be transparent to all stakeholders in the food and feed supply chain and at the same time adhere to legal requirements to protect confidential information as deemed appropriate;
- c) ensure effective communication and consultation with all interested parties throughout the risk analysis process;
- d) ensure clear, interactive and documented communication, amongst risk assessors and risk managers and reciprocal communication with all interested parties throughout the risk analysis process;
- e) take measures that are consistent, impartial, non-discriminatory, free from undue influence and conflict of interest which shall be no more restrictive to trade than required;
- f) operate in a cooperative and coordinated manner, within clearly assigned roles and responsibilities, for the most effective use of resources in order to minimise duplication and/or gaps and to facilitate information exchange;
- g) endeavour to have sufficient capacity and capability to undergo continuous improvement and include mechanisms to evaluate whether it is achieving its objectives; and
- h) recognise components or the entire sanitary measures of an exporting country, although designed and structured differently, as may be capable of meeting the same objective as that available nationally, including equivalence agreements.

(7) The Competent Authority and competent authorities of exporting countries may exchange information, which may include:

- a) requirements of food control systems;
- b) "hard copy" certificates attesting to conformity with requirements of the particular consignments;
- c) electronic data or certificates where accepted by the parties involved;
- d) details about rejected food consignments, such as destruction, re-exportation, processing, or redirection of consignment for uses other than human consumption;
- e) lists of establishments or facilities that conform to importing country requirements;

- f) any changes to import protocols, including specifications, which may significantly affect trade which shall be promptly communicated to trading partners, allowing a reasonable interval between the publication of regulations and their application.

### **The Food Control Board**

7. (1) There is hereby established a Food Control Board, hereinafter referred to as the “Board”.
- (2) The Board shall advise the Public Health Commissioner and the Competent Authority on matters necessary for the implementation of this Act including the making of Regulations under this Act.
- (3) The Board shall consist of a maximum of 10 members which shall include—
  - a) representatives of the agency responsible for Public Health;
  - b) a representative of the Ministry responsible for International Trade;
  - c) a representative of the Seychelles Licensing Authority;
  - d) representatives of the agency responsible for agriculture and veterinary services;
  - e) a representative of the agency responsible for consumers’ concern;
  - f) representatives of food processors, importers, exporters, retailers, and wholesalers;
  - g) a representative of the Seychelles Bureau of Standards.
- (4) The administrative head of the department responsible for Food Control shall be an ex officio member of the Board.
- (5) The Minister shall appoint the members of the Board.
- (6) The Minister shall appoint a member to be the Chairperson of the Board
- (7) Members of the Board shall be appointed for a period of three years and be eligible for reappointment.
- (8) Appointments made under section (5) shall be published in the Gazette.
- (9) Members of the Board may at anytime resign in writing addressed to the Minister.
- (10) The quorum of the Board shall be 2/3 of the total members of the Board.
- (11) The Board shall meet monthly or as may be determined by the Chairperson but not less than once a month.
- (12) The Board may invite any person to attend any meeting of the Board for the purpose of assisting or advising the Board but such person shall not have any right to vote at such meeting.
- (13) (1) The Chairperson may appoint sub-committees to work on specific or emerging food matters;  
(2) Sub-committees appointed under subsection (1) shall be chaired by a member of the Board.
- (14) Members of the Board and the sub committees shall be paid such allowances as the Minister may determine.
- (15) Subject to this Act, the Board shall regulate its own proceedings.

### **Part III General Provisions**

#### **Sale of food, which is injurious to health**

8. Any person who, adds any substance to food, uses any substance as an ingredient in the preparation of food, extracts any constituent from food or subjects food to any process or treatment, so as to render the food injurious to health with intent that the food shall be sold in that state, commits an offence.

#### **Importation, production or sale of poisonous or unwholesome food or food otherwise injurious to health**

9. Any person who imports, produces or sells food which –  
 (a) contains any substance, which is poisonous or harmful;  
 (b) consists in whole or in part of any physical, chemical or biological contaminant, putrid, rotten, decomposed or diseased substance or foreign matter; or  
 (c) is otherwise unfit for human consumption,  
 commits an offence.

#### **Deception**

10. Any person who labels, packages or advertises or is a party to the publication of an advertisement of any food in contravention of this Act, or in a manner that is false, misleading or deceptive as regards to its character, nature, substance, quality, composition, merit or safety, commits an offence.

#### **General protection for food purchase**

11 (1) Any person who sells to the prejudice of a purchaser any food which: -

- a) is adulterated;
  - b) contains substances the addition of which is prohibited by this Act or regulations made thereunder;
  - c) contains substances in greater proportion than permitted by this Act or regulations made thereunder;
  - d) is not of the nature, substance, composition or quality of the food demanded by the purchaser;
- commits an offence.

(2) In proceedings under this section it shall not be a defence to allege that the purchaser bought the food for analyses or examination.

#### **Handling of Food under insanitary conditions**

12. Any person who sells, prepares, packages, stores, distributes, or displays for sale any food under insanitary conditions, whereby the food may be contaminated with physical, biological and chemical contamination or may be rendered unfit for human consumption, commits an offence.

### **Registration of Food Business Operators**

13. (1) Any person operating as a food business operator without an approval from the Competent Authority, or who fails to comply with the conditions of the approval, commits an offence.

### **Traceability**

14. (1) Any person who places manufactured food or feed on the market without adequate labelling or identification to facilitate its traceability in successive stages of the distribution chain, commits an offence.
- (2) Food and feed business operators shall ensure that all raw materials and any other substances used and incorporated in food and feed at all stages of production, processing and distribution shall be traceable to source of purchase.

### **Food Handlers Training**

15. (1) All approved food business operators shall undergo Food Handlers and Food Hygiene Training approved by the Competent Authority.
- (2) Any person operating as a food business operator without undergoing the training provided for under subsection (1), commits an offence.

### **Feed Safety**

16. (1) Any person who imports or places feed on the domestic market or provides feed which is considered unsafe to food-producing animals, commits an offence.
- (2) For the purposes of subsection (1) all feed used for feeding food producing animals shall be considered to be unsafe if it -
- (a) contains biological, physical or chemical hazards that has an adverse effect on human and animal health;
  - (b) consequently renders the food-producing animal unsafe for human consumption;
  - (c) has a probable cumulative toxic effect on the health of the consumer.

### **Product Recall**

17. Conformity of food with specific provision applicable to that food shall not bar the Competent Authority from taking appropriate measures to impose restrictions on it being placed on the market or to require withdrawal from the market where there are reasons to suspect that the food is unsafe.

### **Crisis Management**

18. (1) Where there is evidence that food or feed is likely to constitute a serious risk to human health, the Competent Authority, in coordination with relevant governmental agencies and departments, shall immediately adopt measures depending on the gravity of the situation.

(2) In the case of food or feed from the domestic market, the Competent Authority shall -

- (a) suspend its distribution on the market and or the use of the food or feed in question;
- (b) lay down special conditions for the food or feed in question;
- (c) request immediate recall of the food or feed in question from the market; and
- (d) adopt any other appropriate interim measures.

(3) In the case of imported food or feed, the Competent Authority shall -

- (a) suspend the importation of the food or feed in question from all or parts of the country concerned as appropriate and, where applicable, from the country of transit;
- (b) lay down special conditions for the food or feed in question from all or part of the country concerned; and
- (c) adopt any other appropriate interim measures.

## **Part IV Importation**

### **Importation**

19. (1) All imported food shall comply with the same level of protection and requirements, as applied to food and feed prepared, manufactured, packaged, stored, distributed and sold on the domestic market.

(2) The Competent Authority shall be responsible to recognize the equivalence of food control regulatory systems of an exporting country and shall comply with international agreements that Seychelles is party to.

(3) Imported foods and feed shall undergo cargo inspection and clearance by the Competent Authority at all designated points of entry to determine compliance with national regulations.

(4) Food and feed consignments not complying with national regulations shall be disposed of according to policies established by the Competent Authority.

### **Relabelling or reconditioning**

20. (1) Where any food sought to be imported into Seychelles, if sold in Seychelles, contravenes this Act, the food may, with the approval of the Competent Authority, be imported into Seychelles for the purpose of relabelling or reconditioning. Such approval shall be subject to conditions imposed by the Competent Authority.

(2) Where relabelling or reconditioning of food imported under subsection (1) is not carried out

in compliance with this Act, the food shall be exported or destroyed by the importer, in a manner approved by the Competent Authority, within such period as Competent Authority may determine.

- (3) Any person who does not
- (a) relabel or recondition; or
  - (b) export or destroy,

in compliance with subsection (2) any food imported by him under subsection (1), commits an offence.

## **Part V Enforcement**

### **Appointment of Authorised Officers**

21. (1) The Public Health Commissioner may authorise any person to act as an authorised officer for the purpose of implementation of specific provisions of this Act, and such authority shall relate to a specific matter or to all matters under this Act.

(2) The Public Health Commissioner shall issue credentials to every person authorised to act as an authorised officer.

### **Powers of Authorised Officers**

22. An authorised officer may -

- (1) at any reasonable hour or whenever work is in progress in any premises dealing in food, enter any premises where he believes that any article is prepared, packaged, stored, distributed or sold, examine the article, take samples thereof for analysis and examine anything which he believes is used or capable of being used for the preparation, packaging, storing, conveying, distribution or sale, of any article;
- (2) mark, seal or otherwise secure, weigh, count or measure any article, the preparation, packaging, storing, conveying, distribution or sale of which is or appears to be contrary to this Act or any regulations made under this Act.
- (3) stop, search or detain any vehicle or vessel in which he believes that any article to which this Act applies is conveyed, examine the article and take samples thereof;
- (4) open and examine any receptacle or package which, he believes, contains any article to which this Act applies, examine the article and take samples thereof;
- (5) call for any books, documents or other records including electronic records, which, he believes, contains any information relevant to the enforcement of this Act with respect to any article, make copies, and take extracts therefrom;
- (6) require any occupier or employee of any food establishment where food is prepared, processed, packaged, distributed, kept, or sold to undergo a medical examination if there is a reasonable suspicion that the occupier or employee may be a carrier of a communicable disease or suffering from such a diseases;

- (7) (a) seize and detain, for such time as may be necessary, any article which he reasonably believes to be unfit for human consumption, likely to be injurious to health or for any other reasons, which, he believes, this Act or regulations made thereunder has been contravened;
- (b) an authorised officer shall release any article seized by him under subsection 7(a) where he is satisfied that the provisions of this Act in relation to the article have been complied with;
- (8) investigate cases of food borne illnesses including conducting interviews with management and staff members of food establishments or relevant persons and authorities;
- (9) take photographs, films, audio or visual recordings of any article, vehicle, vessel or food establishments;
- (10) take samples of any food, article or anything that is part of the surrounding environment to determine whether that environment poses a food safety risk;
- (11) where an authorised officer determines that an animal or carcass is diseased or unfit for human consumption, he may seize it and cause it to be destroyed or disposed of in such manner as he may direct without seeking any consent or permission and no compensation shall be payable to any person in respect to the destruction or disposal;
- (12) (a) An authorised officer may require any person involved in the preparation, importation, or use of substances used in the preparation of food to furnish to the Competent Authority such particulars as may be so specified of the composition and use of the substances used or sold for use in the preparation of food;
- (b) The authorised officer may require information to be furnished in respect to any substance, including but not limited to –
- i. composition and the chemical nature of the substance;
  - ii. manner in which the substance is used or proposed to be used in the preparation of food;
  - iii. results of any investigations carried out determining whether and to what extent the substance used in the preparation of food is injurious to health;
  - iv. results of any investigation carried out determining the cumulative effect on the health of a person consuming the food in ordinary quantities.
  - v. exercise any other functions assigned to him by the Public Health Commissioner.
23. An authorised officer shall in the exercise of his powers under the section 22, if required by any person affected thereby, produce the credentials issued to him under section 24(2).
24. Where any authorised officer has seized an article under this Act and the owner thereof or the person in whose possession it was at the time of the seizure consents in writing to its destruction, the article shall be destroyed or otherwise disposed of as the authorised officer may direct.
25. (1) Where an authorised officer is unable to obtain the consent required under section 24 for the destruction of the article referred to in that subsection, he may, with notice to the owner or person in whose possession the article was at the time of seizure, apply to the magistrate's

court for the destruction or disposal of the article and the owner or such person may oppose the application.

- (2) If it appears to the magistrate's court that the article seized is unfit for human consumption or injurious to health, or otherwise contravene this Act or any regulations made under this Act, the court may make an order for its destruction or disposal so as to prevent it being used for human consumption.
- (3) Notwithstanding section 25 and subsection (1), where an article poses an imminent threat to public health, the authorised officer shall immediately destroy the article.

26. No authorised officer shall enter any premises solely used as a private dwelling for implementation of this Act, without a warrant signed by a Magistrate, unless the occupier consents to the entry.

### **Official Laboratory and Official Analyst**

27. The Public Health Commissioner may by notice published in the Gazette appoint any person as an official analyst who shall perform official analyses or examinations for the purposes of this Act or, if requested by the Public Health Commissioner to do so, for the purposes of any other Act.

### **Samples for Analyses**

28. The authorised officer shall conduct sampling according prescribed standards, pursuant to his powers under section 22(10).

### **Certificate of Analysis or Examination**

29. (1) A certificate of analysis or examination, shall be issued and signed by the official analyst from the official or designated laboratory and shall be sufficient evidence of the facts stated therein for the purpose of this Act.

(2) The certificate of analysis or examination shall include information on the method of examination or analysis.

### **Improvement Notice**

30. (1) Where an authorised officer has reasonable grounds to believe that the owner, occupier or licensee of any food establishment has failed to comply to this Act or regulations made thereunder, the authorised officer may serve on the owner, occupier or licensee, an improvement notice in the form specified in Schedule 1.

(2) An improvement notice shall state -

- (a) the matter which constitutes any failure on the part of the owner, occupier or licensee to comply with the Act or regulations;
  - (b) the measures that shall be taken to secure compliance;
  - (c) the period granted to secure compliance, which shall –
    - (i) not be less than 21 days; or
    - (ii) where the non-compliance poses an imminent danger to public health, not be more than 21 days.
- (3) The period granted to secure compliance with a notice under this section may, at the discretion of the authorised officer, be extended by 2 further periods of 21 days each;
- (4) The notice must include an authorised stamp or seal.
- (5) A person who fails to comply with an improvement notice commits an offence.

### **Prohibition Notice**

31. (1) Where the authorised officer determines that the preparation, cooking, manufacturing, processing or selling of food at any premises, or the addition of any ingredient to any food constitute a hazard to health, the authorised officer shall serve a prohibition notice in the form specified in Schedule 1 on the person conducting the activity.
- (2) A prohibition notice shall state –
- (a) the matter which constitute any failure on the part of the owner, occupier or licensee to comply with the Act or regulations;
  - (b) the measures that shall be taken to secure compliance;
  - (c) the period granted to secure compliance
- (3) The notice must include an authorised stamp or seal.
- (4) A person who fails to comply with a prohibition notice, commits an offence

### **Emergency Closing Order**

32. (1) Where the authorised officer certifies, based on risk assessment, that the preparation, cooking, manufacturing, processing or selling of food at any premises, or the addition of any ingredient to any food constitutes a serious hazard to health, the authorised officer shall serve an emergency closing order on the person conducting the activity.
- (2) A copy of an order issued under subsection (1), signed by the authorised officer, shall be a sufficient warrant for its enforcement by the Commissioner of Police.
- (3) A copy of an order under this section shall be affixed on the main door of the establishment where the offence was committed.
- (4) The Public Health Commissioner may, in writing, withdraw the emergency closing order issued under subsection (1) where the preparation, manufacture, production, packaging, storing, distribution or selling of food at the food establishment no longer constitutes a hazard to health.
- (5)
  - (a) The owner, occupier or licensee of the food establishment, as the case may be, may apply to the magistrate court for the discharge of the order;
  - (b) Pending the decision of the magistrate court, the emergency closing order shall remain in force;

(c) The Magistrate may dismiss the plaint, discharge or amend the order, alter its duration or impose such conditions, as he considers expedient and proper for the purposes of the Act or regulations made thereunder.

(6) A person who fails to comply with an emergency closing order issued under subsection (1), commits an offence.

## **Part VI Offences and Penalties**

### **Obstruction, false information**

33. Any person who when requested to give information or any assistance to an authorised officer in the performance of his functions under this Act –

- (a) fails to give the information or assistance reasonably requested; or
- (b) knowingly makes a declaration which is false or misleading commits an offence.

34. A person who wilfully obstructs, misleads, intimidates, assaults, bribes or impersonates an authorised officer in the execution of his function under this Act, commits an offence.

35. Any person who without the permission in writing from an authorised officer, removes, alters or interferes in any way with any article seized and detained under this Act, commits an offence.

### **Dereliction of duty by authorised officers**

36. An authorised officer who-

- (a) fails without reasonable excuse to perform any of his duties under this Act;
- (b) disposes of a article or other item under the control of the officer other than in accordance with this Act;
- (c) except for purposes of this Act, discloses information of a confidential or commercial nature which has come into the officer's knowledge while performing functions under this Act;
- (d) in the course of performing his duties willfully intimidates or unlawfully assaults any person;
- (e) in connection with his or her functions or duties solicits or accepts a gift or bribe; or
- (f) knowingly or recklessly makes a false or misleading statement, or issues a false or misleading certificate or other document, while purporting to perform his duties commits an offence.

### **Fraudulent use of official document**

37. (1) A person to whom a permit or other document is given or issued under this Act who -

- (a) forges or unlawfully alters the permit or other document; (b) allows any other person to use or attempt to use the permit or other document for any purpose under this Act commits an offence.

- (2) A person who, for purposes of this Act, produces a document, which is false or misleading, knowing it to be so, and intending another person to rely on it, commits an offence.
- (3) A person who uses or affixes an official stamp or seal required under this Act, without lawful authority and with intent to defraud or deceive, commits an offence.

### **Penalties**

38. (1) A person who commits an offence under a section of this Act listed in column 2 of Schedule 2 to this Act shall be liable on conviction to the penalties listed in columns 3 and 4 of that Schedule.
- (2) A court may impose on an individual any penalty for an offence up to the amount of fine or period of imprisonment or both such imprisonment and fine listed in respect of the offence.
- (3) A body corporate that commits an offence shall be liable on conviction to a fine five times the fine for the same offence if committed by an individual, as provided in Schedule 2.
- (4) If a body corporate commits an offence under this Act, every person who is a board member or director or otherwise concerned in the management of the board, also commits an offence as an individual, unless the person proves -
- (a) that the offence was committed without his consent or connivance; and
  - (b) that he exercised reasonable diligence to prevent the commission of the offence, having regard to the nature of his functions in the body corporate and to all the circumstances.
- (5) Where a person is convicted of an offence under this Act, the court may in addition to any other penalty, order that any article, by means of which or in relation to which the offence was committed, be forfeited and upon such order being made the article may be disposed of as the court may direct.

## **Part VII Miscellaneous Provisions**

### **Establishment of Appeals Board**

39. There shall be established an Appeals Board.
40. (1) The Appeals Board shall consist of the following members appointed by the President:
- (a) a Chairperson;
  - (b) a representative of the Attorney General Chambers;
  - (c) a person having technical competence relevant to the functions of the Act.
- (2) The President shall appoint the Chairperson and the members of the Appeals Board on such terms and conditions as the President may determine and the appointment shall be published in the Gazette.
- (3) The members of the Board shall hold office for a period of three years and shall be eligible for reappointment.
- (4) The President may at any time terminate the appointment of a member who has been found guilty of:
- (a) any misconduct, default or breach of trust in the discharge of that member's duties; or
  - (b) an offence of such a nature as renders it desirable that the member's appointment be

terminated.

(5) The Appeals Board shall regulate its own proceedings.

(6) The Appeals Board may appoint as advisor for a specific appeal a person whose knowledge or experience is such that the person is able to assist the Appeals Board in its deliberations.

### **Appeals Process**

41. (1) Any person dissatisfied with a decision of the Competent Authority made pursuant to this Act, or a notice issued under sections 30 or 31, or an order made under section 32, may, within 28 days of the decision or date of service of the notice or order, appeal to the Appeals Board.

(2) A notice issued under sections 30 or 31 or an order issued under section 32 shall remain in force pending the determination of the appeal by the Appeals Board.

(3) An appeal under subsection (1) may be filed in such manner as may be prescribed.

(4) The Appeals Board may, where it considers an appeal

(a) confirm the decision of the Competent Authority;

(b) vary the decision of the Competent Authority;

(c) quash the decision of the Competent Authority;

(d) order the Competent Authority to reconsider its decision.

### **Regulations**

42. (1) The Minister may make regulations for carrying into effect the provisions of this Act and may prescribe all matters which by this Act are required to be prescribed or which are necessary or convenient to be prescribed for giving effect to this Act.

(2) In making regulations under subsection (1), account shall be taken of the CODEX Alimentarius and of the World Trade Organisation Agreement on the Application of Sanitary and Phytosanitary Measures.

(3) The Minister may by regulations amend column 3 and 4 of Schedule 3 relating to penalties provided for under this Act.

(4) Before making any regulations under subsection (1), the Minister shall obtain the advice of the Public Health Commissioner, the Competent Authority and consult other relevant authorities as deemed appropriate.

(5) Any person who contravenes any regulation made under this Act or any provision therein, commits an offence.

### **Evidence**

43. In any proceedings under this Act

(1) a report of analysis signed or purporting to be signed by an authorised analyst shall be prima facie evidence of the facts stated therein provided that

(a) the party against whom it is produced may require the attendance before court of the public health analyst for the purposes of cross examination; and

(b) no such report shall be received in evidence unless the party intending to produce it at the trial has, before the trial given to the party against whom it is

intended to be produced reasonable notice of such intention together with a copy of the report.

(2) The contents of any package appearing to be intact and in the original state of packing by its manufacturer and bearing the name, address or registered mark of the manufacturer shall be presumed, unless the contrary is proved, to be the contents described in the package or any label printed on, attached to or accompanying the package and manufactured by the person described as the manufacturer on the package or label.

(3) Any article commonly used for human consumption, if sold or kept for sale shall be presumed until the contrary is proven, to have been sold or kept for sale for human consumption.

(4) Any article commonly used for human consumption which is found on premises used for the sale, preparation or storage of products for human consumption shall be presumed, until the contrary is proved, to be intended for sale, or for manufacturing products for sale, for human consumption.

(5) Any article capable of being used in the composition or preparation of any food, which is found on premises on which that food is prepared shall, until the contrary is proven, be presumed to be intended for such use.

### **Limitations of Liability**

44. The Minister, the Competent Authority, the Public Health Commissioner, any authorised officer shall not be criminally or civilly liable for an act done or omission made in good faith in the exercise of a power or the performance of a function under this Act.

### **Repeals and Savings**

45. (1) The Food Act, 1987 is repealed.

(2) Statutory instruments made under the Food Act, 1987 continue in force until amended, replaced or repealed under this Act.

### **Relationship with other Acts**

46. The provision of this Act shall be in addition to and not in derogation of the provisions of any other written law.

## **Schedule 1**

### **S 30(1) Food Act**

**Improvement Notice**  
**GOVERNMENT OF SEYCHELLES**  
**PUBLIC HEALTH AUTHORITY**

Notice No.....

To.....

Address.

Notice is hereby given to you that it has been ascertained that the following matters constitute an offence under Section. ....of the Food Act, 2014.

Matters constituting the offence.....

You are hereby required within a period of ..... days from the time of service on you of the present notice to -----

Failure to comply with this notice within the period specified constitutes an offence.

Approval Number.....

Delay granted.....

Additional Delay .....

Notice served by .....

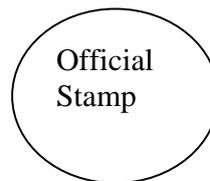
Notice complied with on .....

.....

.....

Date

Authorised Officer



**Prohibition Notice**  
**GOVERNMENT OF SEYCHELLES**  
**PUBLIC HEALTH AUTHORITY**

Notice No.....

To .....

Address .....

The preparation/manufacturing/processing/cooking/packaging/storage/distribution/selling of food/article at (location)....., or the addition of ..... to ..... (food) constitute a hazard to health.

You are hereby ordered to discontinue such activity forthwith.

You are hereby required within a period of ..... days from the time of service on you of the present notice to.....

Failure to comply with this Prohibition Notice constitutes an offence.

Approval Number.....

Notice served by .....

Notice complied with .....

.....

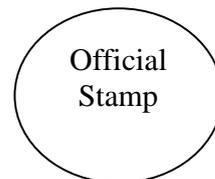
.....

Date

Authorised Officer

**Schedule 2**

**S 38 (1) Penalties**



Column 1	Column 2	Column 3	Column 4	Column 5
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Item	Section	Offence	Fine (SR)	Prison
1.	8	Sale of food that is injurious to health	Not exceeding SR 100,000	Not exceeding 2 years
2.	9	Importation, production or sale of poisonous or unwholesome food or food otherwise injurious to health	Not exceeding SR 500,000	Not exceeding 5 years
3.	10	Deception of goods	Not exceeding 250,000	Not exceeding 2 years
4.	11	Selling food to the prejudice of the purchaser	Not exceeding 100,000	Not exceeding 2 years
5.	12	Handling of Food under insanitary conditions	Not exceeding 50,000	Not exceeding 1 year
6.	13(1)	Operating as a food business operator without approval	Not exceeding 150,000	Not exceeding 2 year
7.	14(1)	Ensuring traceability of food or feed on market	Not exceeding 50,000	Not exceeding 1 year
8.	15(2)	Operating as a food business operator without undergoing Food Handlers and Food Hygiene Training	Not exceeding 100,000	Not exceeding 1 year
9.	16(1)	Importing or placing unsafe feed on the market	Not exceeding 500,000	Not exceeding 5 years
10.	20(3)	Failure to recondition or re label food according to requirements of the Act	Not exceeding 250,000	Not exceeding 2 years
11.	30(4)	Failure to comply with an improvement notice	Not exceeding 150,000	Not exceeding 1 year
12.	31(3)	Failure to comply with a prohibition notice	Not exceeding 250,000	Not exceeding 2 years
13.	32(7)	Failure to comply with an emergency closing order	Not exceeding 500,000	Not exceeding 5 years
14.	33	Failure to give information or assistance requested; making misleading or false declaration	Not exceeding 250,000	Not exceeding 2 years
15.	34	Obstructing, intimidating, assaulting, bribing or impersonating an authorised officer	Not exceeding 500,000	Not exceeding 5 years
16.	35	Removing, altering or interfering in with articles seized and detained	Not exceeding 250,000	Not exceeding 2 years

17.	36	Dereliction of duty by authorised officers	Not exceeding 100,000	Not exceeding 1 year
18.	37 (1)-(3)	Fraudulent use of official document	500,000	Not exceeding 5 years