
PUBLIC HEALTH AUTHORITY ACT, 2013

(Act 7 of 2013)

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PUBLIC HEALTH AUTHORITY ACT, 2013

(Act 7 of 2013)

I assent



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

J. A. Michel
President

18th October, 2013

AN ACT to establish the Public Health Authority to regulate and monitor health related services, and the establishment of the Public Health Authority Board and the Appeals Board, their functions, powers and procedures 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 Public Health Authority Act, 2013, and shall come into operation on such date as the Minister may, by notice published in the Official Gazette, appoint.

Short title and
commencement

Interpretation

2. In this Act —

“Appeals Board” means Public Health Appeals Board established under section 23(1);

“Authority” means the Public Health Authority established under section 3;

“Board” means the Public Health Authority Board established under section 6;

“Commissioner” means the Public Health Commissioner appointed under section 7(1);

“health professional practices” means health professional practices specified in the Fourth Schedule;

“health related practices” means health related practices specified in the Fifth Schedule;

“health related services” means health professional practices and health related practices;

“Minister” means the Minister responsible for Health;

“officer” means a public health officer appointed or designated under section 11;

“premises” means any building, house, room or structure, where —

- (i) any health professional practice is carried on by a person whether himself or herself, an employee or an agent;
- (ii) any part of a dwelling used for the purposes of carrying on any health related services;

“registration” means the registration of health professional practices or health related practices;

PART II - PUBLIC HEALTH AUTHORITY

3.(1) There is hereby established for the purposes of this Act a Public Health Authority.

Establishment
of Public
Health
Authority

(2) The Authority shall be a body corporate having perpetual succession and a common seal and may sue and be sued in its corporate name.

(3) The Authority shall monitor, evaluate and ensure efficient operations of the Public Health laws listed in the First Schedule.

(4) The Minister may give directions in writing to the Authority on matters of policy and general administration.

4.(1) The objects of the Authority are to regulate, monitor and evaluate all health related services and to ensure they adhere to good practices in the interest of the general public.

Amendment
of Act 23 of
2008

(2) In pursuing the objectives, the Authority shall —

- (a) ensure that the provisions of the health related services, both in the public and private sector, meet the requirements and standards set out in the relevant laws relating to public health;
- (b) ensure that all practices delivering health related services are registered;
- (c) act as the principle inspectorate for all health related services for regulatory purposes;
- (d) ensure the promotion of preventive health services;
- (e) ensure the prevention and emergence of vector borne diseases;

- (f) ensure the promotion of food safety and standards;
- (g) ensure that pharmaceutical and medicinal products imported into Seychelles are of acceptable quality and meet the required standards;
- (h) ensure comprehensive and integrated disease surveillance to prevent and control disease outbreaks;
- (i) ensure that health research conform to the highest scientific and ethical standards.

Functions of
the Authority

5. The functions of the Authority shall be to —

- (a) plan and coordinate investigations related to disease outbreak;
- (b) provide epidemiological and statistical support to public and private health related service providers;
- (c) provide pre and in-service occupational screening and testing facilities for local and foreign workers;
- (d) provide public health laboratory services for surveillance, disease outbreak investigations, chemical, toxicological analysis and coordinate with overseas laboratories;
- (e) monitor and provide strategic and operational directives for occupational health and safety;
- (f) monitor all public health programmes;
- (g) undertake research on environmental exposures related to health;

- (h) regulate the health related services and the sale of health benefit products;
- (i) formulate and operate schemes of service in consultation with the Department of Public Administration;
- (j) provide and monitor the standards of the health related practices;
- (k) approve administrative and operational procedures;
- (l) inquire into complaints, allegations of negligence, misconduct and malpractice in any health related services and take appropriate action in respect thereof;
- (m) approve for export products listed in the Second Schedule;
- (n) provide advice and make recommendations to the Minister on matters related to public health.

PART III - PUBLIC HEALTH AUTHORITY BOARD

6.(1) The Authority shall be administered by a Board known as the Public Health Authority Board consisting of not less than five members appointed by the President by notice in the Gazette, on such terms and conditions as the President may determine.

Establishment
and
composition
of the Board

(2) The President shall appoint the Chairperson and Vice-Chairperson from amongst the members of the Board.

(3) A person appointed as a Member of the Board shall have experience in legal, administrative, public health or financial matters.

(4) The Third Schedule shall have effect with respect to the procedures of the Board.

PART IV - PUBLIC HEALTH COMMISSIONER

Appointment
of the
Commissioner

7.(1) The President shall appoint a Public Health Commissioner who shall be a medical officer, on such terms and conditions as the President may determine.

(2) The Commissioner shall be appointed for a term of 3 years and be eligible for re-appointment.

(3) The Commissioner shall be responsible for the implementation of the decisions of the Board and for carrying out the day-to-day management and administration of the Authority.

(4) The Commissioner shall act in accordance with such directive as he or she may receive, as the Board may assign.

Termination
of the
Commissioner

8.(1) The President may terminate the appointment of the Commissioner, if the Commissioner is —

- (a) convicted of an offence and is sentenced to a term of imprisonment of 3 months or more;
- (b) mentally or physically incapable of carrying out the functions under this Act; or
- (c) absent from duty for 30 consecutive days without the prior written permission of the Minister.

(2) The Commissioner whose appointment is terminated under subsection (1) may appeal to the Supreme Court or to a review forum provided for by regulations under this Act.

(3) The Commissioner may resign by giving three months notice in writing to the President.

9.(1) The President may appoint a person to act in the office of the Commissioner, during —

Persons
appointed to
act during the
absence of the
Commissioner

- (a) the vacancy in that office; or
- (b) any period in which the person holding that office is unable to perform the functions of that office.

(2) The person acting in the office of the Commissioner shall perform all the duties of the Commissioner under this Act.

(3) The validity of anything done by or in relation to a person purporting to act in the office of the Commissioner shall not be called in question on the grounds that —

- (a) the occasion for the appointment had not arisen;
- (b) there was a defect or irregularity in or in connection with the appointment; or
- (c) the appointment had ceased to have effect.

10.(1) The Commissioner may, generally or otherwise provided by the instrument, delegate all or any of the Commissioner's powers or functions other than the power of delegation.

Delegation
of powers

(2) Subject to subsection (3), any powers or functions so delegated, when exercised or performed by the delegate, shall be deemed to have been exercised or performed by the Commissioner.

(3) A delegation under this section does not prevent the exercise of a power or the performance of a function by the Commissioner.

Appointment/
designation of
Public Health
Officers

11.(1) The Commissioner shall appoint public health officers and may designate other officers to perform the functions of the public health officers as the Commissioner thinks fit for the purpose of this Act.

(2) The public health officers and other officers designated shall act in co-operation with the Commissioner and shall be guided by the Commissioner in the performance of the functions under this Act.

PART V -- REGISTRATION

Certificate of
Registration

12. Notwithstanding any provision in any other Act, a person shall not —

- (a) engage in or carry on any health related services;
- (b) keep or manage any premises relating to health related services,

without a certificate of registration granted by the Authority under this Act.

Registration
by the
Authority

13. The Authority shall —

- (a) register all health related services for the purpose of promoting and upholding the highest possible standards of their practices;
- (b) grant certificate of registrations on the basis of clearly defined and transparent criteria;
- (c) ensure that a holder of a certificate of registration complies with the conditions set out in the appendix of the certificate;
- (d) keep a register of all the certificates of registration granted, revoked, suspended or varied.

14. An application for registration shall be made to the Authority in the form and in the manner prescribed by regulations.

Application
for
Registration

15.(1) Where a registration is granted under this Act —

Payment of
registration
fee

- (a) for a period of one year, the registration fee for that year, shall be paid prior to the grant of the registration;
- (b) for a period in excess of one year —
 - (i) the registration fee for the whole period shall be paid prior to the grant of the registration; or
 - (ii) the registration fee for the first year of the period shall be paid prior to the grant of the registration; and
 - (iii) the registration fee for each year subsequent to the first year shall, subject to paragraph (c), be paid on or before the beginning of each subsequent year.
- (c) the Authority may permit the holder of the registration to pay the registration fee in such installments as may be determined by the Authority.

(2) Where the holder of a registration fails to pay the registration fee or any installment in accordance with subsection (1), the registration shall cease to be valid on the date the fee or the installments of the fee is due, without prejudice to the right of the Authority to recover the fee or installment due on the date the registration ceased to be valid.

16.(1) Where a registration is required under this Act, the Authority may —

Decision of
the
Authority

- (a) grant or renew a certificate of registration;
- (b) vary the conditions of a certificate of registration;
- (c) suspend a certificate of registration; or
- (d) revoke a certificate of registration.

(2) Where the Authority deems it expedient or necessary, it may consult any other public authority prior to exercising its powers under subsection (1).

Information
to the
Authority

17.(1) The Authority may, in the exercise of its functions under this Act —

- (a) require any person to furnish any information or any matters relating to a registration;
- (b) request a person to appear before the Authority to answer questions and to produce such documents as the Authority may specify.

(2) The Authority may, appoint or nominate any person or any public authority to inquire and report on any matter relating to the —

- (a) application for a registration;
- (b) alleged breach of any condition of a certificate of registration; or
- (c) renewal, revocation or suspension of a registration.

Suspension
or
revocation
of
Registration

18.(1) The Authority may revoke or suspend a registration, where the Authority is satisfied upon such inquiry under section 17 (2) that the holder of the registration has —

- (a) furnished false, misleading or inaccurate information;

- (b) concealed or failed to disclose a material fact in the application; or
- (c) contravened any written law or any condition of the certificate of registration.

(2) The Authority shall, prior to the decision to refuse an application, suspend, revoke or refuse a renewal of registration, give the applicant or the holder of the registration an opportunity to show cause against the proposed decision.

(3) The Authority may revoke a registration where the holder of a registration is convicted of an offence under this Act or any other law which disqualifies the person, upon conviction, from holding the certificate of registration.

19.(1) Where the Commissioner has reasonable grounds to believe that any activity, relating to any health related services is being carried out in breach of this Act or any condition of the certificate of registration in any premises, vehicle or vessel and having given the holder of the certificate of registration an opportunity to show cause, order —

Closure of premises and seizure of materials, equipment

- (a) the closure of the premises in which such health related service is carried out; and
- (b) seize any materials, equipments, goods, vehicles or vessels.

(2) The Commissioner may call for the assistance of an officer to perform any function in carrying out any order under subsection (1).

(3) An officer so authorised under subsection (2) may, where the officer has reason to believe that an offence under this Act has been, or is being, committed —

- (a) enter and examine any premises, vehicle or vessel;

- (b) call for and examine any certificate of registration, books or other documents;
- (c) take copies of or extracts from any book or documents or any entry of the book or documents.

(4) An officer shall, if so requested, produce the officer's authority to exercise powers under this section.

Closure
Notice

20.(1) In the exercise of the powers under section 19, where the Commissioner orders the closure of any premises, the officer shall affix a copy of the closure notice in a conspicuous part of the premises.

(2) A closure notice so affixed shall be deemed to be a notice to all persons that the premises are the subject of a closure order.

(3) A person shall not interfere with a closure notice or open or allow to be kept open any premises at any time while a closure order is in force in respect of those premises.

Release
from closure
notice

21. Where any premises have been closed or any material equipment, goods, vehicle or vessel has been seized under section 19 and no prosecution in relation to the premises, materials, equipments, goods, vehicles or vessels has been instituted within 60 days after the closure or seizure —

- (a) the premises shall be released from closure; and
- (b) any material, goods, equipment, vehicle or vessel shall be released to the person from whom they were seized.

PART VI - PUBLIC HEALTH APPEALS BOARD

Appeal

22. Any person aggrieved by a decision of the Authority may, within 28 days from receipt of notification of the decision appeal to the Appeals Board, in the form and in the manner prescribed by regulations.

23.(1) There shall be established a Public Health Appeals Board to hear and determine appeals against the decisions of the Authority.

Establishment
and
composition of
Public Health
Appeals Board

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

- (a) a representative of the Attorney General;
- (b) a representative of a civil society organization;
- (c) a health professional from the Government health services.

(3) A person appointed as a Member of the Appeals Board shall have experience in legal, administrative, public health or financial matters.

(4) The Members of the Appeals Board shall be appointed on such terms and conditions as the President may determine.

(5) The Members of the Appeals Board shall hold office for a period of three years and be eligible for re-appointment

(6) The Members of the Appeals Board shall elect from amongst themselves a Chairperson.

(7) The President shall 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 the Member's duties; or
- (b) an offence of such nature as renders it desirable that the Member's appointment be terminated.

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

Decision of
the Appeals
Board

24. The Appeals Board, where it entertains a notice of appeal, may —

- (a) confirm the decision of the Authority;
- (b) vary the decision of the Authority;
- (c) set aside the decision of the Authority; or
- (d) remit the matter to the Authority for reconsideration of its decision.

PART VII - FINANCIAL AND OTHER PROVISIONS

Fund
of the
Authority

25.(1) The Authority shall have its own fund which subject to the provisions of this Act, be administered in the same manner and in accordance with the same procedure applicable to funds of the public service from which all payments by the Authority shall be made.

(2) The Fund of the Authority shall consist of —

- (a) moneys allocated by an Appropriation Act and paid to the Authority;
- (b) moneys received by the Authority by way of grants, donation, gifts from any legal sources whether domestic or foreign; and
- (c) moneys lawfully received by the Authority for the purpose of the Authority.

(3) The Fund of the Authority may be applied, for the —

- (a) payments or discharge of debts, expense and other obligations of the Authority;

- (b) payment of emoluments, fees and allowances payable to the Chairpersons, Members of the Board and Appeals Board, staff of the Authority; and
- (c) any other expenses as may be authorised by the Board.

(4) The Authority may spend such sums of moneys as it thinks fit for performing its functions under this Act and such sum of moneys shall be treated as expenditure payable out of the funds of the Authority.

26.(1) The Authority shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in the form and in the manner as approved by the Auditor-General.

Annual
financial
statement

(2) The accounts of the Authority shall be audited by the Auditor General in accordance with Article 158 of the Constitution.

(3) The Authority shall prepare, in each financial year, an annual financial statement for the next financial year showing separately—

- (a) the expenditure which is proposed to be met from the internal sources of the Authority; and
- (b) the sum required from the government to meet other expenses distinguishing revenue expenditure from other expenditure.

27. Where the accounts and statement of accounts of the Authority in respect of any financial year have been audited, the Authority shall furnish to the Minister a copy of the statement together with a copy of any report by the Auditor-General on the statement of accounts or on the accounts of the Authority.

Statement of
accounts

Annual
report

28. The Authority shall prepare once every calendar year, in such form and within such time as may be prescribed, an annual report giving full account of its activities during the previous year and forward copies together with the statement of account audited under section 26 to the Minister and the Minister shall cause the report to be tabled before the National Assembly.

PART VIII - OFFENCES

Solicits,
advertises etc
without valid
registration

29. Any person who without a valid certificate of registration solicits, advertises, invites or offers any health related services commits an offence and on conviction shall be liable to a fine not exceeding SCR100,000 or a term of imprisonment not exceeding 3 years, or both such fine and imprisonment.

Failure to
comply with
conditions of
registration

30. A person who contravenes any conditions of a certificate of registration commits an offence and on conviction shall be liable to a fine not exceeding SCR50,000 or a term of imprisonment not exceeding 2 years, or both such fine and imprisonment.

Failure to
comply with
closure
notice

31. Any person who without reasonable excuse enters, opens or allows any premises to remain open in respect of which a closure notice is in force or interferes with the closure notice commits an offence and on conviction shall be liable to a fine not exceeding SCR100,000 or imprisonment not exceeding 3 years, or both such fine and imprisonment.

Failure to
furnish
information
etc

32.(1) Any person who without lawful authority or reasonable excuse—

- (a) willfully fails to furnish information when required to do so by the Authority;
- (b) willfully fails to comply with notices issued by or any order made by the Authority;

- (c) knowingly gives false evidence before the Authority;
- (d) willfully obstructs an officer, employee or agent of the Authority exercising any functions under this Act; or
- (e) acts in contempt of the Authority,

commits an offence and on conviction shall be liable to a fine not exceeding SCR25,000 or a term of imprisonment not exceeding 1 year, or both such fine and imprisonment.

33. Any person who without lawful authority or reasonable excuse communicates to another person information which the person has acquired while acting as a Member, officer, employee or agent of the Authority commits an offence and on conviction shall be liable to a fine not exceeding SCR20,000.

Disclosure
of
information

PART IX - MISCELLANEOUS

34. The Authority may on such terms and conditions as it thinks fit employ officers and other staff as may be necessary taking into account the procedures applicable to employees of public bodies.

Staff of the
Authority

35. Any suit or other legal proceedings shall not lie against the Authority, Chairpersons, Vice-Chairperson, Members of the Boards, officers or other employees of the Authority for anything done or intended to be done in good faith in pursuance of this Act.

Protection of
action taken in
good faith

36. The Commissioner, Chairpersons, Vice-Chairpersons, Members of the Boards, officers and employees of the Authority shall be deemed to be public servants within the meaning of sections 91 to 96 of the Penal Code.

Application
of provisions
of the penal
Code

37. The Minister may make regulations—

Power to
make
Regulations

- (a) for amending the Schedules;
- (b) for forms and the manner and fees required under this Act;
- (c) for procedures relating to Appeals;
- (d) for the proper and efficient administration of this Act;
- (e) for any matters which are required to be prescribed, or which are necessary or convenient to be prescribed for giving effect to this Act.

Savings and
Transitional

38. Upon the commencement of this Act ———

- (a) any licences for activities, professions or practices referred to in the Fourth Schedule and the Fifth Schedule granted by the appropriate body prior to the commencement of this Act shall continue until they are amended or annulled by regulations made under this Act;
- (b) all debts, obligations and liabilities incurred and all contracts entered into and all matters and things engaged to be done with or for the government prior to the commencement of this Act, shall be incurred by the Authority and the Authority shall use all powers necessary to take possession of, recover and deal with such assets and discharge such liabilities;
- (c) officers and other employees of the Public Health Department, employed prior to the commencement of this Act shall be deemed to be officers and employees of the Authority

on conditions no less favourable than those subsisting immediately prior to the commencement of this Act;

- (d) all acts done, decision taken, authorisation or permission granted by the Public Health Commissioner, officers or employees under the Public Health Act 1960, which were validly done, taken, granted under any written law prior to the commencement of this Act shall continue to have effect in accordance with their terms until amended, annulled, withdrawn by regulations made under this Act or in accordance with any written law;
- (e) any suits or other legal proceedings pending or have been instituted by or against the Government immediately prior to the commencement of this Act shall be continued or instituted as if the Authority was a party thereto as from the commencement of this Act;
- (f) any movable property vested in the Government immediately prior to the commencement of this Act used and managed by the Public Health Department shall be transferred and vested in the Authority at the commencement of this Act.

FIRST SCHEDULE

List of Public Health Laws

Section 3 (3)

1. Control of Slaughtering of Cattle Act (Cap 48)
2. Food Act (Cap 83)
3. Health Professionals Act 2006

4. Malaria Act (Cap 120)
5. Mental Health Act (Cap 127)
6. Pharmacy Act (Cap 169)
7. Pesticides Control Act (Cap 164A)
8. Public Health Act (Cap 189)
9. Tobacco Control Act, 2009
10. Quarantine Act (Cap 197)

SECOND SCHEDULE

HEALTH RELATED PRODUCTS

1. Human tissues in any form including blood and blood products
2. Biological samples
3. Re-export pesticides
4. Re-export medicines

THIRD SCHEDULE

Section 6 (4)

Procedures of the Board

1. The Chairperson, Vice-Chairperson and Members of the Board shall hold office for a period of three years and be eligible for reappointment, but shall not be eligible to hold office for more than two terms.

2.(1) The President shall at any time terminate the appointment of the Chairperson, Vice-Chairperson or a Member who —

Termination
of Board
Members

- (a) has been found guilty of any misconduct, default or breach of trust in the discharge of any duties;
- (b) is convicted of an offence and sentenced to a term of imprisonment of three months or more;
- (c) is mentally or physically incapable of carrying out the functions under this Act; or
- (d) is absent from 3 consecutive meetings without the prior permission of the Chairperson and in the case of the Chairperson, the Minister.

(2) The Chairperson, Vice-Chairperson or any Member of the Board may resign by giving three month's notice in writing to the President and on such resignation being accepted, the Chairperson, Vice-Chairperson or any Member shall be deemed to have vacated the office.

3. The Board shall meet at least 6 times in a year, not less than once in every two months, and at such other times as the Chairperson may determine.

4. Three Members of the Board shall constitute a quorum for a meeting.

5. Where before the expiry of the term of office of the Chairperson, Vice-Chairperson or any Member, a vacancy arises, for any reason, the person appointed to fill such vacancy shall hold office for the unexpired period of the term for which his or her predecessor in the office would have held office if such vacancy had not arisen.

6. The Chairperson or, in the absence of the Chairperson the Vice-Chairperson shall preside at any meeting of the Board, and in the absence of the Chairperson and the Vice-Chairperson any Member elected by the Members present shall preside at the meeting of the Board.

7. The decision of the Board shall be decided by a majority of votes of the Members present and voting, in the event of an equality of votes the Chairperson or the Vice-Chairperson or the Member presiding shall have a second or casting vote.

8. The Board may co-opt any person to attend its meetings and participate in its deliberation on any matter and such persons shall not have the right to vote on the matter to be decided by the Board.

9. The Chairperson, Vice-Chairperson and Member of the Board who has direct or indirect financial, personal or other interest in any matter which is to be discussed at the meeting of the Board and which entails or may entail a conflict of interest, shall —

- (a) disclose the nature of such interest before or at the meeting of the Board; and
- (b) not take part in any deliberation or decision in respect of that matter or vote therein.

10.(1) The Director of the Registration and Regulatory Unit shall be the secretary of the Board.

(2) The secretary shall, subject to the control and supervision of the Board, exercise such power and discharge such functions as the Board may delegate.

11. Where a matter requires a decision of the Board and it is not convenient or possible for the Board to meet to

determine the matter, the secretary shall circulate the papers regarding the matter to all Members for consideration and decision or approval and if the Members unanimously approve a decision or resolution by a signed declaration the decision or resolution shall have the same effect as a decision or resolution passed at a meeting of the Board.

12. Subject to this Act, the Board shall regulate its own proceedings.

FOURTH SCHEDULE

HEALTH PROFESSIONAL PRACTICES

1. Audiology
 2. Biomedical Laboratory
 3. Clinical Psychology
 4. Dental Practice
 5. Emergency Medical Practice
 6. Medical Practice
 7. Nutrition
 8. Occupational Therapy
 9. Optometry
 10. Pharmacy
 11. Physiotherapy
 12. Radiography
 13. Speech therapy
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FIFTH SCHEDULE**HEALTH RELATED PRACTICES**

1. Acupuncture
2. Health Shops
3. Homeopathy
4. Reflexology
5. Hypnotherapy
6. Hydrotherapy
7. Aromatherapy
8. Massage Therapy
9. Manipulative Therapy
10. Osteopathy
11. Energy Therapy
12. Colour Therapy
13. Practice of invasive procedures

I certify that this is a correct copy of the Bill which was passed by the National Assembly on 8th October, 2013.



Azarel Ernesta
Clerk to the National Assembly