

FOOD ACT, 2014

(Act 8 of 2014)

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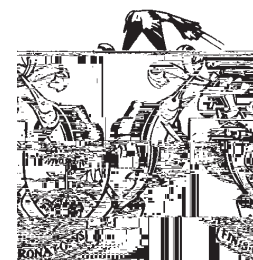
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SCHEDULE

I certify that this is a correct copy of the Bill which was passed by the National Assembly on 15th April, 2014.



LuisaWaye-Hive
Deputy Clerk



FOOD ACT, 2014

(Act 8 of 2014)

I assent

J.A. Michel
President

25th April, 2014

AN ACT to make provisions so as to ensure food safety, to establish a regulatory system to protect consumer health, to facilitate international trade and cooperation relating to food and to repeal the Food Act and for matters connected therewith or incidental thereto.

ENACTED by the President and the National Assembly

PART I - PRELIMINARY

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 published in the *Gazette*, appoint.

Short title and
commencement

2. In this Act —

“additives” means a substance not normally consumed as a food

(f) is

(c) physical contaminants such as glass, insects and metal; and includes biotechnological and sensory analysis,

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 23(1) of the Public Health Authority Act, 2013 (Act 7 of 2013);

“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

under section

“authorised analyst” means an analyst authorised under section 4(4),
to determine

“authorised officer”

- (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.

(4) Whoever commits an offence under subsection (1), (2), or (3), shall on conviction be liable to imprisonment for a term not exceeding 5 years or to a fine not exceeding SCR 500,000 or to both such imprisonment and fine.

PART VI - MISCELLANEOUS

37. Any person aggrieved by a decision of the Competent Authority made under this Act, or a notice issued under sections 28 or 29, or an order made under section 30, may, within 28 days of the decision or date of service of the notice or order, appeal to the Appeals Board in accordance with the procedure set out by or under the Public Health Authority Act, 2013 (Act 7 of 2013).

38.(1) The Minister may make Regulations for carrying into effect the provisions of this Act and may prescribe all matters which by this Act

“bottled water” means water processed and packed in plastic or glass bottles or pouches, stored, transported and sold in compliance with the requirements of this Act and conform to the microbiological and chemical requirements of this Act and 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 but does not include water abstracted for domestic use or other purposes;

“contaminant” means a substance not intentionally added to food or feed but 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 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 referred to in section 5(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 or 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 or placed on the market for human consumption;

35.(1) An authorised officer who—

- (a) fails without reasonable excuse to perform any of his or her 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 perform

- (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 —

- (a) the slaughter of animals;
- (b) sale;
- (c) preparation;
- (d) manufacturing, processing, packing, distribution, import, export, storage or packing (of food) for sale;
- (e) storage or packing (of food) for sale.

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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 handler 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” means a science-based system, which identifies, evaluates

31.(1) In any proceedings under this Act 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—

Evidence

- (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 a notice of not less than 14 days 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 manufacture 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 preparation or storage of products for sale, for human consumption.

and control 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 and 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 chartered boats, aircrafts and mobile vans;

“official

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;

“serious risk” means a risk to the food consumers and animals that cannot be controlled by normal existing mechanisms by requires

PART II - ADMINISTRATION

4.(1) The Public Health Commission may, or she in writing, appoint any public officer or any other person as she or she may deem fit, as an authorised officer for the purpose of this Act and shall cause the appointment to be published in the *Gazette*.

(2) The Public Health Commission 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 *Gazette*.

(3) The Public Health Commission may, designate any laboratory for analytical works not to be conducted by any official laboratory appointed under subsection (2) for the purpose of this Act.

(4) The Public Health Commission 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 *Gazette*.

5.(1) The Public Health Authority established under section 3 of the Public Health Authority Act, 2013 (Act 7 of 2013) shall be the Competent Authority for the purpose of this Act.

(2) The Competent Authority shall be

(2) as when an official determines that an animal or carcass is diseased or unfit for human consumption, he or she may

- (c) undertake official control of 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 used in food production, to ensure that these do not pose a risk to human health;
- (d) undertake official control of 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 used in feed production to ensure that these do not pose a risk to human health;
- (e) 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, 2011 (Act 22 of 2011);
- (f) 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;
- (g) register, approve and regulate food establishments;
- (h) develop and approve the food handlers and food hygiene training as required under this Act;
- (i) ensure the implementation of appropriate prerequisites 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;
- (j) 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;
- (k) implement standards, recommendations or guidelines from other international inter-governmental organisations where protection of the consumers' health is deemed necessary;
- (l) assess food safety risks and make decisions based on scientific information, evidence and risk analysis as deemed appropriate;
- (m) take steps to identify particular food product of concern and to implement appropriate measures to prevent, reduce or eliminate that risk, where a food may present a risk to human health;
- (n) develop and implement appropriate food regulations and guidelines in pursuance of this Act;
- (o) develop and maintain an Operations Manual for the guidance of the implementation of this Act;

- 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 diseases;
- (g) (i) 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;
- (ii) an authorised officer shall release any article seized by him under subparagraph (i) where he is satisfied that the provisions of this Act in relation to the article have been complied with;
- (h) investigate cases of food borne illnesses including conducting interviews with management and staff members of food establishments or relevant persons and authorities;
- (i) take photographs, films, audio or visual recordings of any article, vehicle, vessel or food establishment; and
- (j) 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.

20.(1) An authorised officer may—

(a) at any reasonable hour or whenever work is in

- (p) 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;
- (q) to provide advice to other regulators, the food industry and consumers on food safety issues with the aim of achieving an integrated approach to food safety;
- (r) to carry out inspections of food and feed establishments of the exporting country prior to importation, where deemed necessary;
- (s) 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;
- (t) to provide consumers with information for managing food safety risks under their control;
- (u) to work with academics and scientific institutions and, where necessary, outsource expertise to support the risk based and scientific approval of the food control system;
- (v) to ensure clear communication and develop interactive exchange with all stakeholders in the food chain;
- (w) 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;

- (x) to maintain clear records and documentation;
and
- (y) such other functions as may be prescribed by Regulations.

(4) In carrying out its functions under this 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.

resources in order to minimise duplication or
gaps and to facilitate information exchange;

- (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 food establishments or facilities that conform to importing country requirements; and
- (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.

(7) The Competent Authority may by order published in the *Gazette*, appoint such committees as may be considered necessary consisting of persons having experience and qualifications in the field of food or feed for the purpose of advising the Authority on any matter referred to the Committee.

6.(1) Where there is evidence that food or feed 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) Subject to subsection

- (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 deemed appropriate and, where applicable, from the country of transit;
- (b) lay down special conditions for the food or feed in