

Seychelles

Removal of Sand and Gravel Act

Act 13 of 1982

Legislation as at 30 June 2012

FRBR URI: /akn/sc/act/1982/13/eng@2012-06-30

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PDF created on 21 February 2024 at 16:51.

Collection last checked for updates: 30 June 2014.

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Removal of Sand and Gravel Act

Contents

Part I. – Preliminary	1
1. Short title	1
2. Interpretation	1
Part II – Abstraction licences	1
3. Need to hold abstraction licence	1
4. Directions by Minister	1
5. Grant of abstraction licence	2
6. Variation, revocation etc.	2
7. Appeal to Minister	2
8. Surrender of licence	3
9. General abstraction licence	3
Part III – Enforcement	3
10. Powers of authorised officers	3
11. Obstruction etc.	3
12. False information	4
13. Offences and penalties	4
14. Proof of licence	4
Part IV – Miscellaneous	4
15. Regulations	4
16. Saving	5

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Removal of Sand and Gravel Act

Act 13 of 1982

Commenced on 1 July 1982

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

Part I. Preliminary

1. Short title

This Act may be cited as the Removal of Sand and Gravel Act.

2. Interpretation

In this Act, unless the context otherwise requires—

"**abstract**" includes dig up, excavate, quarry or mine;

"**abstraction licence**" means an abstraction licence granted under [section 5](#), and includes a general abstraction licence granted under [section 9](#);

"**application**" means an application for the issue or renewal of an abstraction licence, as the case may be;

"**authorised officer**" means a public officer authorised under [section 10](#);

"**Controller**" means the Controller of Sand and Gravel appointed under [section 5\(1\)](#);

"**gravel**" includes mud;

"**sand**" includes mud.

Part II – Abstraction licences

3. Need to hold abstraction licence

- (1) No person shall abstract and remove away from the property from which it is abstracted any sand or gravel if he does not hold an abstraction licence.
- (2) The prohibition in subsection (1)—
 - (a) includes abstraction and removal of sand or gravel from any place, including the public domain;
 - (b) applies even if the person owns the property; and
 - (c) includes the digging or stacking of sand or gravel for the purpose of removal.

4. Directions by Minister

- (1) The Minister may give to the Controller of Sand and Gravel directions of a general character, not being inconsistent with this Act, with respect to the performance of his functions under this Act.
- (2) The Controller shall give effect to directions under this section addressed to him.
- (3) Nothing in this section authorises the Minister to give a direction in respect of a particular case.

5. Grant of abstraction licence

- (1) The Minister may, by notice in the *Gazette*, appoint a Controller of Sand and Gravel.*
- (2) The Controller may in his absolute discretion grant or refuse an application for an abstraction licence.
- (3) An abstraction licence may be granted for the abstraction and removal of either or both sand or gravel from part of the public domain.
- (4) An abstraction licence may be granted for a specified period or for one abstraction and removal only.
- (5) An abstraction licence is subject to such conditions as are specified in regulations under [section 15](#) or as the Controller may determine and as are specified in the licence, including, without prejudice to this generality, conditions as to—
 - (a) the property or place from which the sand or gravel may be abstracted and removed;
 - (b) the type and quantity of sand or gravel which may be abstracted and removed;
 - (c) the protection of the environment at the property or place of abstraction by backfilling or other specified method within a specified time;
 - (d) the provision by the licence holder of a satisfactory bond to cover the costs of protecting the environment;
 - (e) the use (including the sale) of sand or gravel abstracted and removed;
 - (f) the approval of prices of sand or gravel abstracted and removed;
 - (g) the keeping by the licence holder (if he is trading in sand or gravel) of adequate stockpiles of either or both sand or gravel.
- (6) Such fee as may be prescribed is payable by an applicant for the grant of an abstraction licence.
- (7) An abstraction licence is not transferable.

6. Variation, revocation etc.

The Controller in his absolute discretion may at any time—

- (a) vary the conditions of;
 - (b) impose conditions or further conditions on;
 - (c) revoke;
 - (d) refuse to renew,
- an abstraction licence.

7. Appeal to Minister

- (1) An applicant for or holder of an abstraction licence aggrieved by a decision of the Controller on an application for, or in connection with, a licence may, within 14 days of that decision, appeal against it to the Minister.
- (2) The decision of the Minister on an appeal under subsection (1) is final and conclusive.

*

See SI. 31 of 1989 (Cap 203. Sub. Leg.)

8. Surrender of licence

- (1) The holder of an abstraction licence which is revoked shall immediately surrender it to the Controller and shall not be entitled to any refund of fees.
- (2) The holder of an abstraction licence may at any time surrender it to the Controller and the licence shall cease to have effect; but the holder is not entitled to any refund of fees in respect of the unexpired portion of the licence.

9. General abstraction licence

- (1) The Controller may, with the approval of the Minister, grant an open or restricted general abstraction licence authorising the abstraction and removal of sand or gravel either, as the case may be, without restriction or subject to any or all of the following restrictions on that abstraction and removal—
 - (a) by specified categories of persons; or
 - (b) from specified places; or
 - (c) in specified maximum quantities; or
 - (d) for specified purposes.
- (2) Sections 5(3), (4) and (5) and 6 apply to a general abstraction licence.
- (3) A general abstraction licence shall be published—
 - (a) by notice in the *Gazette*; and
 - (b) once in a local newspaper.

Part III – Enforcement

10. Powers of authorised officers

- (1) The Minister may authorise public officers for the purposes of this Act.
- (2) An authorised officer or a police officer may at any time—
 - (a) where he has reasonable grounds to suspect that an offence is being or has been committed under this Act, enter, inspect and search any place, premises or property and may take with him such persons and things as he considers necessary for those purposes;
 - (b) demand the production, by the holder, of an abstraction licence (other than a general abstraction licence under [section 9](#)) for examination;
 - (c) inspect any record or other documents used in connection with the abstraction and removal of sand or gravel;
 - (d) seize remove any sand, gravel or other thing in respect of which he has reasonable grounds for believing that an offence under this Act is being or has been committed.

11. Obstruction etc.

- (1) No person shall prevent, hinder or obstruct an authorized officer or a police officer in the performance of his functions under this Act.
- (2) No holder of an abstraction licence shall refuse or delay or fail to produce his licence for examination under [section 10\(2\)\(b\)](#).

- (3) No person shall refuse or delay or fail to produce any record or other documents for inspection under [section 10\(2\)\(c\)](#).

12. False information

A person who, in respect of any matter falling within the scope of this Act,—

- (a) wilfully makes a statement which he knows to be false; or
 - (b) recklessly makes a statement which is false in a material particular,
- is guilty of an offence punishable in terms of [section 13](#).

13. Offences and penalties

A person who contravenes—

- (a) [section 3](#), [8\(1\)](#), [11](#) or [12](#); or
- (b) any regulations made under this Act; or
- (c) a condition of an abstraction licence,

is guilty of an offence and liable to imprisonment for 6 months and to a fine of R.10,000.

14. Proof of licence

Where a person is charged with contravening [section 3](#), [8\(1\)](#) or [11\(2\)](#)—

- (a) the burden of proof as to—
 - (i) his holding an abstraction licence; or
 - (ii) the application to him of a general abstraction licence,rests with him; and
- (b) a certificate in writing signed by the Controller that the person does or does not hold an abstraction licence is, in the absence of evidence to the contrary, sufficient evidence before the court of that fact.

Part IV – Miscellaneous

15. Regulations

The Minister may make regulations for the better carrying out of the objects and purposes of this Act, including, without prejudice to this generality,—

- (a) prescribing any matter which is to be or may be prescribed under this Act;
- (b) prescribing fees or charges for applications for or grants of abstraction licences;
- (c) prescribing royalties payable (in addition to fees or charges for abstraction licences) for the abstraction and removal of sand or gravel from State land or the public domain;
- (d) specifying conditions applying to all abstraction licences, to general abstraction licences or to abstraction licences of a particular type or class;
- (e) specifying criteria for a bond provided under [section 5\(5\) \(d\)](#) to be considered satisfactory;
- (f) limiting the operation of this Act in respect of the abstraction and removal of either or both sand or gravel to specified parts or areas of Seychelles.

16. Saving

- (1) The issue of an abstraction licence by the Controller does not make him or the Government responsible for any damage which may result from the removal of sand or gravel under the abstraction licence.
- (2) A person responsible for any damage which may result from the removal of sand or gravel under an abstraction licence may not plead in his defence that the damage was covered by the abstraction licence.