

Seychelles

Right of Access to Islands Act

Act 35 of 1967

Legislation as at 30 June 2012

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Right of Access to Islands Act

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Right of Access to Islands Act

Act 35 of 1967

Commenced on 5 May 1975

[This is the version of this document at 30 June 2012 and includes any amendments published up to 30 June 2014.]

[Act 35 of 1967; [SI 95 of 1975](#); Act [23 of 1976](#); Act [17 of 1981](#)]

1. Short title

This Act may be cited as the Right of Access to Island Act.

2. Interpretation

(1) In this Act unless the context otherwise requires—

"**emergency**" includes circumstances where life, health or property is endangered or likely to be endangered;

"**Government**" means the Government of Seychelles;

"**Government officer**" means an officer of the Government and includes a Minister, a Judge, a magistrate, a justice of the peace, a police officer, an agent or servant of the Government, any person working in conjunction with a department of the Government and any other person authorised by the Minister to exercise the powers conferred by this Act;

"**island in private ownership**" includes an island held on lease or by a person who has a usufructuary or any other beneficial interest in such island;

"**owner**" includes a lessee, a usufructuary or any person having a beneficial interest in the island;

"**resident Government officer**" means a Government officer directed by the Minister to reside on an island under the provisions of [section 6](#).

(2) A Government officer shall be deemed to visit an island for the purpose of performing his duties if the purpose of such visit is to ensure that on the island the requirements of peace, order and good government and of all applicable laws are being met.

3. Right of access by Government officer

A Government officer shall have the right of access to any island in private ownership for the purpose of performing his duties and for any purpose incidental thereto or connected therewith.

4. Right of access in emergency

(1) Any person shall have the right of access in an emergency to an island in private ownership.

(2) The right of access under subsection (1) shall extend to any part of the island to which that person needs access because of the emergency:

Provided that—

(a) except where wider access is needed because of the special nature of the emergency, the right shall be exercised by anchoring or berthing, landing on the island and going by a direct route to the settlement; and

- (b) the right shall not include a right of entry to any building unless that building is open to the public.
- (3) Section 9 applies to a person exercising a right of access under this section as it applies to government officers.
- (4) A person exercising a right of access under this section shall as soon as practicable report the emergency to the owner of the island or his agent.
- (5) The owner of the island or his agent shall, if so requested by a person exercising a right of access under this section, inform the Harbour Master at Victoria of the emergency by radio or by the quickest method otherwise available.
- (6) No person shall obstruct or hinder a person exercising a right of access under this section.

5. Powers which may be exercised by Government officer

Without prejudice to the generality of the provisions of section 3 a Government officer, for the purposes aforesaid, may exercise any or all of the following powers:—

- (a) use any landing or berthing facilities available;
- (b) have access to the foreshore and to any part of the island;
- (c) enter upon the island with such assistants or servants, vehicles, appliances and instruments as are necessary for or incidental to the performance of the relevant duties;
- (d) inspect any house, building, structure, machinery, livestock and plantation on the island;
- (e) interview any person residing on the island;
- (f) make use of any natural material upon which no work has previously been expended and of any water, whether conserved or not, found on the island;
- (g) place, erect or set up and maintain any permanent or temporary building, structure or tent on the island;
- (h) place, erect or set up and maintain any permanent or temporary light, beacon or other aid to navigation on the island or on any building or structure erected thereon;
- (i) fell any trees, lop branches and remove vegetation or brushwood on the island;
- (j) reside on the island for such time as may be necessary to carry out his duties;
- (k) requisition any room or building for temporary use as a court room, a police station or an office;
- (l) do anything on the island which is incidental to or consequential upon the performance of his duties;

Provided that—

- (i) a police officer is not hereby authorised to search for any property or thing for which he would not have the authority to search without a warrant;
- (ii) the power of entry in a building used as a dwelling house shall not be exercised except at reasonable hours and after notice has been given to the occupier thereof.

6. Minister may direct officer to reside on island

The Minister may direct that a Government officer shall reside on any island in private ownership for the purpose of performing his duties and for any purpose incidental thereto or connected therewith.

7. Powers which resident officer and members of his household may exercise

A resident Government officer, in addition to the power conferred by sections [3](#) and [5](#), may reside on the island together with members of his household and for such purpose the resident Government officer and all the members of his household may exercise the powers specified in paragraphs (a), (b) and (f) of [section 5](#).

8. Power to requisition land for officer's residence

Where the Minister directs a Government officer to reside on an island in private ownership the Minister may requisition such area of land on the island as may be necessary to provide a residence for such officer.

9. Officers and other persons to do as little damage as may be

Government officers or resident Government officers and members of their household shall do as little damage as possible in the exercise of the several powers conferred by this Act.

10. Duty to give help and facilities to officers

The owner of the island and his agents and servants shall give all the help and the facilities necessary on the island to Government officers in the exercise of their duties and of the several powers conferred by this Act.

11. Duty of owner with regard to lighthouses, beacons and other aids to navigation

The owner of an island on which any light, beacon or other aid to navigation has been placed, erected or set up shall ensure that at all times such light, beacon or aid is not obscured by vegetation or by any building or structure and shall follow all directions given in this respect by the Harbour Master.

12. Compensation and other sums payable

- (1) Compensation shall be payable by the Government to the person entitled thereto as the result of the exercise by a Government officer of the several powers conferred by this Act or any trees or crops cut down or damaged and for damage done to any building or structure.
- (2) The owner of the island shall have a claim against the Government for reasonable payment—
 - (a) for the use of any water supply and of any landing or berthing facilities;
 - (b) for the use and occupation of land—
 - (i) over which a permanent building or structure has been placed, erected or set up;
 - (ii) which has been enclosed or fenced; and
 - (iii) which has been requisitioned by the Minister under the provisions of [section 8](#).
- (3) There shall be no claim against the Government for any indemnity or compensation as the result of the exercise by a Government officer or by a resident Government officer and any member of his household of the several powers conferred by this Act except as is provided under the two foregoing subsections or as may arise from the wilful default or neglect of the Government officer or of the resident Government officer in the exercise of his duties and of the several powers conferred by this Act.
- (4) If any dispute arises concerning the amount or the application of compensation payable or any payment to be made by the Government under subsections (1) and (2), such dispute shall be summarily determined by a Judge in Chambers on the petition of the Government or of any interested party and the decision of the Judge thereon shall be final.

- (5) The determination or the payment of compensation or of any sum under this section shall not be deemed to be a condition precedent to the exercise of any powers conferred by this Act.

13. Officers and others not to be obstructed

No person shall obstruct or hinder a Government officer or a resident Government officer and any member of his household in the execution of his duties as a Government officer on an island in private ownership or in the exercise of any power or right conferred by this Act.

14. Offences

Any person who contravenes or fails to comply with any provision of [section 4](#)(4), (5) or (6) or [section 11](#) or [section 13](#) is guilty of an offence and liable to a fine of five thousand rupees and imprisonment for one year.

15. Retrospective effect of certain provisions

The provisions of this Act shall apply with retrospective effect to any island in private ownership on which any building, structure or lighthouse has been erected by the Government and on which Government officers reside and for the purpose of this Act—

- (a) the building, structure or lighthouse shall be deemed to have been placed, erected or set up thereon under the provisions of [section 5](#);
- (b) the Government officers shall be deemed to have been directed to reside thereon under the provisions of [section 6](#); and
- (c) the area of land accupied by the Government officers as their residence shall be deemed to have been requisitioned by the Government under the provisions of [section 8](#).

16. Saving

The powers conferred by this Act shall be in addition to and not in derogation of the powers which Government officers may have and exercise under any other law.