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ENVIRONMENT PROTECTION ACT, 2016

(Act 18 of 2016)

I assent

A handwritten signature in dark ink, appearing to read 'Michel'.

J. A. Michel
President



26th August, 2016

AN ACT to provide for the protection, improvement and preservation of the environment, to set objectives and guiding principles aimed at protecting the environment and human health for the promotion of environmental principles so as to facilitate the implementation of international commitments including the prevention, control and abatement of environmental pollution in Seychelles 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 Environment Protection Act, 2016 and shall come into operation on such date as the Minister may, by notice published in the *Gazette*, appoint.

Short title and
commencement

Interpretation

2. In this Act, unless the context otherwise requires —

“abatement” means the reduction or removal of environmental pollution to the permitted or prescribed levels;

“activity” means any process or operation whether commercial, industrial, domestic or agricultural on any premises or any such process or operation by means of a mobile plant;

“Administrator” means the person appointed under section 6(1);

“Ambient Air” means the air surrounding the earth but does not include air contained within a building or pressurised containers or confined under the surface of the earth;

“Ambient Air Quality” means average atmospheric purity as distinguished from discharge measurements taken at the source of pollution;

“Appeals Board” means the Appeals Board established under section 74 of this Act;

“Ministry” means the Ministry responsible for environment;

“Authorised officer” means a person appointed or designated under section 60(1);

“Council” means the National Environmental Advisory Council established under section 11;

“development” has the meaning given to it by section 43 and “develop” is construed accordingly;

“dumping” means any deliberate disposal of wastes or other matter from vehicles, vessels, aircraft, platforms or other man-made structures at sea;

“effluent” means waste water or any other liquid with or without particles of matter in suspension therein, of domestic, agricultural, trade or industrial origin, treated or untreated, and discharged directly or indirectly into the environment;

“Environmental Impact Assessment consultant” means a person registered in accordance with section 50;

“emission” means the act of passing into the atmosphere of any solid, liquid or gaseous substance coming out of any chimney duct or flue or any other outlet or from a known source;

“enforcement notice” means a notice served under section 54;

“environment” means air, water and land and the inter-relationship which exists among and between air, water and land, and human beings, other living creatures, plants, micro-organisms and property;

“Environmental Appraisal Committee” means the Committee appointed under section 49;

“environmental authorisation” means an authorisation referred to in section 44;

“Environmental Impact Assessment Study” means a study carried out in accordance with section 45 in respect of the development, project or activity;

“hazardous substance” means any substance or preparation which by reason of its chemical or physico-chemical properties or handling, is liable to cause harm to human beings, other living creatures, plants, micro-organisms, property or the environment;

“hazardous waste” means waste which is poisonous, corrosive, irritant, noxious, explosive, inflammable, radioactive, toxic or harmful to the environment or as defined by an International Convention to which Seychelles is party to;

“Minister” means the Minister responsible for environment and the Ministry shall be construed accordingly;

“pollutant” means any solid, liquid or gaseous substance or energy present in such concentration as may be, or tend to be, injurious to the environment or human health;

“pollution” means the presence in the environment of one or more pollutants and includes emissions of noise;

“polluter” means a person who contributes to or creates a condition of pollution;

“prescribed” means prescribed by regulations under this Act;

“project” means —

- (a) any activity that has or may have adverse effect on the environment;
- (b) constructions, operation, modification,

dismantling or abandonment of a physical work;

“proponent”, in relation to a development, project or activity means the owner of, or a person who has the charge, management or control of, the project or activity, or any proposal, plan, or programme in respect of the project or activity, whether in the public or private sector;

“prohibition notice” means a notice served under section 55;

“public place” includes every place or building to which the public are entitled or permitted to have access, whether on payment or otherwise;

“Repealed Act” means the Environment Protection Act, 1994, repealed under section 82;

“Strategic Environmental Assessment” is the formalised, systematic and comprehensive process of identifying and evaluating the environmental consequences of proposed policies, plans or programmes to ensure that they are fully included and appropriately addressed at the earliest possible stage of decision-making on a par with economic and social considerations;

“Stratosphere” means part of the atmosphere between 10 and 50 kilometres above the earth's surface;

“waste” means garbage, refuse, sludges, construction debris and other discarded substances or materials resulting from industrial and commercial operations or from domestic, individual and community activity;

“waste disposal site” means an area designated by the Minister for the purpose of disposing waste;

“water quality” means the characteristics of water which define its use in terms of physical, chemical and biological contents;

“watercourse” includes any river, stream, dam, reservoir, water catchment and wetlands and any drain or channels

“wetland” means an area of mangrove, marsh, swamp or water, which are permanent or temporary submerged (with a frequency sufficient to support and under normal circumstances does or would support a prevalence of vegetative or aquatic life that requires saturated or seasonally saturated soil conditions for growth and reproduction) under fresh, brackish or salt water that is static or flowing including areas of marine water in which at low tide, where the depth does not exceed six meters and includes riparian and coastal zones adjacent to the wetlands, and island or bodies of marine water lying within the wetlands, which have a depth of not more than six meters at low tide.

PART II - ADMINISTRATION

Ministry 3. The Ministry for the purposes of this Act shall be the Ministry or Department of the Government under the Minister responsible for environment.

Functions of
the Ministry

4.(1) The functions of the Ministry shall be to —

- (a) administer, implement and enforce the provisions of this Act;
- (b) develop and implement policies, programmes

and guidelines in pursuance of the national objectives on environment protection;

- (c) co-ordinate the activities of other agencies concerned with the protection of the environment —
 - (i) under this Act; or
 - (ii) under any other written law for the time being in force which relates to the objects of this Act;
- (d) develop, evolve and where necessary adopt standards for the quality of the environment in its various aspects and for emission or discharge of environmental pollutants from any source whatsoever;
- (e) commission research and sponsor studies on problems relating to environmental pollution;
- (f) examine such manufacturing processes, materials and substances as are likely to cause environmental pollution;
- (g) identify areas in which any activity shall not be carried out or shall be carried out subject to certain safeguards;
- (h) develop, evolve and where necessary adopt procedures and safeguards for the prevention of accidents which may cause environmental pollution and remedial measures for such accidents;
- (i) collect and disseminate information in

respect of matters relating to environmental protection;

- (j) co-ordinate actions required in a state of environmental emergency or any other situation which may pose a serious threat to the environment;
- (k) prepare manuals, codes or guidelines relating to environmental protection and for the prevention, control and abatement of pollution.

Consultation

5. The Minister shall not, in any matter relating to public health under the Public Health Act, perform his or her functions under this Act, except in consultation with the Ministry responsible for health and in accordance with the advice of that Ministry.

Administrator

6.(1) The Minister shall, by signed instrument, appoint an Administrator for this Act by post title.

(2) The Administrator shall have the functions assigned to it under this Act.

Appointment of officers of the Ministry

7. The Minister may, by signed instrument, appoint such officers as may be necessary for the proper performance of the functions under this Act.

Establishment of technical and advisory committees

8. The Minister may establish one or more technical or advisory committees to advise on matters pertaining to the scientific and technical aspects of environmental protection and management.

Establishment of Agencies or Authorities

9. The Minister may by regulations establish such Agencies or Authorities as may be necessary for carrying out different functions under this Act.

10. Regulations made under section 9 may provide for —

- (a) any matter relating to the assets, capital, funds, finance, administration and management of the Agency or Authority; or;
- (b) any matter necessary for better carrying out the functions under this Act.

Matters to be specified in the regulation establishing Agencies or Authorities

11.(1) The Minister may, by notice published in the *Gazette*, establish a National Environmental Advisory Council.

National Environmental Advisory Council

(2) The Council shall consist of 8 members appointed by the Minister from persons —

- (a) representing Government departments, non-governmental organisations, associations and individuals having environment related functions or interests; or
- (b) who in the opinion of the Minister are knowledgeable in matters relating to environment.

(3) The Minister shall appoint one of the members of the Council to be the Chairperson of the Council.

(4) The Council shall have a Secretary who shall be nominated by the Minister.

(5) The Council may co-opt, any person whose membership is considered necessary by virtue of the knowledge and experience of that person in environmental matters.

(6) A member of the Council shall hold office for a period of three years and shall be eligible for re-appointment.

Functions of
the Council**12.** The functions of the Council shall be to —

- (a) consider any matter affecting the quality of the environment and report on that matter to the Minister;
- (b) advise the Minister on the state of the environment and make recommendations regarding actions and measures for environment protection and for improvement of the quality of the environment;
- (c) consider any other matter that may be referred to it by the Minister.

Proceedings
of the Council**13.(1)** The Council shall meet at such time and at such places as the Chairperson may determine.

(2) One third of the members of the Council shall constitute a quorum.

(3) The Council shall regulate its own proceedings in such manner as it thinks fit.

PART III PREVENTION, CONTROL AND ABATEMENT OF ENVIRONMENTAL POLLUTION

Standards
and
safeguards**14.** The Minister may prescribe standards and safeguards for —

- (a) quality of air, water or soil for various areas and purposes;
- (b) effluent limitations for existing and new point sources;
- (c) emissions of air pollutants from mobile and stationary sources;

- (d) noise emissions from various sources including construction sites, plants, machinery, equipment, motor vehicles, aircraft, industrial and commercial activities;
- (e) emission of light, vibration and other forms of energy into the environment;
- (f) odours, as are required to preserve and maintain public health and the environment;
- (g) pesticide and other residues in the environment.

15. The Minister may by regulations provide for —

- (a) the preservation of fishing areas, drinking water sources and reservoirs, recreational and other areas where water may need special protection; and
- (b) carrying out works which appear to be necessary to prevent, control or abate water pollution from natural causes, abandoned works, developments, projects or activities not excluding measures to remedy and restore integrity of the affected area.

Regulations for
Protection of
water**16.(1)** The Minister may classify all waters in Seychelles based on their best usage.Classification,
reclassification
of water

(2) The Minister shall, in making classification under subsection (1) have regard to section 5, and take into consideration the following factors —

- (a) the existing quality of the body of water at the time of classification;

- (b) the size, depth, surface area covered, volume, direction and rate of flow, gradient of stream of the body of water; and
- (c) the most beneficial use and value for public water supplies, propagation of fish, recreational purposes, agricultural, industrial and other legitimate uses.

(3) Where the public interest so requires, the Minister may re-classify a body of water based on intended beneficial use and take such steps as may be necessary to upgrade the quality of such water.

Deterioration
of water
quality and
upgrade

17. Where the quality of water has deteriorated to such a degree that its state adversely affects its best usage, the Minister may, in co-ordination with other public bodies associated with water quality management, take measures as deemed necessary to upgrade the quality of such water to meet the prescribed water quality standards.

Declaration of
Protection
of water
catchment
areas and
desalination
areas

18.(1) The Minister may, by notice in the Gazette, declare a protection zone for the purposes of protecting the catchment areas used for abstracting water for supply to the community and abstraction of sea water for the purpose of desalination.

(2) The Minister may, by regulations, prohibit or regulate in the protection zone, activities which may directly or indirectly affect the quality of water.

Authorisation
and
application to
discharge
effluent,
polluting,
hazardous
substance,
waste in
ground

19.(1) No person shall, without an authorisation from the Ministry, discharge or place into the ground or dispose of in the sub-soil or dig into the ground any effluent or polluting or hazardous substance or waste.

(2) The Ministry may, on an application made to it grant an authorisation to a person to —

- (a) discharge or place into the ground; or
- (b) dispose of in the sub-soil; or
- (c) dig into the ground,

any effluent, polluting or hazardous substance or waste specified in the authorisation.

(3) In considering an application for an authorisation under subsection (1), the Ministry shall take into account any risk of pollution to the water-supply or any other consideration for the protection of the environment.

(4) An authorisation under subsection (1) may be granted for such period and subject to such conditions as may be specified in the authorisation.

(5) The Ministry may, at any time, modify or revoke an authorisation granted under subsection (1) —

- (a) if there is a risk of pollution of the environment;
- (b) if there is a breach of any condition of the authorisation; or
- (c) for any other consideration for the protection of the environment.

(6) The owner or user of any land shall, whether such owner or user has been granted an authorisation under subsection (1) or not, immediately notify the Ministry of any incidents of pollution of the soil or sub-soil owned or used by such owner or user.

(7) A person who contravenes subsections (1) or (6) commits an offence.

Authorisation to discharge effluent, polluting or hazardous substance, waste or obstructing matter in watercourse

20.(1) No person shall, without an authorisation from the Ministry, discharge any effluent or throw, deposit, or place any polluting or hazardous substance or waste or any obstructing matter into in any watercourse or in the territorial waters.

(2) The Ministry, on an application made to it in the prescribed form, grant an authorisation to a person to —

- (a) discharge any effluent; or
- (b) throw, deposit, or place any polluting or hazardous substance or waste or any obstructing matter,

into any watercourse or in the territorial waters.

(3) An authorisation under subsection (2) may be granted for such period and subject to such conditions as may be specified in the authorisation.

(4) The Ministry may, at any time, modify or revoke an authorisation granted under subsection (1) —

- (a) if there is a risk of pollution;
- (b) if there is a breach of any condition of the authorisation; or
- (c) for any other consideration for the protection of the environment.

(5) A person who contravenes subsection (1) commits an offence.

Declaration of air pollution control area

21.(1) The Minister may, by notice published in the *Gazette*, declare an area as an air pollution control area for the purposes of this Part.

(2) The Ministry shall develop criteria for declaring an area as an air pollution control area.

(3) The Ministry may, on an application made to it in the prescribed form, grant an authorisation to a person to cause any emission in an air pollution control area.

(4) A person shall not, without an authorisation from the Ministry granted in accordance with subsection (1) or otherwise than in accordance with such authorisation —

- (a) cause any emission in an air pollution control area; or
- (b) establish or operate any industrial plant in an air pollution control area.

(5) A person who contravenes subsection (4) commits an offence.

(6) An authorisation granted under subsection (1) —

- (a) may be granted for such period and subject to such conditions as it may specify;
- (b) may be revoked at any time if the conditions subject to which it was granted are violated.

22.(1) No person shall cause the emission of any pollutant into the atmosphere.

Emission of pollutant in the atmosphere

(2) Any person who contravenes subsection (1) commits an offence.

23.(1) The Minister may by regulations —

- (a) prescribe controls for the use of any fuel or any appliance which may cause air pollution;
- (b) prescribe standards for the control and use of incinerators and boilers;

Regulations for prevention and control of air pollution

- (c) prohibit the burning of any material not being fuel,

in any area including an air pollution control area.

Establishment
of atmospheric
monitoring
stations

24. For the purposes of this Part, the Minister may establish stations or networks to monitor atmospheric conditions and locate sources of atmospheric pollution.

Regulations for
noise emission
standards

25.(1) The Minister may by regulations, for the purpose of preserving the environment and to prevent nuisance being caused to any person —

- (a) establish noise emission standards and noise abatement measures;
- (b) designate areas where the emission of noise in excess of such standards are prohibited;
- (c) specify noise emission control measures for activities and operations;
- (d) specify noise emission limits for equipments.

(2) Different noise emission standards may be established for different areas based on the principal purpose of the area for which a standard is established.

Authorisation
for noise
emission in
excess of noise
emission
standards

26.(1) The Ministry may, on an application made to it grant an authorisation to a person, for the emission of noise in excess of the noise emission standards established under section 25 (1) or section 14(d) subject to such terms and conditions as the Ministry may determine.

(2) The terms and conditions of an authorisation under subsection (1) shall include —

- (a) compliance with measures required to adequately protect persons exposed to excessive levels of noise; and

- (b) compliance with measures required to prevent the causing of any nuisance to, or the disturbance of, any person by the emission of noise in excess of the noise emission standards.

(3) An authorisation granted under subsection (1) may be revoked at any time if the conditions subject to which it was granted are violated.

(4) A person shall not cause noise to be emitted in excess of the noise emission standards established under section 25(1) or section 14(d) without or otherwise than in accordance with an authorization granted by the Ministry under subsection (1).

(5) A person who contravenes subsection (4) commits an offence.

27.(1) The Ministry may study data and recognize national and international developments regarding the cumulative effect of any substance, practice, process or activity on the stratosphere and which may reasonably be anticipated to endanger the environment or human.

Ozone
Protection

(2) The Ministry may undertake programmes for the control of any substance, practice, or activity which may reasonably be anticipated to endanger the environment.

(3) The Minister may by regulations provide for the control of any substance, practice, or activity which may reasonably be anticipated to endanger the environment.

28.(1) The Minister may, by notice published in the *Gazette* declare one or more Coastal Zones with subsidiary zones therein to cater for —

Declaration
of Coastal
Zone and its
protection

- (a) sensitive zones of high cultural, recreational and aesthetical value;

- (b) no development and climate based zones;
- (c) zones dedicated to the preservation and rehabilitation/conservation of coastal biodiversity; and
- (d) zones as reclaimed naturally or artificially.

(2) No person shall release or cause to be released into a Coastal Zone polluting or hazardous substances by dumping or through the atmosphere.

(3) A person who contravenes subsection (2) commits an offence.

Survey of coastal zones and preparation of Integrated Coastal Zone Management Plan

29.(1) The Ministry may make or cause to be made a survey of the Coastal Zones and prepare or cause to be prepared an Integrated Coastal Zone Management Plan based on the report of the survey.

(2) The report of a survey made under subsection (1) shall include —

- (a) an inventory of all structures, roads, excavations, harbours, outfalls, dumping sites and other works located in the Coastal Zone;
- (b) an inventory of the state of the coral reefs, mangroves and marshes found within the Coastal Zone;
- (c) an inventory of all commercially exploitable mineral deposits, both proven and suspected, located within the Coastal Zone;
- (d) an inventory of all areas within the Coastal Zone of scenic value or of value for recreational purposes;

- (e) an inventory of all estuarine or wetland areas within the Coastal Zone with an indication of their significance as fisheries or wildlife habitat;
 - (f) an inventory of all areas within the Coastal Zone of special value for research regarding coastal phenomena, including fisheries and sea erosion, littoral movements and related subjects;
 - (g) an estimate of the quantities of sand, coral, sea shells and other substances being removed from the Coastal Zone;
 - (h) an estimate of the impact of erosion on the Coastal Zone;
 - (i) an estimate of the extent, nature, causes and sources of coastal pollution and degradation;
 - (j) an inventory of all users and uses of the coastal zone paying particular attention to the interactions/mixed uses of resources by stakeholders;
 - (k) any other relevant data or information that may be deemed necessary.
- (3) The Ministry shall as the circumstances require —
- (a) review the Integrated Coastal Zone Management Plan prepared under subsection (1);
 - (b) take necessary measures to restore, rehabilitate or protect all or part of the coastal zone as recommended by the survey prepared under subsection (1).

Regulations of
activities in
Coastal Zone

30.(1) The Minister may make regulations to ensure that activities in the Coastal Zone are conducted so as not to cause damage to the environment and to provide for such measures as are necessary to prevent, reduce and control pollution in the Coastal Zone.

(2) Notwithstanding the generality of subsection (1), regulations under that subsection may provide for —

- (a) the control and prevention of pollution of the marine environment from land-based sources, including rivers, estuaries, pipelines and outfall structures;
- (b) such other matters relating to the preservation and conservation of the Coastal Zone.

Regulations for
exploration and
exploitation

31.(1) The Minister may make regulations to govern the environmental performance of petroleum and mineral exploration and exploitation activities within the territorial waters and, or the Exclusive Economic Zone of Seychelles, which shall include —

- (a) requirements for preparation of Environmental Impact Assessments;
- (b) applicable discharge quality standards and atmospheric emission standards;
- (c) environmental management planning requirements;
- (d) contingency plans for releases of oil and other polluting substances;
- (e) management measures for use and handling of polluting or hazardous substances;
- (f) requirements relating to conservation of biodiversity.

Standards and
regulations of
waste

32.(1) The Minister may make regulations —

- (a) specifying standards and for the classification and analysis of waste and for waste treatment and disposal facilities.
- (b) to control the introduction, production, possession, handling, storage, transportation, segregation, processing and disposal of waste and hazardous waste;

(2) Regulations under paragraph (b) of subsection (1) may —

- (a) specify procedures for the movement of hazardous waste within, to, from and through Seychelles;
- (b) establish minimum requirements applicable to the handling of waste and hazardous waste so as to protect the health and safety of persons involved in handling of such waste;

33.(1) The Ministry may, by notice published in the *Gazette* —

Designation
of waste
disposal sites
and facilities

- (a) designate waste disposal sites and other waste disposal facilities;
- (b) prescribe the types of waste that can be —
 - (i) deposited in public waste bins;
 - (ii) deposited or discharged on a waste disposal site or facility designated under paragraph (a).

34.(1) A person shall not deposit or discharge or cause or permit the deposit or discharge of waste, on any land, except —

Deposit and
discharge of
waste on land

- (a) on a waste disposal site or other waste disposal facility designated for the type of waste being discharged or deposited, and in accordance with an authorisation from the Minister;
- (b) where the waste has been placed in a receptacle adapted for this purpose and there is an arrangement for the collection and disposal of the waste; or
- (c) where the waste —
 - (i) is of a type which under section 33 (1) (b) (i) may be deposited in a public waste bin; and
 - (ii) has been placed in a receptacle or a public waste bin which is approved by the Minister and in accordance with the instructions of the Minister.

(2) A person who deposits or discharges or causes or permits the deposit or discharge of waste, on any land other than as specified in paragraph (a), (b) or (c) of subsection (1) commits an offence.

Responsibility
of owner of
land to keep
land free
from waste

35.(1) Landowners or any person responsible for any land shall keep the land free from waste and where any waste is deposited or discharged on the land the owner or person responsible of such land shall remove and dispose of the waste in accordance with the provisions of this Act.

(2) A person who contravenes subsection (1) commits an offence.

Prohibition on
throwing or
deposition
waste in street
or public place

36.(1) No person shall throw, deposit or place any waste on or in any street or public place.

(2) A person who contravenes subsection (1) commits an offence.

37.(1) No person shall drive any vehicle on any street or public place unless any load which is likely to result in the littering or damage of the street or public place is —

Securing loads
on vehicles

- (a) secured and packed so that no part or content of the load is likely to spill, fall, escape or blow on to the street or public place; and
- (b) secured and packed in accordance with measures as may be prescribed under subsection (3).

(2) Where part or the content of any load of a vehicle has spilled, fallen, escaped or been blown on to a street or public place it shall be presumed unless the driver proves the contrary that the driver of the vehicle has failed to secure the load as provided in subsection (1).

(3) The Minister may prescribe measures required to be taken to secure loads on vehicles so as to prevent anything being transported in the vehicle from spilling, falling, escaping or blowing from the vehicle during transportation.

(4) A person who contravenes subsection (1) commits an offence.

38.(1) (a) No person shall import any waste or hazardous waste into Seychelles except as provided under paragraph (b).

Importation
of waste and
hazardous
waste

(b) The Minister may prescribe the type and circumstances under which waste or hazardous waste may be imported in Seychelles.

(2) A person who imports waste or hazardous waste into Seychelles in contravention of subsection (1) (a) —

- (a) commits an offence; and
- (b) shall, subject to section 39(3) and at the cost of the person who imported the waste or hazardous waste, re-export the waste to the country from which it was imported.

Provisions
relating to
hazardous
waste

39.(1) No person shall dispose of any hazardous waste except in accordance with an authorisation from the Ministry.

(2) No person shall transport hazardous waste within or through Seychelles without an authorisation from the Ministry.

(3) No person shall export hazardous waste to any country without obtaining an authorisation from the Ministry and the prior informed consent of the receiving country.

(4) A person who contravenes subsections (1), (2) or (3) commits an offence.

Hazardous
substances

40.(1) A person shall not handle or cause to be handled any hazardous substance except in accordance with procedures and in compliance with safeguards prescribed by the Minister.

(2) "Handling", in relation to any substance means the manufacture, processing, treatment, packaging, storage, transportation, importation, use, collection, destruction, conversion, offering for sale, transfer of the hazardous substance, product or mixture thereof.

(3) A person who contravenes subsection (1) commits an offence under this Act.

Regulations of
minimization
of waste

41. The Minister may, for the purpose of promoting recycling and cleaner technology and protect the environment from hazardous substance, by regulations —

- (a) specify raw materials, additives or auxiliary substances that shall not be present or shall only be present in quantities as may be specified in materials and products sold or used in the Seychelles;
- (b) specify materials and products that shall contain specified proportions of recycled or recyclable material or products;
- (c) prohibit or regulate the use of specified materials or types of materials in products or goods for specific purposes, including packaging;
- (d) prescribe a fee to be paid by importers or manufacturers of specified materials, products or goods including packaging material to cover costs in respect of disposal of the materials, products or goods.

42.(1) Where there is an occurrence of pollution, or a likelihood of the occurrence of pollution, the Ministry may —

- (a) in the case of an occurrence of pollution, take such action or measures as is necessary to control or abate such pollution;
- (b) in the case of the likelihood of the occurrence of pollution, take such action or measures as is necessary to prevent such pollution.

(2) The Ministry may order the person responsible for causing the pollution or the likelihood of the pollution, as the case may be, to take such actions or measures, and the person shall follow any directions given to it by the Ministry in that regard.

Occurrence or
likelihood of
pollution poses
serious or
imminent risk
to life,
property or
environment

(3) The person responsible for causing pollution or the likelihood of pollution for which any action or measures are taken under subsection (1) or (2) for the prevention, control or abatement of such pollution, shall bear the cost of the taking of such action or measures.

(4) Where any pollution has occurred, the person responsible for causing the pollution shall —

- (a) be liable for payment of compensation for any loss or damage to the environment as a result of such pollution; and
- (b) at that person's own cost, restore the environment to close approximation of its condition prior to disturbance;

(5) Where a person fails to comply with subsection (4) (a) the Ministry may carry out such works as are necessary for such restoration and recover the cost from that person.

(6) A person who fails to comply with an instruction given by the Ministry under subsection (2) commits an offence.

PART IV ENVIRONMENT IMPACT ASSESSMENT AND ENVIRONMENTAL AUTHORISATION

Definition of
development

43.(1) In this Act, “development” —

- (a) means —
 - (i) the carrying out of any building, engineering, mining or other operations in, on, under or over any land;
 - (ii) the making of any material change in the use of any building or other land;

(b) includes —

- (i) the subdivision of land which is or is intended to be used for residential, commercial, industrial or agricultural purposes;
- (ii) the carrying out of reclamation works;
- (iii) the carrying out of backfilling, stacking or earth cutting of any land;
- (iv) the re-roofing of any building which involves any change of colour, material or design of the roof;
- (v) the carrying out of works for the construction of new roads and bridges;
- (vi) the demolition of any building;
- (vii) the construction of sea walls or groynes, harbours or jetties and the carrying out of rock armouring works;
- (viii) the carrying out of works by a highway authority required for the maintenance or improvement of a road;
- (ix) rock crushing, splitting, blasting and excavating; and
- (x) any use of land, sea or building as determined by the Minister.

44.(1) A person shall, before carrying out —

- (a) a development as provided for under this Act;

Environmental
authorisation

- (b) a prescribed project or activity; or
- (c) a project or activity in a protected or ecologically sensitive area as may be prescribed under this Act or any written law,

obtain an environmental authorisation from the Ministry.

(2) An application for an environmental authorisation and the grant of such authorisation shall be made, in the prescribed form and in accordance with prescribed procedures.

(3) Where an environmental authorisation is granted in respect of a development, project or activity, a certificate of environmental authorisation shall be issued in the prescribed form and shall contain such conditions, derogation and validity period as may be necessary.

(4) Where an environmental authorisation is granted in respect of a development, project or activity, the Ministry shall ensure that the conditions of the authorisation are complied with.

(5) The Ministry reserves the right to impose further conditions in addition to the ones imposed by an environmental authorisation if during the construction or operational phase of any development or project or activity, the Ministry concludes that the proposal is generating any other adverse environmental impacts not foreseen by the authorisation.

(6) A person who, notwithstanding any license, permit or approval granted under any other Act —

- (a) commences, proceeds with, carries out, executes or conducts; or
- (b) causes to commence, proceed with, carry out, execute or conduct,

any development, project or activity described in paragraphs (a), (b) or (c) of subsection (1) without an environmental authorisation as required by that subsection or in breach of any conditions subject to which such an authorisation is granted, commits an offence.

45.(1) Before the Ministry determines an application for environmental authorisation made under section 44 for a development, project or activity, an Environment Impact Assessment Study shall be carried out in respect of the development, project or activity as prescribed by regulations.

Environment
Impact
Assessment
Study

(2) The Minister may, by regulations, prescribe any matter relating to an Environment Impact Assessment Study under this section including —

- (a) the matters to be dealt with in an Environment Impact Assessment Study and the information to be contained in the report of the study submitted to the Ministry;
- (b) the procedure to be followed for carrying out an Environment Impact Assessment Study, for the submission of the report of the study and for the fees, if any payable on such submission;
- (c) the requirement for the public display and inspection of, the submission of public comments and the holding of public meetings with respect to, an Environment Impact Assessment Study report submitted to the Authority and for the procedures to be followed in relation thereto;
- (d) the appointment of competent persons as environmental consultants and officers, in accordance with the Terms of Reference and EIA conditions.

Classes of
EIA

46. An Environmental Impact Assessment required to be carried out under section 45 shall be an —

- (a) Environmental Impact Assessment class I;
or
- (b) Environmental Impact Assessment class II;

Provisions
relating to
EIA Class I

47.(1) An Environmental Impact Assessment class I under section 46(a) shall be carried out for —

- (a) prescribed projects and activities;
- (b) developments, projects and activities in a protected area or an ecologically sensitive area;
- (c) any other development, project or activity as determined by the Ministry.

(2) An Environmental Impact Assessment class I shall contain a true statement and description of —

- (a) the location, size and scope of the development, project or activity and a description of the original state of the environment prior to implementation of the development, project or activity;
- (b) the principle, concept and the purpose of the development, project or activity;
- (c) the technical aspects relating to the development, project or the activity;
- (d) the direct or indirect (environmental, social and economic) effects that the development, project or activity is likely to have on the

population, flora and fauna, habitats, soil, air, water, landscape, and other physical assets including historical, artistic and archaeological;

- (e) any actions or measures which may avoid, prevent, change, mitigate or remedy the likely effects of the development, project, or activity on the environment;
- (f) the inevitable adverse effects that the development, project or the activity is likely to have on the environment if it is implemented in the manner proposed by the proponent;
- (g) the irreversible and irretrievable impact on the commitments of resources which will be involved by the development, project or activity;
- (h) a study of the feasible alternatives considered, including a summary of all the expected impacts;
- (i) any actions or measures proposed for compensating physically or financially for any resulting loss or damage to the environment;
- (j) an environmental monitoring programme;
- (k) such other information as may be necessary for a proper review of the potential environmental impact of the development, project or the activity.

(3) Subject to subsection (4), the proponent of a

development, project or activity for which an application for environmental authorisation is made shall —

- (a) be responsible for ensuring that the Environment Impact Assessment Study in respect of the development, project or activity is carried out;
- (b) bear the costs of, and associated with, carrying out the Environment Impact Assessment Study in respect of the development, project or activity.

(4) An Environment Impact Assessment Study shall be carried out by an Environment Impact Assessment consultant registered in accordance with section 50, who shall submit a report of the study to the Ministry on behalf of the proponent of the development, project or activity in respect of which the Environment Impact Assessment Study is carried out.

Provisions
relating to
EIA Class II

48.(1) An Environmental Impact Assessment class II under section 46(b) shall be carried out for developments, projects and activities other than those specified in section 46 for which an Environmental Impact Assessment class I is required.

(2) The contents of an Environmental Impact Assessment class II shall be as prescribed by the Minister.

Environmental
Appraisal
Committee

49.(1) The Minister may, for the purposes of this Part, appoint an Environmental Appraisal Committee to —

- (a) evaluate the economic, environmental, social and legal impacts of any development, project or activity referred to it, based on the data provided by —
 - (i) the proponent of the development, project or activity;

- (ii) the Environmental Impact Assessment consultant carrying out the Environment Impact Assessment Study in respect of the development, project or activity; or

- (iii) any relevant Authority;

- (b) analyse the report of an Environment Impact Assessment Study provided by the Environmental Impact Assessment consultant carrying out the study; and

make recommendations to the Ministry.

- (2) The Minister may by regulations provide for —

- (a) the composition of the Committee; and
- (b) proceedings of the Committee.

50.(1) The Ministry may register a person as an Environmental Impact Assessment consultant to —

Environmental
Impact
Assessment
consultants

- (a) carry out Environment Impact Assessment Studies with respect to developments, projects or activities requiring such studies, of the developments, projects or activities;
- (b) submit reports on Environment Impact Assessment Studies carried out by the person, to the Ministry;

- (2) The Minister may, by regulations, provide for —

- (a) the criteria for a person to be registered as an Environmental Impact Assessment consultant;

- (b) the procedure for registration of Environmental Impact Assessment consultants and the fees payable for such registration;
 - (c) the preparation and maintenance of a register of registered Environmental Impact Assessment consultants;
 - (d) the procedure to be followed for the selection of an Environmental Impact Assessment consultant for carrying out an Environment Impact Assessment Study; and
 - (e) procedural matters involved in the carrying out of an Environment Impact Assessment Study which need to be complied with by an Environmental Impact Assessment consultant.
- (3) A person who —
- (a) carries out the functions of an Environmental Impact Assessment consultant under this Act without being registered under this section; or
 - (b) fraudulently purports to be an Environmental Impact Assessment consultant registered under this section,

commits an offence.

Grace Period

51. A person who is already a practicing Environmental Impact Assessment consultant may, with the approval of the Ministry, carry out the functions of an Environmental Impact Assessment consultant under this Act without being registered as an Environmental Impact Assessment consultant under section 50.

52.(1) The Ministry may direct the proponent of a development, project or activity to suspend the development, project or activity if the work on the development, project or activity is commenced —

Suspension of development, project or activity

- (a) without an Environment Impact Assessment Study being carried out;
- (b) without an environmental authorisation being granted;
- (c) in breach of any conditions of an environmental authorisation.

(2) A direction to suspend a project or activity may also be issued if the proponent has, with the intent to mislead the Ministry, concealed, given false information or manipulated data in the course of the assessment procedure of the Environment Impact Assessment Study.

(3) A person who fails to comply with a direction of the Ministry under this section commits an offence.

53.(1) Where the Ministry ascertains that the carrying out or implementation of a development, project or activity has led to an adverse impact on the environment, the Ministry shall direct the proponent to carry out measures to reduce impacts caused and compensate for any resulting loss or damage to the environment.

Measures to reduce impacts on damages caused on the environment

(2) The mode of compensation under subsection (1) shall be agreed upon by the Ministry and the proponent of the development, project or activity which gave rise to the change in the environment and where such compensation is monetary, it shall be paid into the Seychelles Environment Trust Fund, established by the Environment Trust Fund Order (S.I. 39 of 1994).

(3) Where the proponent of the development, project or activity fails to restore any matter specified by the Ministry as required by subsection (1), the Ministry may cause the work to be undertaken and recover the cost from the proponent of the development, project or activity.

PART V ENFORCEMENT

Enforcement
notice

54.(1) Where the Administrator is of the opinion that a person is contravening, or is likely to contravene any provision of this Act, the Administrator may cause an enforcement notice to be served on the person.

(2) An enforcement notice under subsection (1) shall —

- (a) state that the Administrator is of the said opinion and specify the provision of the Act alleged to be contravened or likely to be contravened;
- (b) specify the matter constituting the contravention or the matters making it likely that the contravention will arise, as the case may be;
- (c) specify the measures that shall be taken to remedy the contravention or eliminate the likelihood of a contravention as the case may be; and
- (d) specify the period within which the measures under paragraph (c) shall be implemented.

(3) Any person who fails to comply with an enforcement notice served under subsection (1) commits an offence.

Prohibition
notice

55.(1) Where the Administrator is of the opinion that any development, project or activity or the manner in which a development, project or activity is carried out, involves an imminent risk of serious pollution of or risk of damage to, the environment, the Administrator may cause to be served on the person owning, managing, in charge of or in control of the development, project or activity a prohibition notice.

(2) A prohibition notice under subsection (1) may be served whether or not —

- (a) the development, project or activity, or the manner in which the development, project or activity is carried out, constitutes a contravention of this Act;
- (b) there is in force in relation to that development, project or activity, a licence, permit or approval issued under this Act or under any other written law.

(3) A prohibition notice shall —

- (a) state the opinion of the Administrator;
- (b) specify the risk of serious pollution or the risk of damage involved, as well as the way or manner in which the development, project or activity is carried on, is suspected to give rise to the risk;
- (c) specify the measures that shall be taken to remove the risk of pollution or the risk of damage and the period within which the measures shall be implemented;

(4) A prohibition notice shall not be a bar to a prosecution for any offence, even if there are consultations with the person served with the notice.

(5) A person who fails to comply with a prohibition notice served under subsection (1) commits an offence.

Nuisance

56.(1) Any person who does an act or omits to discharge a duty and thereby causes any common injury, or risk, or danger, or damage, or annoyance, or obstructs or causes inconvenience to the public in the exercise of their common rights, whether the act or omission complained of is convenient to a larger number of the public than it inconveniences, commits the offence of nuisance under this Act.

(2) Where the Administrator is of the opinion that a person has committed a nuisance, the Administrator may cause a nuisance notice to be served on the person.

(3) A nuisance notice under subsection (2) shall —

- (a) state that the Administrator is of the said opinion and specify the source and nature of the nuisance;
- (b) specify the measures that shall be taken to abate the nuisance; and
- (c) specify the period within which the abatement under paragraph (b) shall be implemented.

(4) The Minister may prescribe the different types of activities or zones to be exempted from committing a nuisance.

(5) A person who fails to comply with a nuisance notice served under subsection (2) commits an offence.

Variation notice

57.(1) The Administrator may, on his own initiative, or on an application made to the Administrator under subsection (2), amend an enforcement notice or a prohibition notice or a nuisance notice.

(2) A person affected may apply to the Administrator in writing for the amendment of an enforcement notice or a prohibition notice or a nuisance notice.

(3) Where the Administrator amends a notice under this section, it shall cause to be served on the person affected as a variation notice.

(4) A variation notice shall —

- (a) refer to the notice which is being amended;
- (b) specify the amendment to the notice;
- (c) where necessary, vary the date specified in the notice.

(5) A variation notice shall supersede the notice to which it refers to the extent of the amendment and shall be deemed to be a notice served under section 54, 55 or section 56, as the case may be.

58.(1) The Administrator may withdraw an enforcement notice or a prohibition notice or a nuisance notice or a variation notice where the Administrator is satisfied that —

Withdrawal notice

- (a) the measures required to be taken in the enforcement notice or prohibition notice or nuisance notice have been implemented;
- (b) there exists no further pollution or risk of pollution or damage to the environment by the development, project or activity to which the notice relates.

59. A person aggrieved by an enforcement notice, prohibition notice, nuisance notice, variation notice or withdrawal notice, may appeal to the Appeals Committee in

Appeals

the prescribed manner and the Committee may affirm, vary or revoke the notice.

Authorised
officer

60.(1) The Minister may, by regulations —

- (a) appoint a person; or
- (b) designate a public officer or a person appointed under any other written law,

to be an authorised officer for the purpose of implementing specific provisions of this Act.

(2) The Minister shall cause to be issued to every authorised officer appointed or designated under subsection (1) an identification badge of the Minister's authority to act as such an officer and an authorised officer shall, during the performance of that officer's functions, if so requested, produce the identification badge of authority.

(3) An authorised officer shall perform the functions assigned to it, and have the powers conferred by it, under this Act or regulations made thereunder.

(4) A person who willfully delays, obstructs, assault, insults, abuse, misleads, bribes, threatens, cohorts any authorised officer in the performance of the functions of that officer commits an offence.

Powers of
entry,
inspection,
seizure and
arrest

61.(1) An authorised officer shall have the right to enter, at all reasonable times with such assistance as the officer considers necessary, any place or premises —

- (a) for the performance of any of the functions entrusted to the officer under this Act;
- (b) for the purpose of determining whether any provisions of this Act or any notice, order,

direction or authorisation served, made, given or granted under this Act is being or has been complied with;

- (c) for the purpose of examining and testing any equipment, industrial plant, record, register, document or any other material object;
- (d) for conducting a search of any premises, buildings or moveable assets or items in which the officer has reason to believe that an offence under this Act has been, is being or is about to be committed;
- (e) for seizing any equipment, industrial plant, record, register, document or other material object if the officer has reasons to believe that it may furnish evidence of the commission of an offence punishable under this Act or that such seizure is necessary to prevent or mitigate pollution;
- (f) to arrest any person who has committed an offence under this Act and hand over the said person to a police officer.

(2) Every person carrying on any development, project or activity —

- (a) shall be bound to render all assistance to an authorised officer for carrying out their functions under subsection (1); and
- (b) if the person fails to render assistance to an authorized officer as required under paragraph (a) without any reasonable cause or excuse, commits an offence.

Declaration of
environmental
emergency
and power of
arrest

62.(1) The Minister may, by notice published in the gazette, declare an environmental emergency —

- (a) where pollution occurs or is apprehended to occur due to any accident or other unforeseen act or event; or
- (b) where in the opinion of the Minister there is an imminent risk of serious pollution of the environment.

(2) Where an environmental emergency is declared under subsection (1), an authorised officer may, without warrant, arrest a person reasonably suspected of contravening any provision of this Act.

Power to
take samples

63.(1) An authorised officer shall have the power to take samples of air, water, soil, substance or matter, living or dead, from any factory, premises or other place in such manner as may be prescribed, for the purpose of analysis.

(2) The result of the analysis of a sample taken under subsection (1) shall be admissible in evidence in any legal proceeding provided the procedure set out in subsections (3) and (4), as the case may be, is followed.

(3) In exercising the power to take samples under subsection (1) the authorised officer shall —

- (a) immediately before taking a sample, serve on the owner, the agent of the owner or the person in charge of the place where the sample is to be taken, a notice in the prescribed form, of the intention of the officer to have the sample analysed;
- (b) in the presence of the owner, the agent of the owner or the person in charge of the place

where the sample is to be taken, collect a sample for analysis;

- (c) place or cause the sample collected under paragraph (b) to be placed in a container or containers which shall be marked, sealed and signed by both the authorised officer and the owner, the agent or the person in charge of the place where the sample is taken;
- (d) take or send without delay, the container or the containers referred to in paragraph (c) to an environmental laboratory established or recognised under section 64.

(4) When a sample is taken in accordance with subsection (3) and the authorised officer taking the sample serves on the owner, the agent of the owner or person in charge of the place where the sample is taken, a notice under subsection (3) (a) —

- (a) if the owner, the agent of the owner or the person in charge of the place where the sample is taken willfully absents himself, the authorised officer shall collect the sample for analysis, place the sample or caused it to be placed in a container or containers which shall be marked, sealed and signed by the authorised officer taking the sample;
- (b) if the the owner, the agent of the owner or the person in charge of the place where the sample is taken is present at the time of taking the sample but refuses to sign the marked and sealed container or containers in which the sample is placed as required, the marked and sealed container or containers shall be signed by the authorised officer taking the sample

and the container or containers shall be taken or sent without delay by that authorised officer for analysis to an environmental laboratory established or recognised under section 64,

and the authorised officer shall inform the Government Analyst appointed or recognised as such under section 65, in writing about the willful absence of the owner, the agent of the owner or the person in charge of the place where the sample is taken or, as the case may be, the refusal of such persons to sign the container or containers.

Publication of
Environmental
Laboratories

64.(1) The Minister may, by notice published in the Gazette—

- (a) establish one or more environmental laboratories;
- (b) recognise one or more laboratories or institutes as environmental laboratories,

to carry out the functions entrusted to an environmental laboratory under this Act.

(2) The Minister may, make regulations—

- (a) specifying the functions of an environmental laboratory;
- (b) prescribing the procedure for the submission to an environmental laboratory of samples collected for analyses or tests;
- (c) prescribing the form of the laboratory report on analyses and tests conducted by an

environmental laboratory and the fees payable for such report; and

- (d) providing for such matters as may be necessary or expedient to enable the functions of an environmental laboratory to be performed.

65. The Minister may by notice published in the Gazette, appoint or recognize such person or persons who have the prescribed qualifications to be Government Analysts for the purpose of analyzing samples of air, water, soil or other substance sent for analysis to any environmental laboratory established or recognized under section 64.

Government
Analyst

66. Any document purporting to be a report signed by a Government analyst may be used as evidence of the facts stated therein in any legal proceedings under this Act.

Reports of
Government
Analyst

PART VI OFFENCES AND PENALTIES

67.(1) A person who commits an offence under section 36(2) or 37(4) is liable on conviction to a fine of not less than SCR5,000 and not exceeding SCR 100,000 or 2 years imprisonment or to both such fine and imprisonment.

Fixed penalty

(2) Where an authorised officer has reason to believe that a person has committed an offence under section 36(2) or 37(4), the officer may give that person a notice offering the person the opportunity of discharging that person's liability to conviction for that offence by payment of a fixed penalty.

(3) Where a person is given a notice under this section in respect of an offence

- (a) no proceedings shall be instituted for that offence before the expiration of fourteen days following the date of the notice;

- (b) the person shall not be convicted of that offence if the person pays the fixed penalty before the expiration of that period.

(4) A notice under this section shall give such particulars of the circumstances alleged to constitute the offence as are necessary for giving reasonable information of the offence and shall—

- (a) state the period during which, by virtue of subsection (3) proceedings shall not be taken for the offence;
- (b) specify the amount of the fixed penalty; and
- (c) state the person to whom and the address at which the fixed penalty may be paid.

(5) A fixed penalty specified in a notice under subsection (4) may be paid in cash to the person specified in the notice or by postal order or cheque enclosed in a registered letter addressed to that person at the address specified in the notice.

(6) Where a letter is sent in accordance with subsection (5), the payment shall be regarded as having been made at the time at which that letter would be delivered in the ordinary course of post.

(7) The form of a notice under this section shall be as prescribed by regulations.

(8) The fixed penalty payable pursuant to a notice under this section shall, subject to subsection (9), be SCR500.

(9) The Minister may by notice published in the Gazette, substitute a different amount for the amount specified as the fixed penalty in subsection (8).

68.(1) A person who commits an offence under section 54(3), section 55(5) section 56(5), section 60(4) or section 61 (2)(b) is liable upon conviction, to a fine of not less than SCR25,000 and not exceeding to SCR100,000 and to 2 years imprisonment or to both such fine and imprisonment.

Failure to comply with specific provisions

(2) A person who commits an offence under section 19(7), section 20 (5), section 21(5), section 22 (2), section 26 (5), section 28(3), section 34(2), section 35 (2), section 38(2) (a), section 39(4), section 40(3), section 42(6), section 44(6), section 50(3) or section 52 (3) is liable, on conviction, to a fine of not less than SCR100,000 and not exceeding SCR1,000,000 or to 2 years imprisonment or to both such fine and imprisonment.

(3) Where an offence specified in subsection (2) is committed for a second or subsequent time that person is liable on conviction to imprisonment for not less than 2 years and not exceeding 7 years.

69. Any person who —

Penalty for certain acts

- (a) destroys, damages, pulls down, removes, injures or defaces any structure, plants or any parts thereof, fixtures and features set by the Ministry or any notice or other matter put up, inscribed or placed by or under the authority of the Ministry;
- (b) obstructs any person acting under the orders or directions of the Ministry from exercising their powers and performing their functions under this Act;
- (c) damages any works or property belonging to the Ministry;
- (d) fails to furnish to any officer or other

employee of the Ministry a report or any information required by the officer or the employee for the purpose of this Act;

- (e) fails to notify or report the occurrence of any accident or other unforeseen act to the Ministry;
 - (f) in giving a report or any information which the person is required to give under this Act, knowingly makes a statement which is false or misleading in any material particular;
 - (g) assists, participates or contributes in the commission of an offence under this Act,
- commits an offence and is liable on conviction to imprisonment for a term not exceeding 6 months or to a fine not exceeding SCR10,000 or to both such fine and imprisonment.

Civil liability

70. In addition to imposing a penalty for an offence under this Act, the Court may order the person convicted of the offence —

- (a) to compensate for any loss or damage to the environment;
- (b) to take such steps as may be specified in the order within such time as may be specified in the order;
- (c) to pay damages; and
- (d) to prevent, control, abate or mitigate any harm to the environment caused by the commission of the offence or to prevent the continuance or recurrence of the offence.

71.(1) Subject to subsection (2), where any offence under this Act is committed by a company —

Offences by companies

- (a) every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company; and
- (b) the company,

commits the offence and is liable to be prosecuted and punished accordingly:

(2) Nothing contained in subsection (1) shall render any person liable to any punishment provided in this Act, if the person proves that the offence was committed without the knowledge of that person or that the person exercised all due diligence to prevent the commission of the offence.

(3) Where an offence under this Act is committed with the consent or connivance of, or is attributable to any neglect on the part of any director, manager, secretary or other officer of a company, the director, manager, secretary or other officer commits that offence and is liable to be prosecuted and punished accordingly.

(4) For the purposes of this section —

- (a) “company” means a body corporate and includes a partnership or other association of individuals;
- (b) “director” in relation to a partnership, means a partner in the partnership.

72.(1) Where a person agrees in writing to the compounding of an offence punishable on conviction with fine, the Minister may, in consultation with the Attorney General, compound the offence as prescribed by regulations.

Compounding

(2) In any proceedings brought against any person for an offence against this Act, it shall be a good defence if the person proves that the offence has been compounded under this section.

PART VII - APPEALS

Appeals
Boards

73.(1) There is hereby established an Appeals Board for the purpose of this Act.

(2) The Appeals Board shall consist of 5 members appointed by the President —

- (a) a Chairman;
- (b) a representative of the Attorney General;
- (c) 3 persons having knowledge in environmental matters.

(3) The president shall appoint the Chairman and members of the Appeals Board on such terms and conditions as the President may determine and the appointments shall be published in the *Gazette*.

(4) The Chairman and other members of the Appeals Board shall hold office for 3 years and are eligible for reappointment.

(5) The president may at any time terminate the appointment of a member who has been found guilty of —

- (a) any misconduct, default or breach of trust in the discharge of that member's duties; or
- (b) an offence of such a nature as renders it desirable that the member's appointment be terminated.

(6) The Appeals Board shall regulate its own proceedings.

(7) The Appeals Board may appoint as advisor for a specific appeal a person whose specialized knowledge or experience is such that the person is able to assist the Appeals Board in its deliberations.

74.(1) A person aggrieved by a decision of the Minister, Authority constituted or agency designated under the powers of the Minister under the repealed Act or any Authority or Agency established under section 9 of the this Act may appeal to the Appeals Board.

Appeals

(2) The Minister may make regulations providing for the procedure and the fee payable, for appeal.

PART VIII MISCELLANEOUS PROVISIONS

75.(1) The Ministry may, in relation to its functions under this Act, from time to time, require any person, officer or other authority to furnish to it or to any prescribed authority or officer any reports, returns, statistics, accounts and other information that may be required for the purposes of this Act and such person, officer, or other authority shall be bound to do so.

Authority
to furnish
information

(2) A person who fails to comply with subsection (1), on being required to do so by the Authority, commits an offence and is liable on conviction to a fine not exceeding SCR10,000.

76. Where any officer of the Ministry or any person discharging any function or duty under this Act discloses otherwise than in the performance of the duty of the officer or such person any information relating to any trade secret used in carrying on a particular development, project or activity and

Confidentiality
of information

the information has been given to the officer or such person by virtue of this Act, the officer or such person commits an offence and is liable on conviction, to a fine not exceeding SCR10,000 and to imprisonment for a term not exceeding one year.

Furnishing of information to the authority in certain cases

77.(1) Where the discharge of any pollutant in excess of the prescribed standards occurs or is apprehended to occur due to any accident or other unforeseen act or event, the person responsible for such discharge and the person in charge of the premises from which the pollutant is discharged shall —

- (a) forthwith, report the occurrence of such discharge or the apprehension of such occurrence;
- (b) be bound to prevent or mitigate the pollution caused as a result of such discharge; and
- (c) be bound, if called upon, to render all assistance to the Ministry or such other authorities or agencies as may be prescribed.

(2) A person who fails to comply with subsection (1)(a), (b) or (c) commits an offence and is liable on conviction to a fine not exceeding R10,000 and to imprisonment for one year.

Access to any property

78.(1) The Ministry may access any property in order to carry out works on any drain, wetland and any part of the public domain as defined by Article 538 of the Civil Code of Seychelles, which in the opinion of the Authority is necessary for the proper functioning, maintenance, restoration of the ecosystems functions and services.

(2) Prior to the commencement of any works, the Ministry shall take all necessary measures to inform the concerned party of such works and to obtain the consent of the party concerned.

79. No suit, prosecution or other legal proceedings shall be instituted against the Minister, an officer of the Ministry or a person empowered under this Act for any act or omission that is done or intended to be done in good faith in pursuance of this Act or any regulations made thereunder.

Protection for action taken in good faith

80.(1) The Minister may make regulations for giving effect to the provisions of this Act and in particular may —

Power to make regulations

- (a) prescribe the form and contents of any notice, order or other document authorised or required by this Act to be made;
- (b) prescribe fees, levies and charges on products, goods, equipments or services, as may be considered necessary with a view of the protection of the environment and prevention, control and abatement of environmental pollution;
- (c) provide for the registration of persons carrying out activities under the Act including waste dealers and contractors;
- (d) provide for any such matter that may be necessary in pursuance of the objects of this Act

(2) Regulations made under this section may provide for offences and penalties of fines not exceeding SCR20,000 or imprisonment of terms not exceeding 2 years in respect of those offences.

81.(1) The provisions of this Act shall be in addition to and not in derogation of the provisions of any other Acts.

Savings

(2) All acts done, decisions taken, licenses, permits or authorisations granted by the Minister, officers or employees

of the Ministry under the Environment Protection Act, 1994, which were validly done, taken or granted under any written laws or under and pursuant to the repealed Act shall continue to have effect in accordance with the terms or until amended, annulled or withdrawn in accordance with the relevant written laws.

(3) Subject to subsection (1), in case of inconsistency between any of the provisions of this Act or the regulations made there under and any other written law for the time being in force, the provisions of this Act shall apply.

Repeal and
transitional
provisions

82.(1) The Environment Protection Act, 1994 is hereby repealed.

(2) Notwithstanding the repeal under subsection (1) any statutory instruments made under the repealed Act, continue to be in force as if made under this Act until amended, replaced or repealed under this Act, unless and to the extent that —

- (a) the matter provided for under the statutory instrument is provided for in this Act or any statutory instruments made thereunder;
- (b) the statutory instrument is inconsistent with the provisions of this Act.

I certify that this is a correct copy of the Bill which was passed by the National Assembly on 23rd August, 2016.



Ms. Luisa Waye-Hive
Deputy Clerk.