

-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

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)

“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;

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;

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.

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 contro

- 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)

- (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)

f)

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

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)

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,

- (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

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.

- (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

(c) The Magistrate may dismiss the complaint, 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

(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 public,

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

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

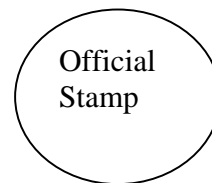
Notice complied with on

.....

.....

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

.....

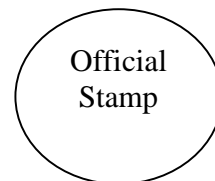
.....

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		

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