

Seychelles

Food Act

Act 14 of 1987

Legislation as at 30 June 2012

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Seychelles

Food Act Act 14 of 1987

Commenced on 1 May 1990

[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 Food Act.

2. Interpretation

In this Act—

"**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;

"**animal**" does not include poultry or fish;

"**article**" includes—

- (a) any food or any labeling or advertising material in respect thereof; or
- (b) anything used for the preservation, preparation, packing or storing of any food;
- (c)

"**authorized officer**" means an officer authorized under [section 13](#);

"**drink**" does not include water but includes aerated water;

"**food**" includes drink, chewing gum and any product prepared, sold, represented or intended for use as food or drink for human consumption and any ingredients used in the preparation of food, but does not include—

- (a) water, live animals, live birds or live fish (excluding shellfish); and
- (b) materials used only for drugs;

"**label**" includes any tag, brand, mark, pictorial or other descriptive matter written, printed stenciled, 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;

"**official laboratory**" means a laboratory designated by the Minister under [section 17](#) to be an official laboratory for the purpose of this Act;

"**premises**" includes any building, tent or other structure permanent or otherwise together with the land on which the same is situated and any vehicle or conveyance, vessel or aircraft;

"**public health analyst**" means a person appointed by the Minister under [section 17](#) to act as an analyst;

"**sell**" includes transmit, convey or deliver in pursuance of a sale, exchange, raffler 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.

3. **Binding Republic**

This Act binds the Republic.

Part II – General provisions

4. **Food which is injurious to health**

Any person who adds any substance to food, uses any substance as an ingredient in the preparation of food, abstracts 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 is guilty of an offence.

5. **Sale of poisonous or unwholesome food**

Any person who sells food which—

- (a) contains any substance which is poisonous, harmful or otherwise injurious to health;
- (b) consists in whole or in part of any filthy, putrid, rotten, decomposed or diseased substance or foreign matter; or
- (c) is otherwise unfit for human consumption,

is guilty of an offence.

6. **Deception**

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 its character, nature, substance, quality, composition, merit or safety, is guilty of an offence.

7. **General protection for food purchase**

- (1) Any person who sells to the prejudice of a purchaser any food which is not of the nature, substance or quality of the food demanded by the purchaser is guilty of an offence.
- (2) In proceedings under this section it shall not be a defence to allege that the purchaser bought for analyses or examination and therefore was not prejudiced.

8. **Preparation of food under insanitary conditions**

Any person who sells, prepares, packages, stores or displays for sale any food under insanitary conditions, whereby the food may be contaminated with filth or may be rendered unfit for human consumption, is guilty of an offence.

9. **Designation of slaughterhouse**

- (1) The Minister may, by notice in the *Gazette*, designate any premises as a slaughterhouse for the slaughter of animals or poultry.
- (2) Any person who slaughters any animal or poultry or causes or permits any animal or poultry to be slaughtered with intent to sell the meat of that animal or poultry for human consumption, except in a slaughterhouse designated under subsection (1) and in accordance with this Act, is guilty of an offence.

- (3) No person shall sell the meat of any animal or poultry for human consumption other than that of any animal or poultry slaughtered in a slaughterhouse designated under subsection (1):
- Provided that the preceding provisions of this subsection shall not apply to any meat or poultry imported into Seychelles and approved by the Chief Veterinary Officer.
- (4) Any person who contravenes subsection (3) is guilty of an offence.

Part III – Importation

10. Importation

- (1) Subject to [section 11](#), the importation of any food which does not comply with this Act is hereby prohibited.
- (2) Any person who imports any food in contravention of subsection (1) is guilty of an offence.

11. Relabelling or reconditioning

- (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 Minister, be imported into Seychelles for the purpose of relabelling or reconditioning it so as to comply with this Act.
- (2) Where relabelling or reconditioning of food imported under subsection (1) is not carried out in compliance with this Act within a period of 90 days commencing from the date of importation, the food shall be exported or destroyed by the importer, in a manner approved by the Minister or any authorized officer, within a period of 30 days thereafter or such period as the Minister or the authorized officer 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) is guilty of an offence.

Part IV – Administration and enforcement

12. Board

- (1) There is hereby established a Board to be known as the Food Control Board, hereafter to as the "Board".
- (2) The Board shall consider and advise the Minister on matters necessary for the administration of this Act including the making of regulations under this Act.
- (3) The Board shall consist of—
- (a) a Chairman to be appointed by the Minister; and
 - (b) such other members appointed by the Minister as appearing to him to represent—
 - (i) the Ministry responsible for Community Development;
 - (ii) other Government ministries, departments and public bodies responsible for matters dealing with food;
 - (iii) food manufacturers, processors, retailers and consumers.

- (4) The members appointed under subsection (3)(b)—
 - (a) shall hold office for a period of 3 years and the eligible for reappointment;
 - (b) may at any time resign by instrument in writing addressed to the Chairman.
- (5) Appointments made under subsection (3) shall be notified in the *Gazette*.
- (6) The quorum of the Board shall be such number of members as the Minister may at the time of appointment determine.
- (7) The Board shall meet at such time as the Chairma may determine.
- (8) 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.
- (9) Subject to this Act and to any general or special directions in writing by the Minister, the Board shall regulate its own proceedings.

13. Authorized officer

- (1) The Minister may authorize any public officer to act as an authorized officer under this Act, and such authority may relate to a specific matter or to all matters under this Act.
- (2) The Minister shall issue to every person authorized to act as an authorized officer a certificate of his authority so to act.

14. Powers of authorized officer

- (1) An authorized officer may—
 - (a) 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 or stored, examine the article, take samples thereof and examine anything which he believes is used or capable of being used for the preparation, packaging or storing of any article;
 - (b) 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;
 - (c) 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;
 - (d) call for any books, documents or other records which, he believes, contains any information relevant to the enforcement of this Act with respect to any article, make copies thereof, and take extracts therefrom;
 - (e) require any occupier of any premises or employee of any business where food is processed, 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 disease;
 - (f) seize and detain, for such time as may be necessary, any article by means of, or in relation to, which, he believes, this Act has been contravened;
 - (g) exercise any other functions assigned to him by the Minister.
- (2) An authorized officer shall release any article seized by him under subsection (1) where he is satisfied that the provisions of this Act in relation to the article have been complied with.
- (3) An authorized officer shall in the exercise of his powers under subsection (1), if requested by any person affected thereby, produce the certificate of authority issued to him under [section 13\(2\)](#).

- (4) Where any authorized 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 authorized officer may direct.
- (5) Where an authorized officer is unable to obtain the consent required under subsection (4) for the destruction of the article referred to in that subsection, he may, with notice to the owner or the 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.
- (6) If it appears to the magistrate's court that the article seized is unfit for human consumption, the court may make an order for its destruction or disposal so as to prevent it being used for human consumption.
- (7) Any owner, occupier or person in charge of any premises entered into by an authorized officer pursuant to subsection (1) or any employer found therein or any person who, when requested to give information or any assistance to an authorized officer—
 - (a) fails to give the information or assistance reasonably requested or;
 - (b) knowingly makes any mis-statement in respect to any information requested;is guilty of an offence
- (8) A person who willfully obstructs an authorized officer in the execution of his functions under this Act is guilty of an offence.
- (9) Any person who without the permission of an authorized officer removes, alters or interferes in any way with any article seized under this Act is guilty of an offence.

15. Powers to seize and dispose of unfit carcass

Notwithstanding [Section 14](#), where an authorized officer is of the opinion that an animal or poultry received into a slaughterhouse for the purpose of slaughter for food, or the carcass of an animal, poultry or fish 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.

16. Power to call for information regarding composition of substances in food

- (1) An authorized officer may, by order in writing, require any person who carries on a business which includes the preparation, importation or use of substances of any kind specified in the order to furnish to the authorized officer named in the order such particulars as may be so specified of the composition and use of the substances sold in the course of that business for use in the preparation of food.
- (2) Without prejudice to the generality of subsection (1), an order made under that subsection may require the following particulars to be furnished in respect to any substance, namely—
 - (a) particulars of the composition and the chemical nature of the substance;
 - (b) particulars of the manner in which the substance is used or proposed to be used in the preparation of food;
 - (c) particulars of any investigation carried out by or to the knowledge of the person carrying on the business concerned, for the purposes of determining whether and to what extent the substance used in the preparation of food is injurious to, or in any way affects, health;
 - (d) particulars of any investigation carried out by or to the knowledge of the person carrying on the business concerned for the purpose of determining the cumulative effect on the health of a person consuming the food in ordinary quantities.

- (3) A person who fails to comply with the requirements of an order made under subsection (1) or furnished in particulars which to his knowledge are false or misleading in respect of those requirements is guilty of an offence.
- (4) Save for the purposes of any proceedings for an offence against this Act, no particulars furnished in accordance with an order made under subsection (1) and no information relating to any individual business obtained by means of those particulars, shall, without the previous consent of the person carrying on the business concerned, be disclosed to anyone.
- (5) A person who discloses any particulars of information contrary to subsection (4) is guilty of an offence.

17. Official laboratory and public health analyst

- (1) The Minister may by notice published in the *Gazette* designate a laboratory to be an official laboratory for the purposes of this Act.
- (2) The Minister may appoint any person as a public health analyst who shall perform official analyses or examinations for the purposes of this Act or, if requested by the Minister to do so, for the purposes of any other Act.

18. Samples and analysis

- (1) An authorized officer who takes a sample of any article pursuant to his powers under [section 14](#) shall divide the sample into 3 parts (provided that division of the procured quantity of the sample would not interfere with analysis or examination), each part to be marked and sealed or fastened in such manner as its nature permits and shall—
 - (a) give one part to the person appearing to him to be the owner or the person in possession of the article of which the sample is taken;
 - (b) submit the second part to an official laboratory for analysis; and
 - (c) keep the third part in the custody of the official laboratory for future comparison.
- (2) The person in charge of the official laboratory shall cause the sample submitted for analysis under subsection (1)(b) to be analyzed as soon as practicable and shall give to the authorized officer who requested the analysis a report specifying the result of the analysis.

19. Regulations

- (1) The Minister may make regulations generally for carrying any of the purposes and provisions of this Act into effect, which may include regulations for all or any of the following purposes—
 - (a) requiring, prohibiting or regulating the addition or abstraction of any specified class to or from food or the use of any substance as an ingredient in the preparation of food;
 - (b) prohibiting, restricting or regulating the preparation or the sale, consignment or delivering of food or any ingredients thereof;
 - (c) prohibiting or restricting the importation or the use of any specified materials or of apparatus or utensils designed for use in the preparation of food and the sale or importation for sale of apparatus or utensils designed for such use and containing any specified materials or of any specified class;
 - (d) imposing requirements as to the labeling, marking or advertising of food and the descriptions which may be applied to food;
 - (e) securing the observance of sanitary conditions and practices and wholesome methods in connection with the preparation, transport, storage, packing, marking, sale, service, or delivery of food;

- (f) imposing requirements as to the conditions, layout, drainages, equipment, maintenance, cleanliness, ventilation and extraction of fumes or heat, lighting, water supply and use of premises in, at, or from which food is sold or prepared for sale (including any parts of the premises in which apparatus and utensils are cleansed or in which refuse is disposed of or stored);
 - (g) prohibiting or regulating the sale for human consumption or the possession, distribution or collection for sale for human consumption of shellfish;
 - (h) regulating the importation and exportation of food in order to ensure compliance with this Act;
 - (i) regulating or controlling the slaughtering of animals or poultry for food;
 - (j) imposing requirements as to the maintenance and cleanliness of slaughterhouses, the methods of slaughtering to be applied, the examination and inspection of animals and poultry intended for slaughter, and of carcasses of animals and poultry slaughtered;
 - (k) prescribing fees and charges for any matter done under this Act;
 - (l) exempting any food from all or any of the provisions of this Act and prescribing the conditions of such exemption.
- (2) Any person who contravenes any regulation made under this Act or any provision therein is guilty of an offence.
- (3) Where any regulations made under this Act prohibit or restrict the addition of any preservative or other ingredient or material to any food, the addition of such preservative, ingredient or material, if made in contravention of the regulations, shall, for the purpose of this Act, be deemed to render the food injurious to health, and [section 4](#) applies.
- (4) Where any regulations made under this Act prescribe the composition of any article of food intended for sale, the purchasers of such article shall be deemed to have demanded an article complying with the regulations as regards the presence or amount of any constituent, ingredient or material specified in the regulations, and [section 7](#) applies.

Part V – Legal proceedings

20. Penalties

- (1) Subject to subsection (2), a person found guilty of an offence under this Act shall be liable on conviction—
- (a) in the case of a first offence to a fine R10,000 and to imprisonment for 3 months;
 - (b) in the case of a subsequent offence to a fine of R25,000 and to imprisonment for 6 months.
- (2) Where a court is satisfied that a person committed an offence under [section 14\(8\)](#) or [section 14\(9\)](#) with intent to prevent discovery of some other offence under this Act, that person shall be liable on conviction for any offence under [section 14\(8\)](#) or [section 14\(9\)](#) to imprisonment for 12 months.

21. Power of court to dispose of articles

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.

22. Report of analysis and presumption

- (1) In any proceedings under this Act—
 - (a) a report of analysis signed or purporting to be signed by a public health analyst shall be *prima facie* evidence of the facts stated therein provided that—
 - (i) 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
 - (ii) 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.
 - (b) 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;
 - (c) any article commonly used for human consumption, if sold or kept for sale shall be presumed until the contrary is proved, to have been sold or kept for sale for human consumption;
 - (d) 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;
 - (e) 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 proved, be presumed to be intended for such use.

23. Defence of warrant

- (1) Subject to this section, in any proceedings under this Act for an offence consisting of the sale of any food it shall be a defence—
 - (a) that the food was purchased by the person charged for that offence as food that could be lawfully sold and with a written warranty to that effect;
 - (b) that he has no reason at the time of the commission of the offence that the food was otherwise; and
 - (c) that the food was at the time of the commission of the offence in the same state as when he purchased it.
- (2) A warranty shall only be a defence under subsection (1) if the person charged—
 - (a) has not later than 3 days before the date of the hearing sent to the prosecutor a copy of the warranty with a notice that he intends to rely on it and specifying the name and address of the person from whom he received it; and
 - (b) establishes to the satisfaction of the court that he has sent a similar notice of his intention to the person from whom he received the warranty.
- (3) When the person charged for an offence described in subsection (1) is a servant or employee of the person whom purchased the food under a warranty, he shall be entitled to rely on the provisions of this section in the same way as his employer would have been entitled to do if the employer had been charged.

24. Saving of other written laws

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