

LAWS OF SEYCHELLES

CHAPTER 77A

EXPORT OF FISHERY PRODUCTS ACT

Act 18 of 1996
Act 2 of 2003
Act 32 of 2010

1. This Act may be cited as the Export of Fishery Products Act, 1996 and shall come into operation on the 3rd February 1997.

2. In this Act -

"authorised officer" means an officer appointed under section 9;

"C.E.O" means the Chief Executive Officer of the Seychelles Bureau of Standards established by the Seychelles Bureau of Standards Act;

"establishment" means any premises where fishery products intended for export are prepared, processed, chilled, frozen, packaged or stored but does not include any auction or wholesale market where fishery products are only displayed and sold by wholesale;

"factory vessel" means any vessel on which fishery products intended for export undergo any one or more of the following operations, namely, filleting, slicing, skinning, mincing or processing followed by packaging, chilling or freezing;

"fishery products"-

(a) means any cold blooded aquatic animal or part or product derived therefrom, intended as food for human consumption and includes any fish, crustacean, mollusc, echinoderm, holothurian or aquatic reptile but does not include live fish other than shellfish

(b) includes aquaculture feed, fish oil and fish meal;

"freezer vessel" Means any vessel on which freezing of fishery products intended for export is carried out after preparatory work such as bleeding, heading, gutting and removal of fins and where necessary wrapping and packaging;

"Minister" means the Minister charged with the portfolio responsibility for Industry.

3. (1) A person shall not use, operate or be in charge of an establishment or a factory vessel except under and in accordance with a permit granted under this Act by the C.E.O.

(2) A permit granted under this Act shall be in such Form as the C.E.O may provide and may be granted -

- (a) for such period;
 - (b) in respect of such fishery products; and
 - (c) subject to such conditions,
- as may be specified in the permit.

4. (1) An application for a permit required under this Act shall be made to the C.E.O and shall be accompanied by the prescribed fee.

(2) Where an application for a permit is refused by the C.E.O, the C.E.O shall refund the fee to the applicant.

5. (1) Before granting a permit under this Act the applicant shall satisfy the C.E.O that the establishment or the factory vessel in respect of which the application is made conforms to the general operating and management requirements as may be prescribed relating to -

- (a) the design, layout and construction of the establishment or factory vessel;
- (b) the design and construction of any equipment used therein;
- (c) the conduct of any person entering the area of the establishment or factory vessel where fishery products are handled; and
- (d) the design and application of appropriate systems for controlling product quality.

(2) In prescribing the general operating and management requirements, the Minister shall have regard to -

- (a) the Fisheries Act;
- (b) the Food Act;
- (c) Seychelles Bureau of Standards Act; and
- (d) the Licences Act,

as may be relevant to fishery products.

6. Where it is expedient for ensuring the quality of fishery products intended for export, the C.E.O may vary any conditions of a permit granted under this Act.

7. The C.E.O may, where the C.E.O is satisfied that a holder of a permit granted under this Act -

- (a) has contravened any provisions of the Food Act or any regulations made thereunder in relation to fishery products intended for export;
- (b) has contravened any conditions of the permit; or
- (c) has failed to maintain the quality of the fisheries products intended for export,

suspend or revoke the permit.

7A. The C.E.O shall cause any scientific test or investigation required for the purposes of this Act to be carried out by the Seychelles Bureau of Standards.

8. (1) Any person who is aggrieved by a decision of the C.E.O -

- (a) to refuse the grant of a permit under this Act;
- (b) to vary the conditions of a permit under section 6; or
- (c) to suspend or revoke a permit under section 7,

may, within 14 days after the decision is communicated to the holder, appeal to the Minister against the decision.

(2) The Minister may on an appeal under subsection (1), affirm, vary or revoke the decision.

9A. (1) There shall be established, for the purposes of this Act, a unit within the Seychelles Bureau of Standards to be known as the Fish Inspection and Quality Control Unit.

(2) The Unit shall aim to facilitate through inspection and certification of fishery products, internal and international trade in such products.

(3) The C.E.O. shall appoint as the manager of the Unit a competent person experienced in the inspection and quality assurance of fishery products and ensuring compliance with relevant international standards.

(4) The C.E.O. may appoint one or more officers of the Unit or such other persons as the C.E.O. thinks fit to be authorised officers and issue to each authorised officer a certificate of authority to act as such.

10. (1) An authorised officer may -

- (a) at any reasonable hour or whenever work is in progress in any establishment or factory vessel -
 - (i) enter and search the establishment or factory vessel;
 - (ii) examine any fishery product therein or any other things which the officer has reasonable grounds to believe is used or capable of being used in the preparation of a fishery product;

- (iii) take samples of the fishery product or other thing examined under subparagraph (ii),

to ensure quality of the fishery product and compliance with this Act or any permit issued under this Act, or the Food Act;

- (b) stop, search or detain any vehicle, vessel or aircraft in which the officer has reasonable grounds to believe is conveying any fishery product and to examine and take samples thereof;
- (c) open and examine any receptacle or package which the officer has reasonable grounds to believe contains any fishery product, examine and take samples thereof;
- (d) seize and detain any fishery product in relation to which the officer has reasonable grounds to believe that this Act or any permit issued under this Act or the Food Act has been contravened;
- (e) call for any books, documents or other records which the officer has reasonable grounds to believe contain any information relevant to the enforcement of the Act in respect of any fishery product, make copies thereof or take extracts therefrom;
- (f) issue health certificates certifying that fishery products are fit for export;
- (g) exercise any other functions assigned to the officer by the C.E.O.

(2) Where an authorised officer is satisfied that any fishery product seized under subsection (1)(d) has not contravened this Act, any permit issued under this Act or the Food Act, the officer shall forthwith release the products to its owner or the person from whose possession it was seized.

(3) Where an authorised officer is satisfied that any fishery product seized under subsection (1)(d) has contravened this Act, the permit granted under this Act, or the Food Act, the product may -

- (a) with the consent of the owner or the person from whose possession it was seized, be destroyed or otherwise disposed of as the authorised officer may direct;
- (b) where it is not possible to obtain the consent required under paragraph (a), produce, with notice to the owner or the person from whose possession the product was seized, the product before a magistrate's court, and the court may, after giving the owner or the other person an opportunity to show cause -
 - (i) release the fishery product to the owner or other person where the court is satisfied that the product has not contravened this Act, a permit granted under this Act or the Food Act;

- (ii) order the destruction or disposal of the fishery products where the court is satisfied that the product has contravened this Act, a permit granted under this Act or the Food Act.

(4) An authorised officer shall, in the exercise of the powers under subsection (1), produce if requested by any person affected by such exercise, the certificate of authority issued to the officer under section 9.

10A. Any person who, in the performance of any official function under this Act, obtains confidential information relating to the activities of another person shall not disclose such information except-

- (a) to any person who requires it for the performance of that person's functions under this Act;
- (b) when directed by any court of law;
- (c) for the purpose of a criminal investigation; or
- (d) on the authorisation of the Minister or the C.E.O.

11. (1) The owner, occupier, or the person in charge of any establishment or the master of a factory vessel or any employee of such establishment or factory vessel or any other person who, if requested by an authorised officer in the exercise of the officer's functions under section (10) to give any information or assistance -

- (a) fails, without reasonable excuse, to give the information or assistance so requested;
- (b) knowingly makes any false or untrue statement,

is guilty of an offence.

(2) Any person who wilfully obstructs an authorised officer in the exercise of the officer's functions under section 10 is guilty of an offence.

(3) Any person who without the written permission of an authorised officer removes, alters or interferes in any way with any fishery product seized under this Act is guilty of an offence.

(4) A holder of a permit granted under this Act who exports or attempts to export any fishery product without a health certificate issued in respect of that product is guilty of an offence.

11A. All officers and other employees of the Fish Inspection and Quality Control Unit shall be deemed to be employed in the public service for the purposes of sections 91 to 96 of the Penal Code.

12. (1) Any person found guilty of an offence under this Act is liable on conviction -

- (a) in the case of the first offence, to a fine of SCR15,000 and imprisonment for 12 months;

- (b) in the case of any subsequent offence, to a fine of SCR150,000 and imprisonment for 24 months.

(2) Where any person is convicted of an offence under this Act, the court may, in addition to any other penalty -

- (a) order that the fishery product by means of which or in relation to which the offence was committed be forfeited and upon such order being made the fishery product may be disposed of as the court may direct;
- (b) order that a permit granted under this Act be suspended or revoked as the court may direct.

13. The Minister may make regulations for carrying into effect the purposes and provisions of the Act and without prejudice to the generality of the foregoing may -

- (a) prescribe the general operating and management requirements of establishments and factory vessels;
- (b) prescribe the fees for the grant of permits,
- (c) prescribe anything required or necessary to be specified under this Act.

14. The provision of this Act shall be in addition to and not in derogation of the provision of any other written law relating to fishery products.

15. A person performing any function under this Act shall not be liable in respect of any loss arising from the performance of such function in good faith and without negligence.
