

## 12. SEYCHELLES

### 12.1 National Vision for Environmental Protection in the Seychelles

Environmental rights are clearly entrenched in the Seychelles Charter of Fundamental Human Rights and Freedoms.<sup>202</sup> Article 38 states that:

*“The State recognises the right of every person to live in and enjoy a clean, healthy and ecologically balanced environment and with a view to ensuring the effective realisation of this right the State undertakes:*

- i. To take measures to promote the protection, preservation and improvement of the environment.*
- ii. To ensure sustainable socio-economic development of the Seychelles by judicious use and management of the resources of the Seychelles.*
- iii. To promote public awareness of the need to protect, preserve and improve the environment.”*

In addition, Article 40(e) of the Constitution places a duty on every citizen of the Seychelles to protect, preserve and improve the environment.

Since the Constitution is the supreme law of the islands, such stringent protection of the environment at constitutional level should facilitate environmental management in the Seychelles.

### 12.2 Administrative Structure for EIA in the Seychelles

#### 12.2.1 The Ministry of Environment

The Ministry of Environment (MoE) is responsible for administering the Environmental Protection Act, No 9 of 1994 (EPA) through a number of departments, sections and units (see Figure 12.1). The functions of the MoE are set out in section 5 of the Act and include:

- (i) Implementing policies and programmes in pursuance of the national objectives on environment protection;
- (ii) Coordinating the activities of other agencies concerned with the protection of the environment under this Act or under any other law which relates to the objectives of this Act;
- (iii) Developing standards for environmental quality and for emission or discharge of environmental pollutants from various sources;
- (iv) Commissioning research and sponsoring studies on problems relating to environmental pollution;
- (v) Examining such manufacturing processes, materials and substances as are likely to cause environmental pollution;
- (vi) Identifying areas in which any activity shall not be carried out or shall be carried out subject to certain safeguards;
- (vii) Evolving procedures and safeguards for the prevention of accidents which may cause environmental pollution and remedial measures for such accidents;
- (viii) Collecting and disseminate information in respect of matters relating to environmental protection;

<sup>202</sup> Government of the Republic of Seychelles (1993). *The Constitution of the Republic of Seychelles*. Victoria.

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- (ix) Coordinating actions required in a state of environmental emergency or any other situation which may pose a serious threat to the environment;
- (x) Preparing manuals, codes or guidelines relating to environmental protection and for the prevention, control and abatement of pollution; and
- (xi) Carrying out such other matters as the Minister may assign for the purpose of securing the effective implementation of the provision of the Act.

The Ministry comprises the following departments:

- Administration Department
- Botanical Gardens Department
- Conservation Department
- Environmental Assessment and Pollution Control Department (EAPC); and
- Forestry Department (see Figure 12.1).

The departmental heads meet several times a week to discuss ministerial matters.

The EAPC carries out all tasks associated with the administration of the EIA Regulations. The department is also responsible for pollution control, the control of environmental malpractice, coastal erosion monitoring, and public education with regard to environmental management issues.<sup>203</sup>

Whilst the Ministry responsible for environment retained the portfolio responsibility for the EIA Regulations, an inter-ministerial collaboration mechanism was setup to facilitate the coordination of EIA approval for development projects. For example, for tourism projects, there is a tripartite review process involving the Ministry of Tourism and Civil Aviation, the Ministry of Land Use and Habitat and the Ministry of Environment and Transport.<sup>204</sup>

The Act also provides for the establishment of the National Environmental Advisory Committee (NEAC). This body comprises representation from government departments, NGOs (non-governmental organisations) and associations with environment-related functions. The committee has been formed, but has only met once – in early 1996. This committee would be useful for facilitating communication between the Government and NGOs on environmental matters – an area in which there is currently inadequate interaction.<sup>205</sup>

The functions of the NEAC shall be to:

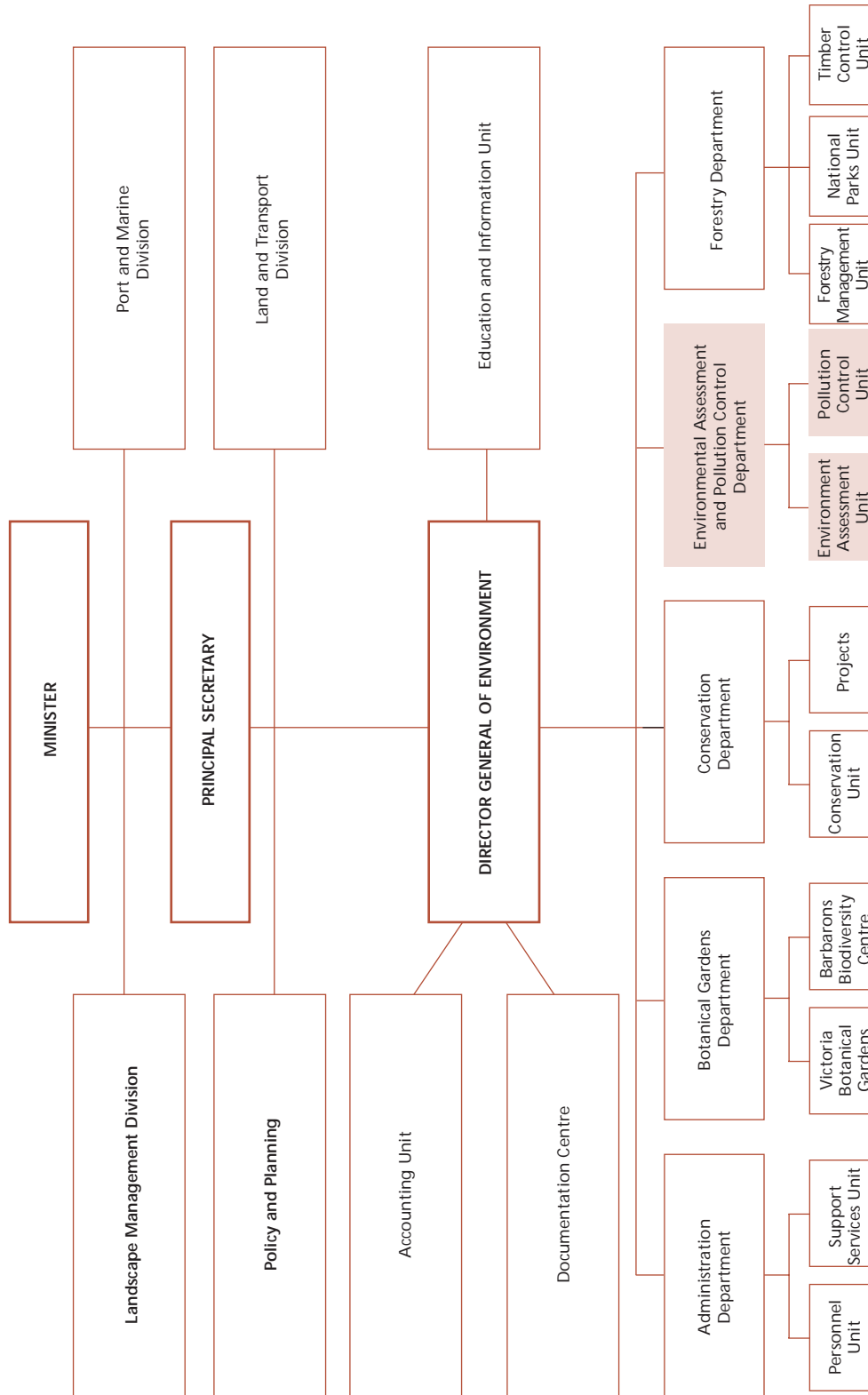
- (a) Consider any matter affecting the quality of the environment and report to the Minister;
- (b) Advise the Minister on the state of the environment and make recommendations regarding actions and measures for environment protection and for improvement of the quality of the environment; and
- (c)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

<sup>203</sup> King, V and Walmsley, B (2003). Seychelles chapter in *“Environmental Impact Assessment in Southern Africa.”* Southern African Institute for Environmental Assessment, Windhoek, Namibia, pp 173-199.

<sup>204</sup> Payet, R (2004). *“Effectiveness of the Environmental Impact Assessment Process in Managing Tourism Development in the Seychelles.”* In *Environment Law in Africa Review* (Ed. E Gray), ACTS/SEI Publication.

<sup>205</sup> Op. Cit. Footnote 203.

Figure 12.1: Organisational Structure of the Ministry of Environment



### 12.2.2 Intersectoral cooperation

There are several agencies involved in the administration of environmental management in the Seychelles, as listed in Table 12.1.

**Table 12.1: Principal Institutions Involved in Environmental Management<sup>206</sup>**

Institution	Type	Activities and responsibilities
Agriculture Division, Ministry of Agriculture and Marine Resources	Government	<ul style="list-style-type: none"> <li>• Agricultural planning</li> <li>• Establishment of drainage systems</li> </ul>
Beautification Division, Ministry of Local Government	Government	<ul style="list-style-type: none"> <li>• Town and country beautification</li> <li>• Cleaning and landscaping</li> </ul>
Environment Division, Ministry of Environment	Government	<ul style="list-style-type: none"> <li>• Environmental authorisations (right to veto development)</li> <li>• Pollution control</li> <li>• Conservation</li> <li>• Forestry</li> <li>• Parks and gardens</li> <li>• Information</li> <li>• Sensitisation</li> <li>• EIA FOCAL POINT</li> </ul>
Environmental Health Division, Ministry of Health	Government	<ul style="list-style-type: none"> <li>• Public health</li> <li>• Provision of sanitation</li> <li>• Control and monitoring of ambient water</li> </ul>
Housing Division, Ministry of Land Use and Habitat	Government	<ul style="list-style-type: none"> <li>• Provision of low-cost housing</li> <li>• Establishment of drainage systems</li> </ul>
International Relations and Economic Planning Division, Ministry of Foreign Affairs	Government	<ul style="list-style-type: none"> <li>• Maintenance of international relations</li> <li>• Macroeconomic planning</li> </ul>
Island Development Company	Parastatal	<ul style="list-style-type: none"> <li>• Management of the outer islands</li> </ul>
Land Transport Division, Ministry of Environment	Government	<ul style="list-style-type: none"> <li>• Provision of roads and infrastructure</li> <li>• Establishment of drainage systems</li> </ul>
Landscaping Division, Ministry of Environment	Government	<ul style="list-style-type: none"> <li>• Town landscaping</li> <li>• Beautification</li> </ul>
Marine Parks Authority	Parastatal	Management of marine national parks
Meteorological Services Division and Policy Planning and Services Division, Ministry of Environment	Government	<ul style="list-style-type: none"> <li>• Policy planning and services</li> <li>• Climate change</li> <li>• Meteorology</li> </ul>
National Inter-ministerial Committee	High-level government inter-ministerial body	Policy, and socio-economic and macroeconomic decisions

<sup>206</sup> Sourced and adapted from King and Walmsley, op. cit. Footnote 203.

Institution	Type	Activities and responsibilities
Physical Planning Division and Geographical Information Systems' (GIS) Division, Ministry of Land Use and Habitat	Government	<ul style="list-style-type: none"> <li>• Land and infrastructure</li> <li>• GIS</li> <li>• Building control</li> <li>• Drainage</li> </ul>
Port and Marine Services Division, Ministry of Environment	Government	<ul style="list-style-type: none"> <li>• Control of ship-borne waste</li> <li>• Control of oil spills</li> <li>• Control of marine pollution</li> </ul>
Public Utilities Corporation	Parastatal	<ul style="list-style-type: none"> <li>• Water supply</li> <li>• Sewage treatment</li> <li>• Power supply</li> </ul>
Seychelles Bureau of Standards	Parastatal	<ul style="list-style-type: none"> <li>• Laboratory analysis</li> <li>• Information provision</li> <li>• Standards development and implementation</li> </ul>
Seychelles Coast Guard Division, Ministry of Defence	Government	<ul style="list-style-type: none"> <li>• Patrolling of territorial waters</li> <li>• Control of maritime pollution</li> </ul>
Seychelles Fishing Authority	Parastatal	Management of fisheries and aquaculture
Seychelles Island Foundation	Internationally sponsored quasi non-governmental organisation	Management of world heritage sites <ul style="list-style-type: none"> <li>• Aldabra</li> <li>• Val Mer National Park</li> </ul>
Solid Waste and Cleaning Agency	Parastatal	<ul style="list-style-type: none"> <li>• Solid waste management</li> <li>• Littering abatement</li> <li>• Cleaning</li> </ul>
Tourism Division, Ministry of Tourism and Civil Aviation	Government	Tourism planning
Tourism Projects Appraisal Committee	Inter-ministerial committee	<ul style="list-style-type: none"> <li>• Tourism projects</li> <li>• Reports to the National Interministerial Committee</li> </ul>
Town and Country Planning Authority	Inter-ministerial and private sector multidisciplinary authority	Physical planning permissions

## 12.3 Policy and Legal Framework for EIA

### 12.3.1 Environmental Policies and Plans

There is no environmental policy as such but there are two key documents which have been used to guide sustainable development in the Seychelles. These are the government's environmental management plans for the Seychelles (EMPS) for 1990–2000 and 2000–2010.<sup>207, 208</sup> The President supported the EMPS initiatives, which served to propel the progress of the 1990 National Development Plan (NDP) in the direction of sustainable development for the country.

<sup>207</sup> Government of the Republic of Seychelles (1990). "Environmental Management Plan of Seychelles 1990-2000." Victoria.  
<sup>208</sup> Government of the Republic of Seychelles (2000). "Environmental Management Plan of Seychelles 2000-2010." Victoria.

The 1990-2000 EMPS was also approved internationally, but has since been criticised for a lack of input from stakeholders during its formulation, and for its inflexibility with regard to incorporating new programmes. Nonetheless, about 90% of the projects discussed in the 1990–2000 EMPS have been implemented.<sup>209</sup>

The 2000-2010 EMPS, on the other hand, was prepared with significant stakeholder involvement and presents a far more flexible approach to environmental management. This second generation EMPS will serve as a flexible, yet robust, vehicle for continued improvement of proactive environmental management excellence, so that by the year 2010, the Seychelles will be firmly established globally as a committed leader in sustainable development.<sup>210</sup> In the introduction to the 2000-2010 EMPS, Vice-President Michel, as Minister of Environment, stated the following:

*“Capacity-building will be one of the most important challenges for this new EMPS, as the importance of planning and environmental responsibility continues to permeate throughout all levels of society. Being a small island developing state, severe constraints work against us. Our challenge has always been to achieve much with little because we believe in improving the prosperity of our people and the quality of our environment. Additionally, there is increasing pressure for economic development and international environmental issues. We will continue to integrate economic development and environmental protection as guided by Agenda 21.”*

The National Land Use Plan of Seychelles (NLUP)<sup>211</sup> was developed to allow land use planners to guide development within a global and integrated perspective. It provided an opportunity for long-term land use planning. Although it never became a legally binding instrument due to the assumption that such plans would not be flexible and likewise constrain development options, it evolved as a useful background tool to the EIA process.

However, due to changes in the land use policy, especially with the land bank housing projects and the need for more stakeholder involvement, more detailed and focussed district land use plans (DLUPs) are now superseding the NLUP. The District Land Use Plan is also used in the screening of development projects requiring EIAs, in conjunction with a sensitive area map prepared by the Ministry of Environment.<sup>212</sup>

### 12.3.2 The Environment Protection Act

The need for legislation to address emerging environmental issues and problems in the Seychelles started to receive particular attention in the 1990s. Although there was already a large number of environment related statutes, the consistency and level of fragmentation between those instruments, warranted the drafting of a specific environmental protection law.<sup>213</sup>

<sup>209</sup> Op. Cit. Footnote 203.

<sup>210</sup> [www.env.gov.sc](http://www.env.gov.sc)

<sup>211</sup> *Plan d’Amenagement du territoire*. PAT, 1989.

<sup>212</sup> Op. Cit. Footnote 204.

<sup>213</sup> Op. Cit. Footnote 204.

The first Environment Protection Act (EPA) was enacted in 1988. However, this was repealed and replaced by a more comprehensive act, the Environment Protection Act 9 of 1994. The aim of the EPA is stated as being:

*"... to provide for the protection, improvement and preservation of the environment and for the prevention, control and abatement of environmental pollution."*

The Environment Protection Act, 1994 came into effect on 1st March 1995. It is an umbrella legislation providing a general policy framework for environmental protection enabling the introduction of detailed regulations by policy-makers. It has the flexibility and scope to deal with wide range of issues, and at the same time, has a provision for dealing with specific issues such as pollution control, waste management, environment impact assessments etc.

The main sections of the EPA 1994 are described below:

- S.1 to S.3 General and definitions
- S. 4 to S. 5 Administration of the Act and functions of bodies instituted
- S.6 to S.14 Prevention, control and abatement of Environmental Pollution - provisions for prescribing standards, subsidiary legislation, pollution areas, recycling and adoption of cleaner technologies, declare coastal zones and prepare ICZM plans, environmental research and monitoring, control, use and trade in substances, waste, or activities which may endanger the environment.
- S.15 *Environment Impact Assessment* - control of development and activities in a protected or ecologically sensitive area, set-up of the environmental appraisal committee (EAC), contents of the EIA, responsibilities of the developer, provision for public inspection, claims and appeals, and monitoring of development or activity for compliance with EIA recommendations. It also makes provision for the promulgation of regulations for EIA (see section 12.3.3 below).
- S.16 to S.28 Enforcement of the Act - includes provisions for serving of enforcement notice, prohibition notice, with powers given to authorised officers for entry, examining and testing any equipment, recording and documenting, collection of samples, appointment of government analysts and declaration of environmental emergencies.
- S.29 to S.40 Offences, penalties, procedures and other provisions - includes provisions for consultation with other bodies in the implementation of the Act.

The other main act which deals with planning for sustainable development is the Town and Country Planning Act, 1972, administered by the Ministry of Land Use and Habitat. Unfortunately, the Town and Country Planning Act (TCPA) was written 22 years before the EPA, and the provisions of the two are not readily compatible. For example, in terms of Section 10 of the TCPA, the

Minister of Land Use and Habitat may exempt any development project application from having to obtain environmental authorisation.

#### Strategic Environmental Assessment

The concept of Strategic Environment Assessment is not well developed in the Seychelles, but it is expected that through the implementation of climate change adaptation scenarios, the concept of integrated assessment will become more accepted.<sup>214</sup>

### 12.3.3 Regulations

The Minister of Environment has promulgated regulations in terms of the EPA relating to, *inter alia*, noise emissions, ozone, container storage, the establishment of the Marine Parks Authority, the designation of a Solid Waste Agency and environmental impact assessments (EIA).

The Environmental Protection (Impact Assessment) Regulations were published in the Government Gazette in May 1996, and were promulgated in terms of Sections 15 and 40 of the EPA. They contain the following sections:

- S.1 to S.3 General, and reference to section 15.1 of the EPA 1994.
- S.4 Application for authorisation - application requirements, with a specific reference to the TCPA.
- S.5 to S.6 Determination of Authority - introduces the Class I and Class II EIAs. This is linked with the TCPA (regulation 5.3).
- S.7 Submission of the EIA by the Proponent.
- S.8 Public inspection of the EIA.
- S.9 Role and function of the EIA Appraisal Committee, which shall be ad hoc.
- S.10 Authorisation of a project or activity.
- S.11 Right of appeal against any decision.
- S.12 Covers other developments falling outside the scope of the TCPA, such as resource extraction, marine recreational activities, etc.

Schedule 1 of the EIA Regulations contains a list of projects or activities requiring environmental authorisation under regulation 3.1 (see section 12.4.1 and Appendix 12-1 of this handbook). Schedule 2 lists the protected and ecologically sensitive areas proclaimed under regulation 3.2 (see Appendix 12-2 of this handbook) and Schedule 3 provides the form for a Memorandum of Appeal.

The development of the EIA Regulations, as expected, was a highly contested and frequently redrafted piece of legislation.<sup>215</sup> To ensure its credibility, section 15.1 of the EPA 1994 was added to clearly indicate that:

*"Notwithstanding any licence, permit or approval granted under any other Act, any person who commences, proceeds with, carries out, executes or conducts or causes to commence, proceed with, carry out, execute or conduct any prescribed project, activity or any project or activity within a protected or ecologically sensitive area as may be prescribed under this Act or under any other Act for the time being in force:*

<sup>214</sup> Op. Cit. Footnote 204.

<sup>215</sup> Op. Cit. Footnote 204.

- (a) *Without carrying out an Environmental Impact Assessment Study and obtaining the authorisation for the Authority; or*
- (b) *In breach of any conditions imposed by the Authority, is guilty of an offence".*

Following many consultative meetings and draft proposals, the final text of the present regulations was agreed upon, which essentially provided a mechanism for close consultation between the key ministries involved, i.e. the Ministry of Land Use and Habitat (responsible for the Town and Country Planning Act) and Ministry of Health. A direct link and cross-reference to the Public Health Act 1960 and the TCPA 1972 was also included.<sup>216</sup>

The present EIA regulations bring together a wide scope of issues, such as environmental, social, economic, health, cultural, resource management and risk within the entire planning process. Similarly the regulations are not only limited to the impacts of projects and activities, but look at habitat responses, biodiversity effects, and sustainability considerations.<sup>217</sup>

#### 12.3.4 Permits and Licences

In terms of section 15(1) of the Act, the proponent of a project or activity specified in Schedule 1, or if a proponent contemplates a project or activity in any area specified in Schedule 2, must make an application for an *Environmental Authorisation* before he/she can proceed with the project or activity.

However, where the project or activity is a development within the ambit of the Town and Country Planning Act, the application must be made to the Authority responsible for the administration of that Act, who will forward a copy of the application to the MoE. When this occurs, the Minister or the Town and Country Planning Authority may, in exercising the powers under the Town and Country Planning Act, grant or refuse an environmental authorisation in respect of that application.

In addition to an Environmental Authorisation, a proponent may need to obtain a number of other authorisations from MoE for the following:

- Discharge or burying any polluting or hazardous substance or waste (s. 7(4)(a));
- Discharge of any effluent or otherwise dispose of any polluting or hazardous substance into any water course or the ocean (s. 7(5));
- Emit any air pollution, or establish or operate an industrial plant in an air pollution control area (s. 8(2));
- Emit noise in excess of the noise emission standards (see Table 12.3) (s. 9(2));
- Develop or operate a waste dump (s. 12(3)); and
- Dispose, transport or export any hazardous waste (s. 12(6)).

#### 12.3.5 Penalties

Fines for offences are set out in the EPA and are summarised in Table 12.2, but prosecution is very rare.

<sup>216</sup> Op. Cit. Footnote 204.

<sup>217</sup> Op. Cit. Footnote 204.

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**Table 12.2: Offences and Penalties**

Section of the Act	Offence	Penalty
12(4)(a)	Littering	Rs5,000
12(4)(b)	Allow litter to blow from vehicles	
16(2)	Failure to comply with an enforcement notice	Imprisonment for 1 year and a fine of Rs50,000, and Rs5,000 per day for continued offence after conviction
17(5)	Failure to comply with a prohibition notice	
22(2)	Failure to assist an authorised inspector	
22(3)	Wilful delay or obstruction of an authorised inspector	
7(4)(a)	Discharge or burying polluting or hazardous wastes without authorisation	Imprisonment for 6 years and fine of Rs250,000, and Rs5,000 per day for continued offence after conviction
7(5)	Discharge of effluent without authorisation	
8(2)	Emission of air pollution in an air pollution control zone (APCZ) without authorisation	
8(3)	Establish or operate an industrial plant in an APCZ without authorisation	
9(2)	Emit noise without authorisation	If the offence continues for more than 1 year after conviction, liable to prison for >2 years and <7 years.
11(4)	Discharge polluting or hazardous substances in a designated coastal zone	
12(3)	Disposal of waste without authorisation	
12(6)	Disposal of hazardous waste without authorisation	
15(4)	Failure to comply with the EIA requirements set out in s.15 of the EPA	

### 12.3.6 Fees

There are no EIA application or review fees in the Seychelles.

### 12.3.7 Guidelines

The Environmental Management Plan for the Seychelles (EMPS) includes EIA Guidelines for the following sectors:

1. Agriculture and Animal Husbandry
2. Coastal Zone Management
3. Construction
4. Fisheries and Aquaculture
5. Forestry and Public Gardens
6. Industry and Power
7. Information and Education

8. Oil Resources Management
9. Quarries
10. Solid and Liquid Waste Management
11. Tourism
12. Transport

These guidelines are used by the authorities in screening applications and drafting ToRs, and should be referred to by developers and their consultants to ensure that all key issues are addressed in the EIA.

### 12.3.8 Environmental Standards

In terms of section 6 of the EPA, the Minister may prescribe standards 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, motor vehicles, aircraft, industrial and commercial activities;
- (e) Odours as are required to preserve and maintain public health and the environment; and
- (f) Pesticide residues in the environment.

Emission standards have been published under the EPA for noise, the Environment Protection (Noise Emission Standards) Regulations, SI 49 of 1999 (see Table 12.3), and effluent quality, the Environment Protection (Miscellaneous) Regulations, SI 84 of 1995 (see Table 12.4). No other emissions are monitored or regulated.

**Table 12.3: Noise Emission Standards**

Description Area	Time	Limits in Decibels (dB(A))
Residential	06h00 – 23h00	60 Leq
	23h00 – 06h00	55 Leq
Industrial	At all times	75 Leq (measured at the boundary of the industrial site)
Audible intrusion in pristine acoustic environment	At all times	60 Leq

### 12.3.9 Certification of Environmental Consultants

The Seychelles has no system of practitioner accreditation. Although the MoE recognises the need for such a system, there are concerns about the logistics of the process. At present, the MoE possesses a list of consultants who have previously undertaken work in the country, although there is no system of approving or recommending particular practitioners.

Table 12.4: Effluent Discharge Standards

Parameter	Maximum concentration in milligrams per litre (mg/l) unless otherwise stated
Temperature	30°C measured at the point of discharge
pH	5.5 – 8.5 units
Suspended solids	30
BOD at 20°C	30
COD	80
Free chlorine (as Cl <sub>2</sub> )	0.5
Phosphorus (as PO <sub>4</sub> )	5
Nitrate (as NO <sub>3</sub> )	15
Nitrite (as NO <sub>2</sub> )	1
Phenols	0.1
Chromium (total)	1
Arsenic (total)	0.1
Mercury (total)	0.05
Cadmium (total)	0.2
Lead (total)	0.9
Copper (total)	1
Zinc (total)	2
Iron (total)	5
Nickel (total)	1
Aluminium (total)	1
Tin (total)	0.1
Manganese (total)	2
Oil and grease	10
Total coliforms	500 per 100ml
Faecal coliforms	100 per 100ml
Faecal streptococcus	100 per 100ml
Salmonella	0
Pesticides	As per prevailing law

## 12.4 EIA Procedural Framework in the Seychelles

### 12.4.1 Screening

A developer who wishes to undertake a development in the Seychelles has to engage in a number of consultations before moving towards the final feasibility study stage of the development.

In terms of the EIA Regulations, the following projects or activities are subject to EIA:

- An activity listed in Schedule 1 of the Regulations (see Appendix 12-1 for the list);
- A project in a protected area or ecologically sensitive area listed in Schedule 2 of the Regulations (see Appendix 12-2); or
- Any other project or activity likely to have a significant impact on the environment.

The schedules are extremely comprehensive in their listings of activities as well as sensitive areas. Where a proposed project does not fall into any of the categories, the MoE is empowered to insist that it complies with the EIA Regulations as it may have a potentially significant impact upon the environment. However, in terms of Section 15(11), the Minister of Environment is entitled to exclude a prescribed project from the EIA process.

An initial consultation involves the presentation of the development concept to a Project Appraisal Committee, chaired by the Ministry for Tourism and Civil Aviation, in which the Ministry of Environment and Transport is represented. This committee is responsible in giving the initial guidance on how the concept can be further developed or amended to meet national policies and guidelines. It is often after this screening process that the Ministry of Environment decides whether the project will be subject to an EIA (Class I EIA) or a Class II assessment (see Section 12.4.1 below and Figure 12.2). This determination will be based on the appraisal guidelines and the likely impact that the project will have on the environment and whether the project type is listed in Schedule 1 or it is located in an area listed in Schedule 2. This determination has to be made within *14 days* of receipt of the application.

Where a project is deemed to have a potentially significant impact on the environment, a Class 1 EIA will be required and the MoE will provide the Terms of Reference for the EIA.

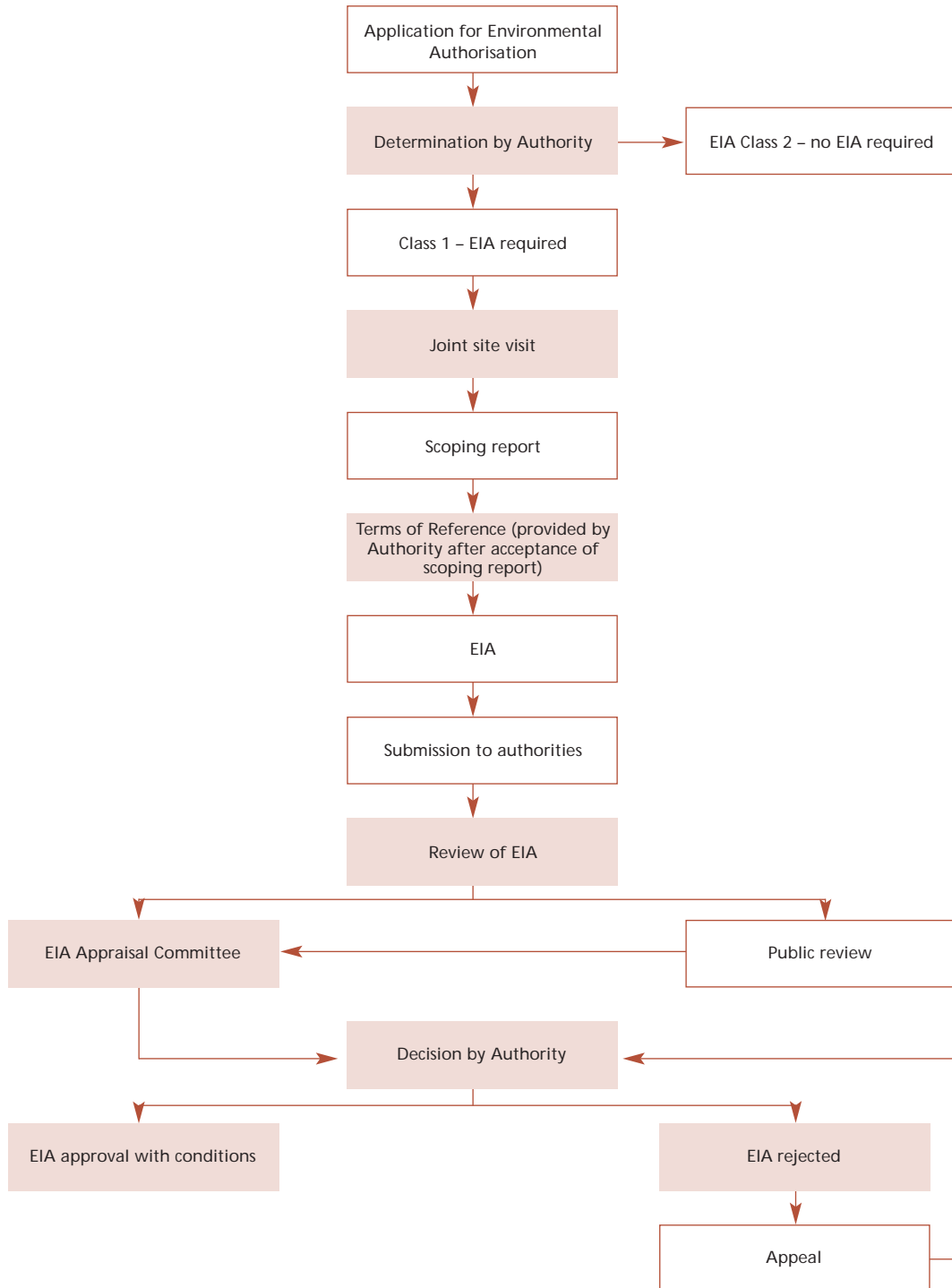
If a Class 2 EIA is deemed adequate, the MoE may undertake the study themselves, or request that the proponent does so. The Class 2 study involves completing a checklist of potential issues, which is passed to the Senior Project Officer of the EAPC Department for approval.<sup>218</sup>

#### 12.4.2 Scoping and ToR

Scoping can be described as an open process for determining the scope of issues to be addressed in the EIA. There are at this stage no clear guidelines for the scoping process in the Seychelles, but some consultants adopt the European Community's *Guidance on Scoping*, or the World Bank's *Guidelines on Public Consultation in the EA Process*.

<sup>218</sup> Op. Cit. Footnote 203.

Figure 12.2: EIA Process Flow Diagram



Grey blocks indicate actions by the authorities

Following submission of the scoping reports and verification of the issues raised by the stakeholders, the EIA Terms of Reference (ToR) are prepared by MoE according to a set of available EIA templates for different types of development. Depending on issues addressed in the scoping report, the ToR are modified accordingly and communicated to the proponent.<sup>219</sup>

The scoping activities for each class of EIA study are listed below:

#### Class I

- EAPC meeting with proponent to point out critical issues;
- An independent consultant must be appointed;
- A joint site visit is undertaken with the proponent, the relevant authorities and consultants;
- Separate scoping meetings with affected parties;
- Fill in scoping form and submit scoping report to MoE; and
- Terms of Reference (TOR) for EIA are prepared outlining critical issues from the scoping report.

#### Class II

- Undertaken by the Pollution Control and Environmental Impacts Division (PCEI) inspectors on behalf of proponent according to regulations;
- A joint site visit is undertaken with the proponent and the relevant authorities; and
- Complete field checklist and submit Appraisal Report to MoE.<sup>220</sup>

### 12.4.3 Public Consultation

The public consultation process in the Seychelles is not well developed. Although the MoE defines the public scoping process necessary for each EIA in the ToR, the involvement of civil society is rarely a requirement, except when the EIA is presented for public comment (see below). Furthermore, there is no call for educating the public within an EIA project to enable them to contribute meaningfully to the project.

The standard Terms of Reference prepared by the EAPC Department states the following:

*“In preparing the EIA, the applicant/consultant should consult affected and interest groups. The EIA should detail any public comment sought from and any consultation conducted with any affected groups (e.g. community, environmental, industry) in developing the proposal and preparing the EIA. Early consultation is beneficial in helping to ensure that a development will cause a minimum of undesirable effects and in reducing delays in the latter stages of planning and design. In relation to this EIA, the following referral agencies should be contacted during the preparation of the EIA: [usually government bodies] ...”*

The EIA regulations make provision for public review. When the EIA documents are ready, the public is informed by MoE through a notice in the

<sup>219</sup> Op. Cit. Footnote 204.

<sup>220</sup> Presentation by J. Rath to the Inception Meeting of the Regional task Force on EIA in the Western Indian Ocean Region, 25-26 July, Maputo, Mozambique.

national newspaper, and the EIA documents are placed by MoE at various convenient public places for consultation by members of the public over periods of *one to two weeks* (see Figure 12.2). Comments from the public are evaluated and compiled. All views are then communicated to the developer, along with possible mitigating measures. By law, comments from the public are taken into consideration by the Environmental Appraisal Committee (EAC) and any substantial comments or issues must be included in the recommendations made by the EAC.<sup>221</sup> It should be noted that comments on EIAs can only be made by citizens or residents of the Seychelles.<sup>222</sup>

#### 12.4.4 Environmental Impact Assessment

According to Section 6 of the EIA Regulations, the authority may undertake the EIA on behalf of the proponent or it may be done by the proponent. However, the former rarely occurs, except for Class II EIAs, due to lack of human resources and the potential conflict of interest.

An Environmental Impact Assessment Study must contain a description of:

- (a) The location, size and scope of the project or activity and description of the original state of the environment prior to implementation of the project or activity;
- (b) The principle, concept and the purpose of the project or the activity;
- (c) The technical aspects relating to the project or the activity;
- (d) The direct or indirect effects that the activity is likely to have on the population, flora and fauna, 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 activity or the project on the environment;
- (f) The inevitable adverse effects that the 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 commitment of resources which will be involved by the project or the activity;
- (h) The actions or measures proposed for compensating physically or financially for any resulting loss or damage to the environment;
- (i) A study of the feasible alternatives considered, including a summary of all the expected impacts;
- (j) An environmental monitoring programme; and
- (k) Such other information as may be necessary for a proper review of the potential environmental impact of the project or the activity.

#### 12.4.5 Environmental Management Plans

The EPA does not make specific reference to EMPs, but requires that an EIA includes the following:

*“...any actions or measures which may avoid, prevent, change, mitigate or remedy the likely effects of the activity or the project on the environment” (Section 15(3)(e)); and*

<sup>221</sup> Op. Cit. Footnote 204.

<sup>222</sup> Regulation 8(4).

*“ the actions or measures proposed for compensating physically or financially for any resulting loss or damage to the environment.” (Section 15(3)(h)).*

Notwithstanding the provisions of the EPA, the standard Terms of Reference prepared by MoE for EIA consultants usually require the inclusion of an environmental management plan (EMP), as well as environmental monitoring and reporting plans.

#### 12.4.6 EIA Review

Once the EIA has been completed, a first draft is forwarded to the authority for review by the EAC, which constitutes environment experts and representatives of other sectors such as land use, the NEAC, tourism and social affairs, and for public review. Following the review, comments and conditions attached to the proposed activity or project are communicated to the developer, who then undertakes to revise the EIA accordingly. After meeting all the requirements, the developer is issued with an authorisation, usually with conditions, and the plans are then submitted for review under the TCPA and associated building regulations. In many cases though, some projects come through a referral by the TCPA.<sup>223</sup> If the MoE refuses to grant authorisation, the proponent is entitled to appeal against such decision (see section 12.4.8 below).

A decision on Class I EIAs must be given within *56 days* from the date of acknowledgement of receipt of the EIA documents. Decisions on Class II EIAs must be made within *28 days* of receipt of documents.

The EAPC Department has developed a standard set of review criteria that it uses to review an EIA report. These criteria include the following questions:

- Has prominence been given to relevant issues?
- Does the information identify and address the main concerns of the interested parties?
- Is the information factually correct?
- Are the assessment methodologies consistent with internationally accepted methods?
- Is the identification and description of impacts complete?
- Have alternatives been adequately considered?
- Has the EIA addressed the need for monitoring and auditing?
- Does the EIA include environmental requirements and mitigation measures that the applicant is prepared to implement?

The reviewing officials need to be satisfied that each of the above questions – as well as others posed – have been addressed. If not, reasons need to be given for not regarding the information given as satisfactory.

EIA reports are not subjected to external review, although the MoE recognises that this may be appropriate in certain instances. The National Environmental Advisory Committee could carry out this role. Alternatively, a separate technical review body should be established.<sup>224</sup>

<sup>223</sup> Op. Cit. Footnote 204.

<sup>224</sup> Op. Cit. Footnote 203.

### 12.4.7 Monitoring and Enforcement

Part V of the EPA sets out procedures for the authorities to issue an Enforcement Notice (s.16), a Prohibition Notice (s.17), the powers of authorities to carry out inspections (s.22), declare an environmental emergency (s.23) and take samples (s.25).

EAPC staff is responsible for the monitoring of EIA implementation. These officials visit each construction site on a regular basis, depending on the sensitivity of the site.

Monitoring EIA implementation would be more effective if the quality of the construction management plans in EIA documents was improved. The plans produced generally do not contain the detail needed for developing an audit checklist, against which performance can be judged. Current monitoring is, therefore, very generic. An improved auditing and monitoring framework needs to be put in place to ensure compliance with the EIA recommendations.

### 12.4.8 Appeals

Any person aggrieved by the decision or order of the competent authority may appeal to the Minister on the form presented in Schedule 3 of the regulations, within 30 days from the date of receipt of the decision, and the Minister may affirm, revoke or vary the decision or order.

## 12.5 Other Relevant Environmental Legislation in the Seychelles

Environmental issues cut across a wide variety of sectors and, under the current situation, there are numerous pieces of legislation in the Seychelles, which have a bearing on the environment and should be considered in EIA decision-making. The sectors, titles of the legislative instruments, the responsible agency and the purpose of the legislation are summarised in Table 12.5.

**Table 12.5: Other Potentially Applicable Sectoral Requirements**

Environmental Aspect	Responsible Agency	Title and Date of Document	Purpose
Effluent disposal	Division of Environment, Ministry of Environment	Environment Protection (Miscellaneous) Regulations, SI No. 84 of 1995	Regulations for the control of effluent discharge
Noise	Division of Environment, Ministry of Environment	Environment Protection (Noise Emission Standards) Regulations, SI No. 49 of 1999	
Waste	Division of Environment, Ministry of Environment	Environment Protection (Designation of Solid Waste Agency) Regulations, SI No. 48 of 1995	Provides for the establishment of the Solid Waste and Cleaning Agency which will be responsible for all waste management
Air Quality	Division of Environment, Ministry of Environment	Environment Protection (Ozone) Regulations, SI No. 24 of 2000	

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Environmental Aspect	Responsible Agency	Title and Date of Document	Purpose
Mining		Removal of Sand and Gravel Act of 1982 (Chapter 203)	
		Removal of Sand and Gravel (Fees) Regulations, SI No. 40 of 1982	
Health	Environmental Health Division, Ministry of Health	Public Health Act of 1960 (Chapter 189)	
Forestry	Division of Environment, Ministry of Environment	Forest Reserves Act of 1955 (Chapter 84)	
Conservation	Division of Environment, Ministry of Environment	Breadfruit and Other Trees [Protection] Act of 1917 (recently amended; Chapter 18)	Protection of certain tree species
		Environment Protection (Marine Parks Authority) Order, SI No. 54 of 1996	Management of protected areas
		National Parks and Nature Conservancy Act of 1969 (Chapter 141)	
		Plant Protection Act, No. 10 of 1996 Plant Protection ( <i>Verticillium calophylli</i> ) Regulations, SI No. 76 of 1997	
		Plant Protection (Quarantine Pest and Infected Area) Regulations, SI No. 14 of 2000	
		Protected Areas Act of 1967 (Chapter 185)	
		State Land and River Reserves Act of 1903 (Chapter 228)	
		Wild Animals and Birds Protection Act of 1961 (Chapter 247)	

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Environmental Aspect	Responsible Agency	Title and Date of Document	Purpose
Marine Areas	Port and Marine Services, Ministry of Environment	Dumping at Sea Act of 1974 (Overseas Territories) Order of 1975 (Chapter 67)  Maritime Zones Act, No. 2 of 1999  Merchant Shipping (Oil Pollution) (Seychelles) Order of 1975 (Chapter 128)  The Oil Pollution (Compulsory Insurance) Regulations, SI No. 8 of 1976	Control of waste disposal from ships
Fisheries	Ministry of Agriculture and Marine Resources	Fisheries Act of 1987 (Chapter 82)  Fisheries (Amendment) Act, No. 3 of 1997  Fisheries (Amendment) Act, No. 2 of 2001  Fisheries Regulations, SI No. 35 of 1987	
Agricultural and Land	Ministry of Agriculture and Marine Resources	Land Reclamation Act of 1967 (Chapter 106)  Pesticides Control Act, No. 4 of 1996	
Planning and Zoning	Ministry of Land Use and Habitat	Town and Country Planning Act of 1972 (Chapter 237)	Planning authorisation and land use management
Archaeological, Historical and Cultural		National Monuments Act of 1980 (Chapter 140)	Declaration of Monuments, SI No. 96 of 1984