



# OFFICIAL GAZETTE

## REPUBLIC OF SEYCHELLES

### EXTRAORDINARY

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##### GENERAL NOTICES

No. 168 of 2021

##### PUBLIC HEALTH ACT, 2015

*(Act 13 of 2015)*

##### PUBLIC HEALTH (INFECTIOUS DISEASE) REGULATIONS

##### ORDERS

**Infectious Disease (Prohibition of Outdoor Movement) (No. 3) Order, 2021**

**Infectious Disease (Prohibition of Public Assemblies), Order (No. 4), 2021**

**Infectious Disease (Prohibition of Public Assemblies) (Restriction on activities and operation of establishments, trade premises and shops) (No. 5) Order, 2021**

**RECOGNISING** that the Coronavirus Disease 2019 (COVID-19) has spread and continue to spread rapidly across the world;

**RECALLING** that the Public Health Commissioner published a Notice in the Gazette on 20<sup>th</sup> March, 2020 declaring a Public Health Emergency in Seychelles under section 25(5) of the Public Health Act, 2015, and directed all persons to comply with the directions and orders therein, and cooperate with the Public Health Commissioner, the Public Health Authority and other relevant authorities in preventing, controlling and suppressing the spread of COVID-19 in Seychelles;

**FURTHER RECALLING** that during the declaration of the Public Health Emergency up to the present time, the Public Health Commissioner in order to prevent, control and suppress the spread of COVID-19 in Seychelles made several Orders, amongst other things —

- (a) prohibiting public assemblies and indoor public assemblies;
- (b) restricting the opening and closing hours of retail outlets and retail food outlets;
- (c) restricting the opening and closing hours of offices, establishments, trade premises and shops;
- (d) restricting movement of persons by vehicles and vessels;
- (e) prohibiting non-Seychellois from entering Seychelles;
- (f) confining persons to their place of residence, inclusive of their yard space, for a period of 28 days; and
- (g) restricting entry to, exit from and return to Seychelles.

**AND FURTHER RECALLING** that by the enactment of the Public Health (Infectious Disease)(Mandatory Wearing of Face Masks) Regulations, 2020 (S.I. 132 of 2020) the wearing of face masks is mandatory for all persons in Seychelles on public transportation, indoor places, outdoor places, places of work and other circumstances where one metre physical distancing cannot be maintained subject to conditions and exemptions thereunder;

**ACKNOWLEDGING** that up to the present time, the health care providers and public health officers continue to record and report rapid increases in the number of persons infected by COVID-19 on **15<sup>th</sup> February, 2021**, and the presence community transmission of the virus;

**FURTHER ACKNOWLEDGING** that:—

- (i) The Infectious Disease (Restriction on Attendance of Schools), Order (No.2), 2021 (*Gazette Notice No. 20 of 2021*), as amended by Order (*Gazette Notice No. 149 of 2021*), is still in force until further notice;
- (ii) the current circumstances in relation to the recorded cases of persons infected by COVID-19 require making further prohibition or restriction orders and varying some prohibitions or restrictions orders so as to effectively prevent, control and suppress the spread of COVID-19 subject to such exceptions and exemptions set out in the said Order and at the same time to enable persons to participate actively and fully in the sustainable development of Seychelles and the operation and provision of essential and critical services;

**BEING CONSCIOUS** of the seriousness of problems and threats that COVID-19 poses to the safety, health and posterity of Seychelles and its people, if suitable precautionary and protective health measures are not in place and complied with;

**WHEREAS** the Public Health Commissioner considers it necessary and expedient to maintain existing prohibitions and/or restrictions and impose further restrictions on the movement and assembly of people in Seychelles, the movement of by vehicles and vessels and restriction on activities and operation of establishments, trade premises and shops in order to effectively prevent, control and suppress the spread of COVID-19 in the community.

**NOW, THEREFORE**, in exercise of the powers conferred by **regulations 7C, 8, 9, 11, 12, 13A, 19A and 20** of the Public Health (Infectious Diseases) Regulations (S.I. 8 of 1960), the Public Health Commissioner hereby makes the following orders until further notice published on any official Government website or official means of communication and, as soon as possible thereafter, in the Gazette, or until the date set out in the Order —

**A. Infectious Disease (Prohibition of Outdoor Movement) (No. 3) Order, 2021**  
(*Regulation 13A read regulations 7C, 19A & 20*)

In accordance with regulation 13A read with regulations 7C, 19A and 20 of the **Public Health (Infectious Disease) Regulations, 1960**, the Public Health Commissioner hereby orders that starting from **10:00 PM on 1<sup>st</sup> March, 2021, until further notice**, no person within

Seychelles shall be in a vehicle, vessel or at any public or private place, outside of the person's place of residence between 10:00 PM and 4:00 AM of the following day, except —

- (1) a member of the *Platinum Command for COVID-19 and Gold Command for COVID-9*;
- (2) an authorised worker or contractor of the provider of a service or of an entity specified under Part 1 of the Schedule hereto;
- (3) a person seeking access to a service under Part 2 of the Schedule hereto;
- (4) a person that has been authorised by the Commissioner of Police to leave the person's place of residence for any purpose.

In furtherance of the Order and in accordance therewith —

1. Every person shall remain in the confines of the person's place of residence, inclusive of their yard space during the said prohibition period.
2. The establishments, institutions, businesses, organisations and offices listed as an essential service under Part 1 of the Schedule hereto shall observe and practice social or physical distancing according to directions issued by the Public Health Commissioner in respect of their workers and the persons accessing the service.
3. The establishments, institutions, businesses, organisations and offices listed as a essential service under Part 1 of Schedule hereto shall make travel arrangements for their workers to carry out their duties and where necessary seek the authorisation from the Commissioner of Police for the movement of the workers during the prohibition period.
4. All entities, public or private, in any industry, whether construction, manufacturing of goods or provision of services, that also provide shared or common accommodation for their workers shall ensure that their workers who are not performing work as an essential service under Part 1 of the Schedule hereto comply with the orders of the Public Health Commissioner and that the workers remain in their living quarters at all times except when seeking to access an essential service set out under Part 2 of the Schedule hereto;
5. A person who is outside the confines of the person's place of residence between 10:00 PM and 4:00 AM of the following day shall on request of a police officer answer any questions to enable the police officer to ascertain who the person is and whether the person is allowed to be outside the confines of the person's place of residence pursuant to the Schedule hereto, and where the person does not satisfy the police officer that the person is allowed to be outside the confines of the person's place of residence pursuant to the Schedule hereto, the police officer may —
  - 5.1 direct the person to go immediately to the person's place of residence;
  - 5.2 detain and convey the person to the person's place of residence; or
  - 5.3 issue the person with any applicable fixed penalty notice;
  - 5.4 arrest and detain the person.

## SCHEDULE

### Part 1

1. **Authorised workers or contractors of the provider of the following services or of the specified entity.**
  - 1.1 Hospital, medical or health services;
  - 1.2 Service relating to the generation, supply or distribution of electricity;

- 1.3 Service relating to the supply or distribution of water;
- 1.4 Breakdown service relating to the management of sewage;
- 1.5 Police services
- 1.6 Defence Forces;
- 1.7 Fire and rescue services;
- 1.8 Air traffic control;
- 1.9 Airport and port and marine services including civil aviation, customs, immigration, airline catering and loading, unloading and service of ships or aircrafts;
- 1.10 Wireless, telephone, internet, television and cable communication services (including the Government Department of Information and Communication Technology);
- 1.11 Forecasters of the meteorological service;
- 1.12 Indian Ocean Tuna Limited canning factory;
- 1.13 Waste collection service;
- 1.14 Breakdown and safety services of the Seychelles Petroleum Company Limited;
- 1.15 Security services of premises;
- 1.16 Disaster management and emergency services (including the Government Department of Risk and Disaster Management);
- 1.17 Print, audio and visual media or broadcasting services; and

## Part 2

- 2. **Essential services that the public may access: —**
    - 2.1 Hospital, medical or health services; and
    - 2.2 Police Services.
- 

### **B. Infectious Disease (Prohibition of Public Assemblies), Order (No. 4), 2021**

*(Regulation 8 read with regulations 9, 11, 12, 19A & 20)*

In accordance with regulation 8 read with regulations 9, 11, 12, 19A and 20 of the **Public Health (Infectious Disease) Regulations, 1960**, the Public Health Commissioner hereby orders the prohibition of outdoor and indoor public assemblies in Seychelles from **10.00 P.M. on 1<sup>st</sup> March, 2021, until further notice.**

In furtherance of the Order and in accordance with regulation 9, 11 and 12 of the **Public Health (Infectious Disease) Regulations, 1960 —**

- 1. Subject to this Order, every person shall refrain from engaging in or taking part in public assemblies, whether outdoor or indoor.
- 2. (a) Subject to this Order and the Infectious Disease (Prohibition of Public Assemblies) (Restriction on activities and operation of establishments, trade premises and shops) (No. 5) Order, 2021 —
  - (i) no assembly of more than 4 persons shall be held for any purpose in any area or place, including but not limited to building and roads;
  - (ii) A person on his or her own or a group of not more than 2 persons from the same household may be on the beach for the purpose of jogging or walking as a physical exercise activity;
  - (iii) A person may be on the beach for the purpose of accessing the sea for any permitted activity or to supervise any person from his or her household who is undergoing any such permitted activity in the sea;

- (iv) A person on his or her own or a group of not more than 2 persons from the same household may swim in the sea;
  - (v) A person on his or her own or a group of not more than 2 persons from the same household may engage in kayaking, surfing, snorkeling or paddle boarding in the sea;
  - (vi) A person may on his or her own or accompanied by a person from his or her household use a jet ski or other watercraft that can carry not more than 2 persons;
  - (vii) A person on his or her own or in a group of not more than 4 persons from the same household may make use of pleasure crafts or similar vessels;
  - (viii) A visitor who is in Seychelles under a visitor's permit under the Immigration Decree may on his or her own or in the company of the persons that form part of the group that he or she has entered into Seychelles with and staying in the same tourism establishment may assemble on the beach or swim in the sea as a group or engage in kayaking, surfing or paddle boarding in the sea.
- (b) A person may make an application to the Public Health Commissioner to hold an assembly of more than 4 persons on a specified date and time, and if the application is approved, every person in the assembly shall comply with the Public Health (Infectious Disease) (Mandatory Wearing of Face Masks) regulations, 2020, and the existing guidelines issued by the Public Health Commissioner and such other conditions that the Public Health Commissioner may deem necessary to impose in regards to the said assembly.
3. For the purposes of preventing, controlling and suppressing the spread of COVID-19 in the community —
- 3.1 no person shall host any social or private entertainment event whatsoever such as a house party which includes any person from outside of the immediate household of the dwelling house where the party takes place;
- 3.2 No person shall visit another person's place of residence for any social purpose. For avoidance of doubt, a person who is a caregiver or who delivers essential goods to an elderly, vulnerable or disabled person may visit the person's place of residence for such purpose subject to complying with the Public Health (Infectious Disease)(Mandatory Wearing of Face Masks) Regulations, 2020 and practice good hand hygiene and social or physical distancing, as the case may be, according to directions issued by the Public Health Commissioner;
4. No group of more than 4 persons (unless they are part of the same household or at school, where the Infectious Disease (Restriction on attendance of Schools) (No.2) Order, 2021, as amended, has been lifted, or at the workplace) shall assemble spontaneously including when making use or accessing any service. Any such spontaneous assembly shall disperse and any member of such group who fails to depart the assembly when instructed by a police officer to do so commits an offence and may be arrested without warrant or be subject to any applicable penalty.
5. A person who encourages, coerces, entices or persuades any person to engage in or take part in an assembly of more than 4 persons commits an offence.
6. This prohibition order shall not have the effect of prohibiting assembly exclusively for the following purposes —

- 6.1 work at the workplace;
- 6.2 attendance of school or school activities (where the Infectious Disease (Restriction on attendance of Schools)(No. 2) Order, 2021, as amended, has been lifted);
- 6.3 shopping at shops or retail outlets that are permitted to open;
- 6.4 access to healthcare facilities;
- 6.5 travel at bus stops, bus station, ports or airports;
- 6.6 access to, and collection or consumption at, a restaurant or any other food outlet that is permitted to operate;
- 6.7 funeral service in accordance with the guidelines issued by the Public Health Commissioner;
- 6.8 celebration of marriage in church or at Civil Status office or any other approved venues, which shall comprise of the parties, the celebrant, witnesses and a limited number of invitees as per guidelines issued by the Public Health Commissioner; or
- 6.9 queuing or making use of any other service or at a trade premises, establishment or facility that is permitted to operate,

provided that the employer, worker, owner, manager, consumer or any person in control of the premises or providing the service or organising the event shall comply with any direction of the Public Health Commissioner in respect of social or physical distancing and hygiene and ensure compliance with the Public Health (Infectious Disease)(Mandatory Wearing of Face Masks) Regulations, 2020.

- 7. (a) All sporting activities, games (including water sports save as excepted herein, the playing of dominoes and cards) and any similar activities outside the confines of the person's place of residence are prohibited.
- (b) A person shall not use any sports, recreation or entertainment facilities —
  - (i) in the common property of a subdivided building;
  - (ii) in any public place, whether managed or maintained by the Government or private body and is accessible to the general public (including the outdoor gym located at Beau Vallon beach and Roche Caiman Sports Complex, which shall be cordoned off.
- (c) This prohibition order shall not have the effect of prohibiting jogging and walking by individuals or with members of the same household as a physical exercise activity in any public place (including fitness trails).
- 8. All entities, public or private, in any industry, whether construction, manufacturing of goods or provision of services, that also provide shared or common accommodation for their workers shall —
  - 8.1 transport their workers from their residence directly to their workplace, where practicable, or limit the movement of their workers to the workers' residence and workplaces, while this Order is in operation;
  - 8.2 not permit that their workers to hold any social or private entertainment event whatsoever such as a parties, dances, fairs within the premises, common areas or the yard space of their accommodation;
  - 8.3 ensure that after their workers comply with the conditions of their gainful occupation permit and does not engage in any work outside their workplace after their working time with their employer; and

- 8.4 ensure that their workers comply with the Public Health (Infectious Disease)(Mandatory Wearing of Face Masks) Regulations, 2020, and comply and observe the orders of the Public Health Commissioner and the directions and guidelines issued by the Public Health Commissioner in respect of social and physical distancing while transporting their workers from their residence to their workplace and from their workplace to their residence and while the workers are in their residence, inclusive of their yard space.
9. All establishments, institutions, businesses, organisations authorised to conduct any activity shall ensure that all persons on its premises comply with the Public Health (Infectious Disease)(Mandatory Wearing of Face Masks) Regulations, 2020 and practice good hand hygiene and social or physical distancing, as the case may be, according to directions issued by the Public Health Commissioner in respect of the workers, customers, students, attendees or invitees and should employ adequate number of staff to ensure practice and observance thereof so as to remove the risk of infection or spread of COVID-19.
10. Appropriate action shall be taken against any person who fails to comply with these orders under the Public Health (Infectious Diseases) Regulations.

**C. Infectious Disease (Prohibition of Public Assemblies) (Restriction on activities and operation of establishments, trade premises and shops) (No. 5) Order, 2021**

*(Regulation 8 read with regulations 9(2), 19A & 20)*

In accordance with regulation 8 read with regulations 9(2), 9A or 20 of the **Public Health (Infectious Disease) Regulations, 1960**, the Public Health Commissioner hereby orders that from **1<sup>st</sup> March, 2021 until further notice**, the following prohibitions or restrictions shall apply in respect of activities and operation of establishments, trade premises and shops

1. Except otherwise specifically prohibited or restricted by these Orders and subject to these Orders, all services in public and private sector may open and operate during normal opening hours;
2. The following prohibitions or restriction, as the case may be, shall apply to shops, retail outlets and wholesale outlets —
  - 2.1 All shops and other retail outlets may open between the hours of 6:00 AM to 6:00 P.M only.
  - 2.2 All operators of shop or retail outlets shall comply with the IPC standards and any other directives and guidelines of the Public Health Commissioner for their opening and operation of their premises as approved by the Public Health Commissioner.
  - 2.3 Wholesalers of all goods may open and operate for taking orders and delivery of their products to shops and retail outlets referred to under paragraphs 1.2 above or at trade premises referred to in paragraph 3 below.
  - 2.4 Nothing in this Order prohibits the online or electronic sales of any product subject that the product shall be delivered at such residence, premises or workplace of a person specified in the order in accordance with guidelines issued by the Public Health Commissioner.
3. The following trade premises may open subject to observance and compliance with the general restrictions, prohibitions or conditions and specific restrictions, prohibitions or conditions under paragraph 4 —

- 3.1 Restaurant, cafeteria, take away food outlets and other food outlets;
  - 3.2 Gymnasium and fitness centres;
  - 3.3 Spa and beauty parlours;
  - 3.4 hairdressers and barbershops.
4. The following restriction, prohibition or conditions shall apply —
- 4.1 in respect of the operation of the trade premises under paragraph 3 above —
    - 4.1.1 approval of the Public Health Commissioner for opening subject to compliance with defined IPC Criteria;
    - 4.1.2 the service shall be on previous non-physical request for appointment or reservation;
    - 4.1.3 customers should at all times during the provision of the service be physically and adequately distanced;
    - 4.1.4 comply with the IPC standards and any other directives and guidelines of the Public Health Commissioner for the opening and operation of the premises; and
    - 4.1.5 ensuring that all persons on its premises comply with the Public Health (Infectious Disease)(Mandatory Wearing of Face Masks) Regulations, 2020, where applicable, and practice good hand hygiene and social or physical distancing, as the case may be, according to directions issued by the Public Health Commissioner.
  - 4.2 in respect of restaurant, cafeteria, take away food outlets and other food outlets —
    - 4.2.1 bars shall be open for, and service given to, seated customers only;
    - 4.2.2 dancing or karaoke is prohibited; and
    - 4.2.3 ensuring social or physical distancing for any queuing for the service.
  - 4.3 in respect of operation of spa and beauty parlours and hairdresser and barbershops —
    - 4.3.1 at no time should there be any person waiting for the service at the premises whilst other clients are being attended to;
    - 4.3.2 wearing face mask and visors for workers and mask for customers where practicable; and
    - 4.3.3 proper sanitization of workers, customers and equipment.
  - 4.4 in respect of operation of gymnasium and fitness centres —
    - 4.4.1 admission to existing members only;
    - 4.4.2 no group activities shall be held;
    - 4.4.3 limited number of persons shall be admitted so as to ensure adequate social or physical distancing;
    - 4.4.4 at no time should there be any person waiting for the service at the premises whilst other clients are being attended to; and
    - 4.4.5 proper sanitization of equipment.
5. The following activities are prohibited or restricted, as specified herein —
- 5.1 religious service and ceremonies except for funeral service and celebration of marriage;



- 5.2 dances or social events in any night clubs, dance halls, discotheques, restaurant or bars;
  - 5.3 fairs, fun fairs, fancy fairs, parish fetes;
  - 5.4 festivals;
  - 5.5 cultural and musical shows, concerts or performances;
  - 5.6 trade fairs consisting of exhibition, advertisement or sale of the products of industries or of other materials; and
  - 5.7 Subject to *The Infectious Disease (Prohibition of Public Assemblies) (No. 3) Order, 2021*, all sporting activities and games (including water sports, the playing of dominoes and cards) and any similar activities outside the confines of the person's place of residence.
6. The organisers, celebrants, workers, participants of funeral ceremonies and ceremonies for the celebration of marriages shall adhere to or comply with, or ensure adherence to and compliance with, the Public Health (Infectious Disease)(Mandatory Wearing of Face Masks) Regulations, 2020, and directions and guidelines issued by the Public Health Commissioner so as to remove the risk of infection or spread of COVID-19.
7. The following trade premises or premises, as the case may be, shall remain closed to the public or shall not operate except as specified herein —
- 7.1 public bar except bars in a hotel or a restaurant that shall adhere to Orders made specific to their operation;
  - 7.2 cinema;
  - 7.3 casino;
  - 7.4 night clubs, dance halls or and discotheques;
  - 7.5 stadiums for sporting events;
  - 7.6 amusement parks;
  - 7.7 swimming pools for common or shared use by the public but excludes swimming pools at tourism establishments which shall be used by guests staying in the establishment;
  - 7.8 children or kids' club in tourism establishments;
  - 7.9 social centres or other premises for any cultural, musical performances or concerts;
  - 7.10 premises for trade fairs or exhibitions.
8. No person shall be permitted to visit any person admitted to any hospital or resident health care establishment or any home for the elderly.
9. All establishments, institutions, businesses, organisations authorised to conduct any activity or to be open to the public shall at all times ensure compliance with the Public Health (Infectious Disease)(Mandatory Wearing of Face Masks) regulations, 2020, and practice good hand hygiene and social or physical distancing according to directions issued by the Public Health Commissioner in respect of their workers and customers and should employ persons to ensure practice and observance thereof so as to remove the risk of infection or spread of COVID-19.

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#### **D. Miscellaneous Orders**

1. The following orders shall apply to Orders A, B, and C above —
- 1.1 The owner, manager or operator of a trade premises, premises, establishment or public place providing a service to the public shall ensure that persons inside the premises, establishment, public place or trade premises wear face masks and shall

restrict the number of customers or persons inside the trade premises, premises, establishment or public place at any one time so that each customer or person is able to physically and optimally distance himself or herself from another person;

- 1.2. Each person in a public place shall at all times wear face masks where necessary under the Public Health (Infectious Disease)(Mandatory Wearing of Face Masks) regulations, 2020, and maintain optimal physical distance from another person as part of the observance and promotion of social or physical distancing;
- 1.3. Necessary action may be taken against any person who fails to comply with any of these orders;
- 1.4. Any person who contravenes an order without reasonable excuse commits an offence and is liable on conviction to a fine not exceeding SCR 20, 000 or imprisonment for a period not exceeding two years or to both or may be liable to be issued with any applicable spot fine or fixed penalty.
- 1.5. A person shall on request of a police officer answer any questions to enable the police officer to ascertain who the person is and whether the person is allowed to be in any assembly or performing any activity or trade or accessing any service and where the person does not satisfy the police officer that the person is allowed to be in such assembly outside the confines of the person's place of residence pursuant to any Infectious Disease Order made by the Public Health Commissioner that is in force, the police officer may —
  - 1.5.1 direct the person to go immediately to the person's place of residence;
  - 1.5.2 detain and convey the person to the person's place of residence;
  - 1.5.3 issue the person with any applicable spot fine or fixed penalty notice;
  - 1.5.4 arrest and detain the person.

## **E. Repeal**

The following Orders are hereby repealed —

- (1) The Infectious Disease (Prohibition of Outdoor Movement) (No. 2) Order, 2021 (*Gazette Notice No. 149 of 2021*);
- (2) The Infectious Disease (Prohibition of Public Assemblies)(No.3), Order, 2021 (*Gazette Notice No. 149 of 2021*); and
- (3) The Infectious Disease (Prohibition of Public Assemblies) (Restriction on activities and operation of establishments, trade premises and shops) (No. 4) Order, 2021 (*Gazette No. 149 of 2021*).

## **F. Valid Orders**

Save for the repealed Orders, the following Orders are in full force and effect —

- (1) The Infectious Disease (Prohibition of Outdoor Movement) (No. 3) Order, 2021;
- (2) The Infectious Disease (Restriction on attendance of Schools) (No. 2) Order, 2021 (*Gazette Notice No. 20 of 2021*), as amended by The Infectious Disease (Restriction on attendance of Schools)(No.2) (Amendment) Order, 2021 (*Gazette Notice No. 149 of 2021*);
- (3) The Infectious Disease (Prohibition of Public Assemblies), Order (No. 4), 2021;

- (4) The Infectious Disease (Prohibition of Public Assemblies) (Restriction on activities and operation of establishments, trade premises and shops) (No. 5) Order, 2021;
- (5) The Infectious Disease (Restriction on entry to, exit from and return to Seychelles) (No. 3) Order, 2020 (*Gazette Notice No. 300 of 2020*); and
- (6) The Infectious Disease (Restriction on Travel) (No. 3) Order, 2020 (*Gazette Notice No. 300 of 2020*), as amended by the Infectious Disease (Restriction on entry to, exit from and return to Seychelles) (No.3) (Amendment) Order, 2021 (*Gazette Notice No. 149 of 2021*).

**MADE ON THIS MONDAY 1<sup>ST</sup> DAY OF MARCH, , 2021.**

**DR. JUDE GEDEON**  
**PUBLIC HEALTH COMMISSIONER**

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**TRADE OF WILD FAUNA AND FLORA BILL, 2021***(Bill No. 10 of 2021)***EXPLANATORY STATEMENT**

The object of this Bill is to enable Seychelles to fulfil its obligations under the Convention on International Trade in Endangered Species of Wild Fauna and Flora (the Convention). The purpose of the Convention is to ensure that no species of wild fauna and flora becomes or remains subject to unsustainable exploitation because of international trade.

The species of animals and plants covered by the Convention are listed in 3 appendices according to the degree of protection they need. Appendix I includes species threatened with extinction. Appendix II includes species not necessarily threatened with extinction, but in which trade must be controlled in order to avoid utilization incompatible with their survival. Finally, appendix III contains species that are protected in at least 1 country, which has asked other State Parties to the Convention for assistance in controlling the trade.

Seychelles has a number of species that are listed in the appendices and vital to our ecosystem. Also, some of these species are listed as endangered on the International Union for Conservation of Nature red list. This Bill will therefore further promote the management, conservation and protection of endangered, threatened and exploited species to further enhance the survival of those species for the benefit of future generations of Seychellois.

Globally, it is accepted that Seychelles has a good legislative framework for the conservation and protection of animals and plants. What this Bill does, however, is to help close perceived loopholes or gaps in the existing laws that may enable Seychelles to be used as a route for illicit trade in wildlife. International wildlife smuggling is of significant importance given that it presents several potential environmental threats and national security threats to Seychelles. Threats to the environment include the introduction of invasive species into our ecosystems, the transmission of disease through illegal wildlife trade and the loss of biodiversity. While national security threats include links between wildlife trafficking and organized crime and

drug trafficking; according to some experts, criminal groups sometimes seek to finance their activities through illegal wildlife trade. As such, this Bill seeks to further strengthen our institutional capacity and readiness to confront these environmental and national security threats.

Also, the Bill will contribute towards attainment of the targets under Goal 15 of the Sustainable Development Goals relating to the protection and prevention of the extinction of threatened species.

**Dated this 2<sup>nd</sup> day of March, 2021.**

**FLAVIEN PHILOMEL JOUBERT  
MINISTER FOR AGRICULTURE, CLIMATE CHANGE AND  
ENVIRONMENT**

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## **TRADE OF WILD FAUNA AND FLORA BILL, 2021**

*(Bill No. 10 2021)*

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Schedule 1 - Enforcement Officers

## **TRADE OF WILD FAUNA AND FLORA BILL, 2021**

*(Bill No. 10 of 2021)*



## **A BILL FOR**

**AN ACT to give effect to the Convention on International Trade in Endangered Species of Wild Fauna and Flora; and to provide for matters incidental thereto.**

**ENACTED** by the President and the National Assembly.

### **Short title**

**1.** This Act may be cited as the Trade of Wild Fauna and Flora Act, 2021.



## Interpretation

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

“advertise” in relation to endangered species, means to describe, make reference to or allude in any way, by any means or in any form, to that endangered species —

- (a) whether directly or indirectly;
- (b) whether orally, in writing, diagrammatically, pictorially, by the use of symbols or photographs, or in any combination thereof; or
- (c) whether by the common name or the scientific name of that endangered species or otherwise;

“animal” means any member of the animal kingdom, and includes —

- (a) any mammal (other than a human being), bird, reptile, amphibian, fish, mollusc, arthropod, or other vertebrate or invertebrate, whether alive or dead, and the egg, young or immature form thereof; and
- (b) any derivative of an animal;

“artificially propagated” in reference to any —

- (a) plant, means the plant is grown under controlled conditions from seeds, cuttings, divisions, callus tissues or other tissues, spores or other propagules that either are exempt or have been derived from cultivated parental stock; and
- (b) animal, means the animal is propagated under controlled environment by way of cuttings and divisions;

“Appeals Board” means the Appeals Board established under the Environment Protection Act, 2016;

“bred in captivity” refers only to offspring, including eggs, born or otherwise produced in a controlled environment of parents that mated or otherwise transmitted their gametes in a controlled environment;

“certificate” means a certificate issued by a Management Authority under section 16(2) and includes a pre-Convention certificate;

“controlled conditions” means a non-natural environment that is intensively manipulated by human intervention for the purpose of plant production and may include but is not limited to tillage, fertilization, weed and pest control, irrigation, or nursery operations such as potting, bedding or protection from weather;

“controlled environment” includes an environment that is manipulated for the purpose of producing specimen of a particular species of an animal that has boundaries designed to prevent the animal, eggs or gametes of the animal from entering or leaving that particular environment, and the general characteristics of which may include but are not limited to artificial housing, waste removal, health care, protection from predators, and artificially supplied food;

“Convention” means the Convention on International Trade in Endangered Species of Wild Fauna and Flora;

“conveyance” means any vehicle, vessel, ship, aircraft or any other mode of transport whether by air, sea or land;

“competent authority” means the national administrative body of a foreign country designated in accordance with article IX, paragraph 1(a), of the Convention as its Management Authority;

“cultivated parental stock” means the ensemble of a plant grown under controlled conditions that are used for reproduction, in a manner not detrimental to the survival of the species of plant in the wild or natural habitat and maintained in sufficient quantities

for propagation so as to minimize or eliminate the need for augmentation from the wild or natural habitat, with such augmentation occurring only as an exception and limited to the amount necessary to maintain the vigour and productivity of the parent material;

“derivative of a plant” means any substantially complete or readily recognizable part, tissue or derivative of a plant, in natural form, preserved, dried, processed or otherwise treated or prepared which may or may not be contained in preparations, and includes —

- (a) seed, stem, leaf, bark, root, log, flower, fruit or pod;
- (b) any chemical compound derived from such part, tissue or extract; and
- (c) any thing which is claimed by any person, or which appears from an accompanying document, the packaging, a label or mark or from any other circumstances, to contain a part or derivative of a plant;

“derivative of an animal” means any substantially complete or readily recognizable part or derivative of an animal, in natural form, stuffed, chilled, preserved, dried, processed or otherwise treated or prepared which may or may not be contained in preparations, and includes —

- (a) meat, bones, hide, skin, leather, tusk, horn, antler, gland, feathers, hair, teeth, claws, shell, scales and eggs;
- (b) tissue, blood, fat, oil, milk, venom, saliva, urine and faeces;
- (c) any chemical compound derived from anything mentioned in paragraph (a) or (b); and
- (d) any thing which is claimed by any person, or which appears from an accompanying document, the packaging, a label or

mark or from any other circumstances, to contain a part or derivative of an animal;

“derivative of the endangered” means a derivative of an animal or a plant;

“endangered species” means an animal or plant listed in appendix I, II or III to the Convention, including any derivative of the animal or plant;

“enforcement officer” or “officer” means an enforcement officer specified in Schedule 1 to this Act;

“export” means to take or cause to be taken out of Seychelles by sea or air any endangered species, but does not include re-export;

“import” means to bring or cause to be brought into Seychelles by sea or air any endangered species other than any endangered species in transit in Seychelles;

“introduction from the sea” means transportation into Seychelles of any endangered species which was taken from the marine environment not under the jurisdiction of any country, including the air space above the sea, sea-bed and subsoil beneath the sea;

“licence” means a licence issued by a Management Authority under section 16(2);

“Management Authority” means the Management Authority established under section 6;

“Minister” means the Minister responsible for environment;

“Ministry” means the Ministry responsible for environment;

“non-detriment finding” means a finding by the Scientific Authority that a proposed export or introduction from the sea of appendix I or II specimens will not be detrimental to the survival

of that species and that a proposed import of an appendix I specimen is not for purposes that would be detrimental to the survival of the species;

“owner” includes any person for the time being in charge of any endangered species or any person for the time being in occupation or possession of any premises;

“pre-Convention certificate” means a certificate issued by the Management Authority in relation to a specimen that was taken from the wild, bred in captivity or artificially propagated before the species was specified in an appendix to the Convention;

“permit” means a permit issued by a Management Authority under section 16(2);

“plant” means any member of the plant kingdom, whether live or dead, and any derivative of a plant;

“premises” includes any structure, platform, house, building, conveyance and land whether or not enclosed or built upon;

“property” includes any conveyance, machinery, contrivance, equipment, book, record, document or other article

“quota” means a prescribed number or quantity of any endangered species that can be exported or otherwise used over a specific period of time;

“re-export” means the export of any endangered species that has previously been imported;

“registration” means the registration allowed by a Management Authority under section 16(2);

“rescue centre” means a premises designated by a Management Authority to look after the welfare of any living endangered species, particularly those that have been confiscated;

“Scientific Authority” means a person or an authority appointed under section 8;

“species” includes sub-species, or geographically separate population of the species or sub-species of an endangered species;

“specimen” means —

- (a) any animal or plant, whether alive or dead, of a species listed in appendix I, II or III to the Convention;
- (b) any derivative of the animal or plant;

“trade” means to export, re-export, import or introduce from the sea whether or not for commercial purposes;

“transit or transhipment” means where a species is brought into Seychelles solely for the purpose of taking the species out of Seychelles and —

- (a) remains at all times in or on the conveyance in or on which the species are brought into Seychelles;
- (b) is removed from the conveyance that the species is brought into Seychelles and either intended to be returned to that conveyance or transferred directly to another conveyance before leaving Seychelles, but is kept under the control of an enforcement officer or an authorized person while being so removed, returned or transferred;
- (c) is removed from the conveyance that the species is brought into Seychelles and kept under the control of an enforcement officer or an authorized personnel for a period not exceeding 10 working days or such longer period that the Management Authority may permit pending the removal of the species from Seychelles.

### **Application**

3.(1) Subject to subsection (2), this Act applies to trade of endangered species listed in appendix I, II or III to the Convention, as may be amended from time to time.

(2) This Act shall not apply to any species specified in an appendix to the Convention in relation to which Seychelles has made a reservation.

(3) The Minister may, by regulations, extend the application of this Act to any animal or plant to which this Act does not apply by reason of subsections (1) or (2).

### **Certain specimens in appendix I may be deemed to be appendix II specimens**

4. A specimen in appendix I to the Convention that is artificially propagated for commercial purposes or bred in captivity for commercial purposes is deemed to be a specimen of appendix II to the Convention for the purposes of this Act.

### **Act to be read with other laws**

5. This Act shall be read together with any other written law relating to import and export, or conservation of, endangered species, and the provisions of this Act shall be in addition to, and not in derogation of, such other written laws.

## **PART 2**

### **MANAGEMENT AUTHORITY AND SCIENTIFIC AUTHORITY**

#### **Management Authority**

6.(1) The Ministry is the Management Authority for the purposes of this Act.

(2) The Management Authority may delegate any of its functions under section 7 to an authority by notice published in the Gazette.

#### **Functions and powers of the Management Authority**

7.(1) The functions of the Management Authority are —

- (a) to coordinate the implementation and enforcement of this Act;
- (b) to communicate with other countries and the secretariat of the Convention on all matters under this Act;
- (c) to cause national obligations under the Convention to be fulfilled;
- (d) to represent Seychelles at national and international meetings related to the Convention;
- (e) to maintain records of international trade in endangered species and to prepare reports concerning such trade as may be required under the Convention;
- (f) to establish Rescue Centres;
- (g) to create awareness and to provide training, education and information relating to the Convention;
- (h) to do such other things as the Management Authority deems fit to enable it to perform its functions effectively or which are incidental to the performance of its functions.

(2) The Management Authority shall have the power to issue a permit, certificate or licence, or allow registration under this Act.

(3) The Management Authority may consult, or seek the advice of, the Scientific Authority or any other public authority in the implementation of its functions under this Act.

### **Scientific Authority**

8.(1) The Minister may, by notice published in the Gazette, appoint such number of persons or authorities as may be necessary to be a Scientific Authority in accordance with the Convention.

(2) A person or an authority appointed under subsection (1) is not required to reside in Seychelles.



### **Functions of the Scientific Authority**

**9.** The Scientific Authority shall provide advice to the Management Authority on international trade in endangered species on —

- (a) the impact of the trade on the survival of any endangered species;
- (b) the quotas for the export of any endangered species;
- (c) the result of any non-detriment findings on any endangered species listed in appendix I or II to the Convention;
- (d) the appropriate care of any live endangered species to be transported to or from Seychelles;
- (e) the measures to be taken when the harvest of any endangered species threatens its survival;
- (f) the appropriate treatment of any seized or confiscated endangered species;
- (g) the method of disposal of any seized or confiscated endangered species;
- (h) any other matters as it deems fit to enable it to perform its functions effectively or which are incidental to the performance of its functions.

## **PART 3 TRADE OF ENDANGERED SPECIES**

### **Import and export of endangered species**

**10.** Any person who imports or exports any endangered species without a permit commits an offence and is liable on conviction to a fine not exceeding SCR 100, 000 for each endangered species or derivative of the endangered species but such fine shall not exceed SCR 1, 000, 000 or to imprisonment for a term not exceeding 5 years, or to both such fine and term of imprisonment.

**Re-export and introduction from the sea**

**11.** Any person who re-exports or introduces from the sea any endangered species without a certificate commits an offence and is liable on conviction to a fine not exceeding SCR 100, 000 for each endangered species or derivative of the endangered species but such fine shall not exceed SCR 1, 000, 000 or to imprisonment for a term not exceeding 5 years, or to both such fine and term of imprisonment.

**Possession of endangered species**

**12.** Any person who —

- (a) has in the person's possession or under the person's control;
- (b) sells, offers or exposes or advertises for sale;
- (c) displays to the public through any communication including social media,

any endangered species which has been imported or introduced from the sea in contravention of section 10 or 11 commits an offence and is liable on conviction to a fine not exceeding SCR 100, 000 for each endangered species or derivative of the endangered species but such fine shall not exceed SCR 1, 000, 000 or to imprisonment for a term not exceeding 5 years, or to both such fine and term of imprisonment.

**Endangered species in transit**

**13.(1)** Every endangered species in transit or transshipment in Seychelles shall be accompanied by —

- (a) a valid export or re-export permit, licence, certificate or written permission, in accordance with the Convention, issued by the competent authority of the country of export or re-export of the endangered species; and
- (b) where required by the country of import or final destination of the endangered species, a valid import permit, licence,

certificate or written permission, in accordance with the Convention, issued by the competent authority of that country.

(2) Any owner, importer, exporter or re-exporter who contravenes subsection (1) commits an offence and is liable on conviction to a fine not exceeding SCR 100, 000 for each endangered species or derivative of the endangered species but such fine shall not exceed SCR 1, 000, 000 or to imprisonment for a term not exceeding 5 years, or to both such fine and term of imprisonment.

### **Breeding or propagation of endangered species**

14.(1) Any person who produces captive bred animal or artificially propagated plant or animal of any endangered species for commercial trade purposes without being registered with the Management Authority commits an offence and is liable on conviction to a fine not exceeding SCR 100, 000 for each endangered species or derivative of the endangered species but such fine shall not exceed SCR 1, 000, 000 or to imprisonment for a term not exceeding 5 years, or to both such fine and term of imprisonment.

(2) Any person who —

- (a) has in the person's possession or under the person's control;
- (b) sells, offers or exposes or advertises for sale;
- (c) displays to the public through any communication including social media,

any endangered species which has been obtained or produced in contravention of subsection (1) commits an offence and is liable on conviction to a fine not exceeding SCR 100, 000 for each endangered species or derivative of the endangered species but such fine shall not exceed SCR 1, 000, 000 or to imprisonment for a term not exceeding 5 years, or to both such fine and term of imprisonment.

### **Power to require endangered species to be marked, branded or labelled**

15.(1) The Management Authority may require any owner, importer, exporter or re-exporter of any endangered species to brand, label or

otherwise mark such endangered species to the satisfaction of the Management Authority.

(2) Notwithstanding subsection (1), the Management Authority may brand, label or mark any such endangered species.

(3) Any person who contravenes any requirement of the Management Authority under subsection (1) commits an offence and is liable on conviction to a fine not exceeding SCR 50, 000 or to imprisonment for a term not exceeding 2 years, or to both such fine and term of imprisonment.

(4) Any person who alters, counterfeits, defaces, destroys, erases, removes or in any manner tampers with any brand, label or mark referred to in subsection (1) or (2) without the prior approval of the Management Authority commits an offence and is liable on conviction to a fine not exceeding SCR 50, 000 or to imprisonment for a term not exceeding 2 years, or to both such fine and term of imprisonment.

(5) In this section, a reference to the labelling or marking of endangered species includes a reference to the following —

(a) in the case of a plant —

(i) the labelling or marking of a container in which the plant is kept or in which the plant is growing; or

(ii) the placement of a label or tag on the plant; and

(b) in the case of an animal —

(i) the implantation of a scannable device in the animal;

(ii) the placement of a band on any part of the animal;

(iii) the placement (whether by piercing or otherwise) of a tag, tattoo or ring on any part of the animal; or

(iv) the labelling or marking of a container in which the animal is kept.

## **PART 4**

### **PERMIT, CERTIFICATE, LICENCE AND REGISTRATION**

#### **Permit, certificate, licence and registration**

**16.(1)** An application for —

- (a) a permit to import or export any endangered species;
- (b) a certificate to re-export or introduce from the sea any endangered species; and
- (c) the licence and registration to produce captive bred animal or artificially propagated plant or animal of any endangered species for commercial trade purposes,

shall be made to the Management Authority, in a prescribed form together with the prescribed fees.

(2) The Management Authority may, after considering the application under subsection (1) —

- (a) issue or refuse to issue a permit to import or export any endangered species;
- (b) issue or refuse to issue a certificate to re-export or introduce from the sea any endangered species; and
- (c) allow or refuse to allow the licence and registration to produce captive bred animal or artificially propagated plant or animal of any endangered species for commercial trade purposes.

(3) If the Management Authority decides to issue a permit, certificate or licence, or allow the registration under subsection (2), the Management Authority may impose such conditions as it deems fit.

(4) Any person who fails to comply with or contravenes any of the conditions imposed under subsection (3) commits an offence and is liable on

conviction to a fine not exceeding SCR 50, 000 or to imprisonment for a term not exceeding 2 years, or to both such fine and term of imprisonment.

### **Cancellation of permit, certificate, licence or registration**

**17.(1)** The Management Authority may at any time cancel any permit, certificate, licence or registration if the Management Authority is satisfied that —

- (a) the holder of the permit, certificate, licence or registration has failed to comply with any provisions of this Act;
- (b) the holder of the permit, certificate, licence or registration has contravened any of the conditions thereof;
- (c) the permit, certificate or licence was issued, or the registration was allowed, as a result of false, misleading or inaccurate information;
- (d) the permit, certificate, licence or registration was obtained improperly or illegally; or
- (e) the holder of the permit, certificate, licence or registration has been convicted of an offence under this Act.

(2) Where the Management Authority cancels the permit, certificate, licence or registration under subsection (1), the Management Authority shall notify the holder of the permit, certificate, licence or registration.

(3) Where the Management Authority gives notification pursuant to subsection (2), the holder of the permit, certificate, licence or registration shall immediately surrender the permit, certificate, licence or documents pertaining to the registration to the Management Authority.

(4) Any holder of a permit, certificate, licence or the registration who contravenes subsection (3) commits an offence and is liable on conviction to a fine not exceeding SCR 50, 000 or to imprisonment for a term not exceeding 2 years, or to both such fine and term of imprisonment.

### **Captive breeding or artificial propagation**

**18.**(1) Any person who has a licence or who is registered with the Management Authority to produce captive bred animal or artificially propagated plant or animal of any endangered species shall keep and maintain records of their stocks and transactions.

(2) The Management Authority may inspect, at any time, the premises and records of any person who has a licence or who registered with the Management Authority.

(3) Any person who contravenes subsection (1) commits an offence and is liable on conviction to a fine not exceeding SCR 50, 000 or to imprisonment for a term not exceeding 2 years, or to both such fine and term of imprisonment.

### **Appeal**

**19.** Any person aggrieved by a decision of the Management Authority, in respect of section 16 or 17, may appeal to the Appeals Board by adhering to the relevant procedure and paying the prescribed fee.

## **PART 5 ENFORCEMENT POWERS AND PROCEEDINGS**

### **Enforcement officers**

**20.** An officer specified in Schedule 1 shall be the enforcement officer for the purposes of this Act.

### **Power of investigation**

**21.**(1) An enforcement officer shall have all the powers necessary to carry out an investigation under this Act.

(2) In any case relating to the commission of an offence under this Act, any enforcement officer carrying out an investigation may exercise all the powers, authorities, privileges and immunities of a police officer, under the Police Act, Cap. 172, and any other written law.

(3) Subsection (2) shall not be construed as limiting or affecting any similar powers conferred on any enforcement officer under any other written law.

### **Power of arrest**

**22.(1)** An enforcement officer may arrest without warrant any person —

- (a) found committing or attempting to commit or abetting the commission of an offence under this Act; or
- (b) whom the enforcement officer reasonably suspects of being engaged in committing or attempting to commit or abetting an offence under this Act.

(2) An enforcement officer making an arrest under subsection (1) shall, without delay, bring the person arrested to the nearest police station, and thereafter the person who is arrested shall be dealt with in accordance with the law.

### **Search and seizure with warrant**

**23.(1)** If it appears to a Judge in chambers, on an application made to the Supreme Court by an enforcement officer, that there is reasonable cause to believe that —

- (a) any premises has been used or are about to be used for; or
- (b) there is in any premises evidence necessary to the conduct of an investigation into,

the commission of an offence under this Act, the Judge may issue a warrant authorizing any enforcement officer named therein, at any reasonable time by day or by night to enter the premises.

(2) A warrant issued under subsection (1) may authorize the enforcement officer to —

- (a) search the premises for, and to seize or remove from the premises, any endangered species or property that is



reasonably believed to furnish evidence of the commission of such offence;

- (b) take samples of any endangered species or thing found on the premises for the purposes of ascertaining, by testing or otherwise, whether an offence has been committed; and
- (c) make copies of or take extracts from any book, record, document or other article found in the premises.

(3) An enforcement officer entering any premises under this section may take with the officer such other persons and equipment as may appear to the officer to be necessary.

(4) An enforcement officer may, in the exercise of the officer's powers under this section, if it is necessary so to do, —

- (a) break open any outer or inner door of the premises or any fence, enclosure, gate or other obstruction to the premises, in order to effect entry into the premises;
- (b) remove by force any obstruction to entry, search, seizure and removal as he is empowered to effect under this section; and
- (c) detain any person found in the premises until the search has been completed.

### **Power to enter premises**

**24.** Notwithstanding section 23, an enforcement officer may at any time enter any premises of the holder of a permit, certificate, licence or registration for the purposes of —

- (a) inspecting any endangered species or property as the enforcement officer considers necessary;
- (b) verifying the accuracy of records or statements or any information given to an enforcement officer; or

- (c) collecting samples of any endangered species.

### **Power to stop, search and seize conveyances**

**25.(1)** If an enforcement officer has reasonable cause to suspect that any conveyance is carrying any endangered species or property in respect of which an offence under this Act is being or has been committed, the officer may stop and examine the conveyance and may, if on examination the officer has reasonable cause to believe that such conveyance is or has been used for the commission of such offence, seize such conveyance and any endangered species or property found in the conveyance that is reasonably believed to furnish evidence of the commission of such offence.

(2) The person in control or in charge of the conveyance shall, if required to do so by the enforcement officer —

- (a) stop the conveyance and allow the enforcement officer to examine it; and
- (b) open all parts of the conveyance for examination and take all measures necessary to enable or facilitate the carrying out of such examination as the enforcement officer considers necessary.

(3) A person who contravenes subsection (2) commits an offence and is liable on conviction to a fine not exceeding SCR 50, 000 or to imprisonment for a term not exceeding 2 years, or to both such fine and term of imprisonment.

### **Forfeiture of seized endangered species**

**26.(1)** Any endangered species or property seized in exercise of any power conferred under this Act is liable to forfeiture as directed by the Supreme Court or in accordance with this section.

(2) The Management Authority or the Attorney General may apply to the Supreme Court by way of a notice of motion and an accompanying affidavit of facts for an order of forfeiture.

(3) An order for the forfeiture of the endangered species or property may be made if it is proved to the satisfaction of the Supreme Court that an offence under this Act has been committed and that the endangered species or property was the subject-matter of or was used in the commission of the offence, even though no person has been convicted of such offence.

(4) If it is proved that an offence has been committed and that the endangered species or property was the subject-matter of or was used in the commission of such offence, the Judge may order the endangered species or property to be forfeited, and shall, in the absence of such proof, order its release.

(5) Any endangered species or property forfeited or abandoned shall be delivered to the Management Authority and shall be disposed of in such manner as the Management Authority thinks fit, including repatriation under subsection (6) if the Management Authority so decides.

(6) When a decision of repatriation is made under this Act in respect of any endangered species which has been imported or introduced from the sea into Seychelles in contravention of this Act, the owner or importer of the endangered species shall, if required in writing by the Management Authority, provide or be responsible for —

- (a) free passage for the return of the endangered species to the place at which the endangered species was shipped to Seychelles, or to any other port or place designated by the Management Authority; and
- (b) proper maintenance and housing of the endangered species during the voyage, flight or journey.

(7) No person is liable under subsection (6) unless the decision of repatriation has been made by the Management Authority within —

- (a) 12 months from the date on which the endangered species was imported or introduced into Seychelles; or
- (b) 6 months after the date of proceedings, for the offence in connection with such importation or introduction into

Seychelles, are concluded by the Supreme Court, or from the date after the offence is compounded pursuant to section 30, whichever is later.

(8) Any person who contravenes subsection (7) commits an offence and is liable on conviction to a fine not exceeding SCR 50, 000 or a term of imprisonment not exceeding 2 years, or to both such fine and term of imprisonment.

### **Release of seized endangered species**

27. Notwithstanding section 25, the Management Authority may, where it thinks fit, at any time direct that any endangered species or property seized under this Act be released to the person from whose possession, custody or control it was seized.

### **Supreme Court may order costs of holding seized endangered species**

28. (1) Where any endangered species or property seized under this Act is held in the custody of the Management Authority, pending completion of any proceedings in respect of an offence under this Act, the Supreme Court may grant an order for the costs of holding the endangered species or property in custody, in the event of any person being found liable of such offence.

(2) The Management Authority may, on the direction of a Judge, submit a report to the Supreme Court which outlines the costs of holding the endangered species or property.

(3) A report submitted pursuant to subsection (2) is conclusive evidence of the costs of holding the endangered species or property in the custody of the Management Authority.

### **Obstruction of enforcement officers**

29. Any person who —

- (a) obstructs or impedes an enforcement officer in the execution of the officer's duty under this Act; or

- (b) refuses or fails, without reasonable excuse, to produce or furnish such book, document, paper or information or render all necessary assistance as may be required or directed by an enforcement officer,

commits an offence and is liable on conviction to a fine not exceeding SCR 50, 000 or to imprisonment for a term not exceeding 2 years, or to both such fine and term of imprisonment.

## **PART 6 GENERAL**

### **Compounding of offences**

**30.(1)** The Attorney General may, in consultation with the Management Authority, compound any offence under this Act which is prescribed as a compoundable offence by collecting from a person reasonably suspected of having committed the offence a sum not exceeding SCR 100, 000.

(2) An offer under subsection (1) may be made at any time after the offence has been committed, but before any prosecution for it has been instituted.

(3) If the amount specified in the offer under subsection (1) is not paid within the time specified in the offer or within such extended period as the Attorney General may grant, prosecution for the offence may be instituted at any time after that against the person to whom the offer was made.

(4) Where an offence has been compounded under subsection (1), no prosecution shall thereafter be instituted in respect of such offence against the person to whom the offer to compound the offence was made, and any endangered species or property seized in connection with the offence may be released to, or forfeited by, the Government, subject to such terms and conditions as the Management Authority thinks fit to impose in accordance with the conditions of the compound.

### **False declarations**

**31.(1)** Any person who makes, orally or in writing, signs or furnishes any declaration, return, certificate or other document or information required

under this Act which is untrue, inaccurate or misleading in any particular commits an offence and is liable on conviction to a fine not exceeding SCR 10, 000 or to imprisonment for a term not exceeding 6 months, or to both such fine and term of imprisonment.

(2) Any person who —

- (a) without lawful authority alters or forges any permit, certificate, licence or registration; or
- (b) knowingly makes use of any permit, certificate, licence or registration which has been so altered or forged,

commits an offence and is liable on conviction to a fine not exceeding SCR 20, 000 or to imprisonment for a term not exceeding 1 year, or to both such fine and term of imprisonment.

### **Penalty where no penalty is provided**

**32.** In respect of proceedings for offences under this Act, the Supreme Court may award the Government such other costs and expenses incurred in relation to those proceedings as the Supreme Court may deem proper.

### **Protection against suit and legal proceedings**

**33.** No action shall lie or prosecution shall be brought, instituted or maintained in any court against —

- (a) any member or officer of the Management Authority or enforcement officer; and
- (b) any other person for or on account of or in respect of any act done or purported to be done by that person under the order, direction or instruction of the Management Authority, or enforcement officer,

if the act was done in good faith and in a reasonable belief that it was necessary for the purpose intended to be served by it and for the carrying into effect the provisions of this Act.

**Rescue centres**

**34.** The Minister may establish rescue centres for the purposes of looking after the welfare of any living endangered species that was seized, confiscated, forfeited or abandoned.

**Rewards**

**35.** The Management Authority may order such rewards as it thinks fit to any person for services rendered in connection with the detection of any offence, or in connection with any seizures made under this Act.

**Power to make regulations**

**36.(1)** The Minister may make such regulations as may be expedient or necessary for the better carrying out of this Act.

(2) Without prejudice to the generality of subsection (1), regulations may be made —

- (a) to prescribe the forms for the purposes of this Act;
- (b) to prescribe the form, duration, types, terms, conditions or restrictions of any permit, certificate, licence or registration;
- (c) to prescribe the records or documents to be kept the holder of the permit, certificate, licence or registration;
- (d) to prescribe all matters relating to rescue centres;
- (e) to prescribe any matters relevant to the Scientific Authority;
- (f) to prescribe all matters relating to captive bred animals or artificially propagated plants or animals;
- (g) to prescribe all matters relating to the branding, packaging, marking either permanently or temporarily and labelling of endangered species for the purpose of identification;
- (h) to prescribe the offences which may be compounded;

- (i) to prescribe fees which may be prescribed under this Act;
- (j) to amend any Schedule to this Act; or
- (k) to provide for such other matters as are contemplated by or necessary for giving full effect to this Act and for their due administration.

(3) Regulations made under this section may prescribe any act in contravention of the regulations to be an offence and may prescribe penalties of a fine not exceeding SCR 50, 000.

### **Prevention of anomalies**

**37.(1)** The Minister may whenever it appears to the Minister necessary or expedient to do so, whether for the purpose of removing difficulties or preventing anomalies in consequence of the enactment of this Act, by regulations, amend any provision in this Act.

(2) The Minister shall not exercise the powers conferred by this section after the expiration of 2 years from the date of coming into operation of this Act.

## **SCHEDULE 1**

### **(Section 20)**

#### **ENFORCEMENT OFFICERS**

1. An officer of the Management Authority;
2. An authorized fishery officer as defined in section 3 of the Fisheries Act, 2014;
3. Police officer as defined in section 2 of the Police Force Act, CAP 172;
4. Member of the Defence Force as defined in section 2 of the Defence Act, CAP 58;



5. Officer of Customs as defined under section 8 of the Customs Management Act, 2011;
6. Biosecurity Officer as defined under section 2 of the Animal and Plant Biosecurity Act, 2014.

**TRADE OF WILD FAUNA AND FLORA BILL, 2021***(Bill No. 10 of 2021)***EXPLANATORY STATEMENT**

The object of this Bill is to enable Seychelles to fulfil its obligations under the Convention on International Trade in Endangered Species of Wild Fauna and Flora (the Convention). The purpose of the Convention is to ensure that no species of wild fauna and flora becomes or remains subject to unsustainable exploitation because of international trade.

The species of animals and plants covered by the Convention are listed in 3 appendices according to the degree of protection they need. Appendix I includes species threatened with extinction. Appendix II includes species not necessarily threatened with extinction, but in which trade must be controlled in order to avoid utilization incompatible with their survival. Finally, appendix III contains species that are protected in at least 1 country, which has asked other State Parties to the Convention for assistance in controlling the trade.

Seychelles has a number of species that are listed in the appendices and vital to our ecosystem. Also, some of these species are listed as endangered on the International Union for Conservation of Nature red list. This Bill will therefore further promote the management, conservation and protection of endangered, threatened and exploited species to further enhance the survival of those species for the benefit of future generations of Seychellois.

Globally, it is accepted that Seychelles has a good legislative framework for the conservation and protection of animals and plants. What this Bill does, however, is to help close perceived loopholes or gaps in the existing laws that may enable Seychelles to be used as a route for illicit trade in wildlife. International wildlife smuggling is of significant importance given that it presents several potential environmental threats and national security threats to Seychelles. Threats to the environment include the introduction of invasive species into our ecosystems, the transmission of disease through illegal wildlife trade and the loss of biodiversity. While national security threats include links between wildlife trafficking and organized crime and

drug trafficking; according to some experts, criminal groups sometimes seek to finance their activities through illegal wildlife trade. As such, this Bill seeks to further strengthen our institutional capacity and readiness to confront these environmental and national security threats.

Also, the Bill will contribute towards attainment of the targets under Goal 15 of the Sustainable Development Goals relating to the protection and prevention of the extinction of threatened species.

**Dated this 2<sup>nd</sup> day of March, 2021.**

**FLAVIEN PHILOMEL JOUBERT  
MINISTER FOR AGRICULTURE, CLIMATE CHANGE AND  
ENVIRONMENT**

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## **TRADE OF WILD FAUNA AND FLORA BILL, 2021**

*(Bill No. 10 2021)*

### **ARRANGEMENT OF SECTIONS**

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##### Sections

1. Short title.
2. Interpretation.
3. Application.
4. Certain specimens in appendix I may be deemed to be appendix II specimens.
5. Act to be read with other laws.

#### **PART 2 MANAGEMENT AUTHORITY AND SCIENTIFIC AUTHORITY**

6. Management Authority.
7. Functions and powers of the Management Authority.
8. Scientific Authority.
9. Functions of the Scientific Authority.

#### **PART 3 TRADE OF ENDANGERED SPECIES**

10. Import and export of endangered species.
11. Re-export and introduction from the sea.
12. Possession of endangered species.
13. Endangered species in transit.
14. Breeding or propagation of endangered species.
15. Power to require endangered species to be marked, branded or labelled.

#### **PART 4 PERMIT, CERTIFICATE, LICENCE AND REGISTRATION**

16. Permit, certificate, Licence and registration.
17. Cancellation of permit, certificate, licence or registration.

- 18. Captive breeding or artificial propagation.
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### **ENFORCEMENT POWERS AND PROCEEDINGS**

- 20. Enforcement officers.
- 21. Power of investigation.
- 22. Power of arrest.
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- 26. Forfeiture of seized endangered species.
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- 30. Compounding of offences.
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Schedule 1 - Enforcement Officers

## **TRADE OF WILD FAUNA AND FLORA BILL, 2021**

*(Bill No. 10 of 2021)*



### **A BILL FOR**

**AN ACT to give effect to the Convention on International Trade in Endangered Species of Wild Fauna and Flora; and to provide for matters incidental thereto.**

**ENACTED** by the President and the National Assembly.

#### **Short title**

**1.** This Act may be cited as the Trade of Wild Fauna and Flora Act, 2021.

**Interpretation**

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

“advertise” in relation to endangered species, means to describe, make reference to or allude in any way, by any means or in any form, to that endangered species —

- (a) whether directly or indirectly;
- (b) whether orally, in writing, diagrammatically, pictorially, by the use of symbols or photographs, or in any combination thereof; or
- (c) whether by the common name or the scientific name of that endangered species or otherwise;

“animal” means any member of the animal kingdom, and includes —

- (a) any mammal (other than a human being), bird, reptile, amphibian, fish, mollusc, arthropod, or other vertebrate or invertebrate, whether alive or dead, and the egg, young or immature form thereof; and
- (b) any derivative of an animal;

“artificially propagated” in reference to any —

- (a) plant, means the plant is grown under controlled conditions from seeds, cuttings, divisions, callus tissues or other tissues, spores or other propagules that either are exempt or have been derived from cultivated parental stock; and
- (b) animal, means the animal is propagated under controlled environment by way of cuttings and divisions;

“Appeals Board” means the Appeals Board established under the Environment Protection Act, 2016;

“bred in captivity” refers only to offspring, including eggs, born or otherwise produced in a controlled environment of parents that mated or otherwise transmitted their gametes in a controlled environment;

“certificate” means a certificate issued by a Management Authority under section 16(2) and includes a pre-Convention certificate;

“controlled conditions” means a non-natural environment that is intensively manipulated by human intervention for the purpose of plant production and may include but is not limited to tillage, fertilization, weed and pest control, irrigation, or nursery operations such as potting, bedding or protection from weather;

“controlled environment” includes an environment that is manipulated for the purpose of producing specimen of a particular species of an animal that has boundaries designed to prevent the animal, eggs or gametes of the animal from entering or leaving that particular environment, and the general characteristics of which may include but are not limited to artificial housing, waste removal, health care, protection from predators, and artificially supplied food;

“Convention” means the Convention on International Trade in Endangered Species of Wild Fauna and Flora;

“conveyance” means any vehicle, vessel, ship, aircraft or any other mode of transport whether by air, sea or land;

“competent authority” means the national administrative body of a foreign country designated in accordance with article IX, paragraph 1(a), of the Convention as its Management Authority;

“cultivated parental stock” means the ensemble of a plant grown under controlled conditions that are used for reproduction, in a manner not detrimental to the survival of the species of plant in the wild or natural habitat and maintained in sufficient quantities



for propagation so as to minimize or eliminate the need for augmentation from the wild or natural habitat, with such augmentation occurring only as an exception and limited to the amount necessary to maintain the vigour and productivity of the parent material;

“derivative of a plant” means any substantially complete or readily recognizable part, tissue or derivative of a plant, in natural form, preserved, dried, processed or otherwise treated or prepared which may or may not be contained in preparations, and includes —

- (a) seed, stem, leaf, bark, root, log, flower, fruit or pod;
- (b) any chemical compound derived from such part, tissue or extract; and
- (c) any thing which is claimed by any person, or which appears from an accompanying document, the packaging, a label or mark or from any other circumstances, to contain a part or derivative of a plant;

“derivative of an animal” means any substantially complete or readily recognizable part or derivative of an animal, in natural form, stuffed, chilled, preserved, dried, processed or otherwise treated or prepared which may or may not be contained in preparations, and includes —

- (a) meat, bones, hide, skin, leather, tusk, horn, antler, gland, feathers, hair, teeth, claws, shell, scales and eggs;
- (b) tissue, blood, fat, oil, milk, venom, saliva, urine and faeces;
- (c) any chemical compound derived from anything mentioned in paragraph (a) or (b); and
- (d) any thing which is claimed by any person, or which appears from an accompanying document, the packaging, a label or

mark or from any other circumstances, to contain a part or derivative of an animal;

“derivative of the endangered” means a derivative of an animal or a plant;

“endangered species” means an animal or plant listed in appendix I, II or III to the Convention, including any derivative of the animal or plant;

“enforcement officer” or “officer” means an enforcement officer specified in Schedule 1 to this Act;

“export” means to take or cause to be taken out of Seychelles by sea or air any endangered species, but does not include re-export;

“import” means to bring or cause to be brought into Seychelles by sea or air any endangered species other than any endangered species in transit in Seychelles;

“introduction from the sea” means transportation into Seychelles of any endangered species which was taken from the marine environment not under the jurisdiction of any country, including the air space above the sea, sea-bed and subsoil beneath the sea;

“licence” means a licence issued by a Management Authority under section 16(2);

“Management Authority” means the Management Authority established under section 6;

“Minister” means the Minister responsible for environment;

“Ministry” means the Ministry responsible for environment;

“non-detriment finding” means a finding by the Scientific Authority that a proposed export or introduction from the sea of appendix I or II specimens will not be detrimental to the survival

of that species and that a proposed import of an appendix I specimen is not for purposes that would be detrimental to the survival of the species;

“owner” includes any person for the time being in charge of any endangered species or any person for the time being in occupation or possession of any premises;

“pre-Convention certificate” means a certificate issued by the Management Authority in relation to a specimen that was taken from the wild, bred in captivity or artificially propagated before the species was specified in an appendix to the Convention;

“permit” means a permit issued by a Management Authority under section 16(2);

“plant” means any member of the plant kingdom, whether live or dead, and any derivative of a plant;

“premises” includes any structure, platform, house, building, conveyance and land whether or not enclosed or built upon;

“property” includes any conveyance, machinery, contrivance, equipment, book, record, document or other article

“quota” means a prescribed number or quantity of any endangered species that can be exported or otherwise used over a specific period of time;

“re-export” means the export of any endangered species that has previously been imported;

“registration” means the registration allowed by a Management Authority under section 16(2);

“rescue centre” means a premises designated by a Management Authority to look after the welfare of any living endangered species, particularly those that have been confiscated;

“Scientific Authority” means a person or an authority appointed under section 8;

“species” includes sub-species, or geographically separate population of the species or sub-species of an endangered species;

“specimen” means —

- (a) any animal or plant, whether alive or dead, of a species listed in appendix I, II or III to the Convention;
- (b) any derivative of the animal or plant;

“trade” means to export, re-export, import or introduce from the sea whether or not for commercial purposes;

“transit or transhipment” means where a species is brought into Seychelles solely for the purpose of taking the species out of Seychelles and —

- (a) remains at all times in or on the conveyance in or on which the species are brought into Seychelles;
- (b) is removed from the conveyance that the species is brought into Seychelles and either intended to be returned to that conveyance or transferred directly to another conveyance before leaving Seychelles, but is kept under the control of an enforcement officer or an authorized person while being so removed, returned or transferred;
- (c) is removed from the conveyance that the species is brought into Seychelles and kept under the control of an enforcement officer or an authorized personnel for a period not exceeding 10 working days or such longer period that the Management Authority may permit pending the removal of the species from Seychelles.

### **Application**

3.(1) Subject to subsection (2), this Act applies to trade of endangered species listed in appendix I, II or III to the Convention, as may be amended from time to time.

(2) This Act shall not apply to any species specified in an appendix to the Convention in relation to which Seychelles has made a reservation.

(3) The Minister may, by regulations, extend the application of this Act to any animal or plant to which this Act does not apply by reason of subsections (1) or (2).

### **Certain specimens in appendix I may be deemed to be appendix II specimens**

4. A specimen in appendix I to the Convention that is artificially propagated for commercial purposes or bred in captivity for commercial purposes is deemed to be a specimen of appendix II to the Convention for the purposes of this Act.

### **Act to be read with other laws**

5. This Act shall be read together with any other written law relating to import and export, or conservation of, endangered species, and the provisions of this Act shall be in addition to, and not in derogation of, such other written laws.

## **PART 2**

### **MANAGEMENT AUTHORITY AND SCIENTIFIC AUTHORITY**

#### **Management Authority**

6.(1) The Ministry is the Management Authority for the purposes of this Act.

(2) The Management Authority may delegate any of its functions under section 7 to an authority by notice published in the Gazette.

#### **Functions and powers of the Management Authority**

7.(1) The functions of the Management Authority are —

- (a) to coordinate the implementation and enforcement of this Act;
- (b) to communicate with other countries and the secretariat of the Convention on all matters under this Act;
- (c) to cause national obligations under the Convention to be fulfilled;
- (d) to represent Seychelles at national and international meetings related to the Convention;
- (e) to maintain records of international trade in endangered species and to prepare reports concerning such trade as may be required under the Convention;
- (f) to establish Rescue Centres;
- (g) to create awareness and to provide training, education and information relating to the Convention;
- (h) to do such other things as the Management Authority deems fit to enable it to perform its functions effectively or which are incidental to the performance of its functions.

(2) The Management Authority shall have the power to issue a permit, certificate or licence, or allow registration under this Act.

(3) The Management Authority may consult, or seek the advice of, the Scientific Authority or any other public authority in the implementation of its functions under this Act.

### **Scientific Authority**

8.(1) The Minister may, by notice published in the Gazette, appoint such number of persons or authorities as may be necessary to be a Scientific Authority in accordance with the Convention.

(2) A person or an authority appointed under subsection (1) is not required to reside in Seychelles.

### **Functions of the Scientific Authority**

**9.** The Scientific Authority shall provide advice to the Management Authority on international trade in endangered species on —

- (a) the impact of the trade on the survival of any endangered species;
- (b) the quotas for the export of any endangered species;
- (c) the result of any non-detriment findings on any endangered species listed in appendix I or II to the Convention;
- (d) the appropriate care of any live endangered species to be transported to or from Seychelles;
- (e) the measures to be taken when the harvest of any endangered species threatens its survival;
- (f) the appropriate treatment of any seized or confiscated endangered species;
- (g) the method of disposal of any seized or confiscated endangered species;
- (h) any other matters as it deems fit to enable it to perform its functions effectively or which are incidental to the performance of its functions.

## **PART 3 TRADE OF ENDANGERED SPECIES**

### **Import and export of endangered species**

**10.** Any person who imports or exports any endangered species without a permit commits an offence and is liable on conviction to a fine not exceeding SCR 100, 000 for each endangered species or derivative of the endangered species but such fine shall not exceed SCR 1, 000, 000 or to imprisonment for a term not exceeding 5 years, or to both such fine and term of imprisonment.

**Re-export and introduction from the sea**

**11.** Any person who re-exports or introduces from the sea any endangered species without a certificate commits an offence and is liable on conviction to a fine not exceeding SCR 100, 000 for each endangered species or derivative of the endangered species but such fine shall not exceed SCR 1, 000, 000 or to imprisonment for a term not exceeding 5 years, or to both such fine and term of imprisonment.

**Possession of endangered species**

**12.** Any person who —

- (a) has in the person's possession or under the person's control;
- (b) sells, offers or exposes or advertises for sale;
- (c) displays to the public through any communication including social media,

any endangered species which has been imported or introduced from the sea in contravention of section 10 or 11 commits an offence and is liable on conviction to a fine not exceeding SCR 100, 000 for each endangered species or derivative of the endangered species but such fine shall not exceed SCR 1, 000, 000 or to imprisonment for a term not exceeding 5 years, or to both such fine and term of imprisonment.

**Endangered species in transit**

**13.(1)** Every endangered species in transit or transshipment in Seychelles shall be accompanied by —

- (a) a valid export or re-export permit, licence, certificate or written permission, in accordance with the Convention, issued by the competent authority of the country of export or re-export of the endangered species; and
- (b) where required by the country of import or final destination of the endangered species, a valid import permit, licence,



certificate or written permission, in accordance with the Convention, issued by the competent authority of that country.

(2) Any owner, importer, exporter or re-exporter who contravenes subsection (1) commits an offence and is liable on conviction to a fine not exceeding SCR 100, 000 for each endangered species or derivative of the endangered species but such fine shall not exceed SCR 1, 000, 000 or to imprisonment for a term not exceeding 5 years, or to both such fine and term of imprisonment.

### **Breeding or propagation of endangered species**

14.(1) Any person who produces captive bred animal or artificially propagated plant or animal of any endangered species for commercial trade purposes without being registered with the Management Authority commits an offence and is liable on conviction to a fine not exceeding SCR 100, 000 for each endangered species or derivative of the endangered species but such fine shall not exceed SCR 1, 000, 000 or to imprisonment for a term not exceeding 5 years, or to both such fine and term of imprisonment.

(2) Any person who —

- (a) has in the person's possession or under the person's control;
- (b) sells, offers or exposes or advertises for sale;
- (c) displays to the public through any communication including social media,

any endangered species which has been obtained or produced in contravention of subsection (1) commits an offence and is liable on conviction to a fine not exceeding SCR 100, 000 for each endangered species or derivative of the endangered species but such fine shall not exceed SCR 1, 000, 000 or to imprisonment for a term not exceeding 5 years, or to both such fine and term of imprisonment.

### **Power to require endangered species to be marked, branded or labelled**

15.(1) The Management Authority may require any owner, importer, exporter or re-exporter of any endangered species to brand, label or

otherwise mark such endangered species to the satisfaction of the Management Authority.

(2) Notwithstanding subsection (1), the Management Authority may brand, label or mark any such endangered species.

(3) Any person who contravenes any requirement of the Management Authority under subsection (1) commits an offence and is liable on conviction to a fine not exceeding SCR 50, 000 or to imprisonment for a term not exceeding 2 years, or to both such fine and term of imprisonment.

(4) Any person who alters, counterfeits, defaces, destroys, erases, removes or in any manner tampers with any brand, label or mark referred to in subsection (1) or (2) without the prior approval of the Management Authority commits an offence and is liable on conviction to a fine not exceeding SCR 50, 000 or to imprisonment for a term not exceeding 2 years, or to both such fine and term of imprisonment.

(5) In this section, a reference to the labelling or marking of endangered species includes a reference to the following —

(a) in the case of a plant —

(i) the labelling or marking of a container in which the plant is kept or in which the plant is growing; or

(ii) the placement of a label or tag on the plant; and

(b) in the case of an animal —

(i) the implantation of a scannable device in the animal;

(ii) the placement of a band on any part of the animal;

(iii) the placement (whether by piercing or otherwise) of a tag, tattoo or ring on any part of the animal; or

(iv) the labelling or marking of a container in which the animal is kept.

## **PART 4**

### **PERMIT, CERTIFICATE, LICENCE AND REGISTRATION**

#### **Permit, certificate, licence and registration**

**16.(1)** An application for —

- (a) a permit to import or export any endangered species;
- (b) a certificate to re-export or introduce from the sea any endangered species; and
- (c) the licence and registration to produce captive bred animal or artificially propagated plant or animal of any endangered species for commercial trade purposes,

shall be made to the Management Authority, in a prescribed form together with the prescribed fees.

(2) The Management Authority may, after considering the application under subsection (1) —

- (a) issue or refuse to issue a permit to import or export any endangered species;
- (b) issue or refuse to issue a certificate to re-export or introduce from the sea any endangered species; and
- (c) allow or refuse to allow the licence and registration to produce captive bred animal or artificially propagated plant or animal of any endangered species for commercial trade purposes.

(3) If the Management Authority decides to issue a permit, certificate or licence, or allow the registration under subsection (2), the Management Authority may impose such conditions as it deems fit.

(4) Any person who fails to comply with or contravenes any of the conditions imposed under subsection (3) commits an offence and is liable on

conviction to a fine not exceeding SCR 50, 000 or to imprisonment for a term not exceeding 2 years, or to both such fine and term of imprisonment.

### **Cancellation of permit, certificate, licence or registration**

**17.(1)** The Management Authority may at any time cancel any permit, certificate, licence or registration if the Management Authority is satisfied that —

- (a) the holder of the permit, certificate, licence or registration has failed to comply with any provisions of this Act;
- (b) the holder of the permit, certificate, licence or registration has contravened any of the conditions thereof;
- (c) the permit, certificate or licence was issued, or the registration was allowed, as a result of false, misleading or inaccurate information;
- (d) the permit, certificate, licence or registration was obtained improperly or illegally; or
- (e) the holder of the permit, certificate, licence or registration has been convicted of an offence under this Act.

(2) Where the Management Authority cancels the permit, certificate, licence or registration under subsection (1), the Management Authority shall notify the holder of the permit, certificate, licence or registration.

(3) Where the Management Authority gives notification pursuant to subsection (2), the holder of the permit, certificate, licence or registration shall immediately surrender the permit, certificate, licence or documents pertaining to the registration to the Management Authority.

(4) Any holder of a permit, certificate, licence or the registration who contravenes subsection (3) commits an offence and is liable on conviction to a fine not exceeding SCR 50, 000 or to imprisonment for a term not exceeding 2 years, or to both such fine and term of imprisonment.

**Captive breeding or artificial propagation**

18.(1) Any person who has a licence or who is registered with the Management Authority to produce captive bred animal or artificially propagated plant or animal of any endangered species shall keep and maintain records of their stocks and transactions.

(2) The Management Authority may inspect, at any time, the premises and records of any person who has a licence or who registered with the Management Authority.

(3) Any person who contravenes subsection (1) commits an offence and is liable on conviction to a fine not exceeding SCR 50, 000 or to imprisonment for a term not exceeding 2 years, or to both such fine and term of imprisonment.

**Appeal**

19. Any person aggrieved by a decision of the Management Authority, in respect of section 16 or 17, may appeal to the Appeals Board by adhering to the relevant procedure and paying the prescribed fee.

**PART 5  
ENFORCEMENT POWERS AND PROCEEDINGS****Enforcement officers**

20. An officer specified in Schedule 1 shall be the enforcement officer for the purposes of this Act.

**Power of investigation**

21.(1) An enforcement officer shall have all the powers necessary to carry out an investigation under this Act.

(2) In any case relating to the commission of an offence under this Act, any enforcement officer carrying out an investigation may exercise all the powers, authorities, privileges and immunities of a police officer, under the Police Act, Cap. 172, and any other written law.

(3) Subsection (2) shall not be construed as limiting or affecting any similar powers conferred on any enforcement officer under any other written law.

### **Power of arrest**

**22.(1)** An enforcement officer may arrest without warrant any person —

- (a) found committing or attempting to commit or abetting the commission of an offence under this Act; or
- (b) whom the enforcement officer reasonably suspects of being engaged in committing or attempting to commit or abetting an offence under this Act.

(2) An enforcement officer making an arrest under subsection (1) shall, without delay, bring the person arrested to the nearest police station, and thereafter the person who is arrested shall be dealt with in accordance with the law.

### **Search and seizure with warrant**

**23.(1)** If it appears to a Judge in chambers, on an application made to the Supreme Court by an enforcement officer, that there is reasonable cause to believe that —

- (a) any premises has been used or are about to be used for; or
- (b) there is in any premises evidence necessary to the conduct of an investigation into,

the commission of an offence under this Act, the Judge may issue a warrant authorizing any enforcement officer named therein, at any reasonable time by day or by night to enter the premises.

(2) A warrant issued under subsection (1) may authorize the enforcement officer to —

- (a) search the premises for, and to seize or remove from the premises, any endangered species or property that is

reasonably believed to furnish evidence of the commission of such offence;

- (b) take samples of any endangered species or thing found on the premises for the purposes of ascertaining, by testing or otherwise, whether an offence has been committed; and
- (c) make copies of or take extracts from any book, record, document or other article found in the premises.

(3) An enforcement officer entering any premises under this section may take with the officer such other persons and equipment as may appear to the officer to be necessary.

(4) An enforcement officer may, in the exercise of the officer's powers under this section, if it is necessary so to do, —

- (a) break open any outer or inner door of the premises or any fence, enclosure, gate or other obstruction to the premises, in order to effect entry into the premises;
- (b) remove by force any obstruction to entry, search, seizure and removal as he is empowered to effect under this section; and
- (c) detain any person found in the premises until the search has been completed.

### **Power to enter premises**

**24.** Notwithstanding section 23, an enforcement officer may at any time enter any premises of the holder of a permit, certificate, licence or registration for the purposes of —

- (a) inspecting any endangered species or property as the enforcement officer considers necessary;
- (b) verifying the accuracy of records or statements or any information given to an enforcement officer; or

- (c) collecting samples of any endangered species.

### **Power to stop, search and seize conveyances**

**25.(1)** If an enforcement officer has reasonable cause to suspect that any conveyance is carrying any endangered species or property in respect of which an offence under this Act is being or has been committed, the officer may stop and examine the conveyance and may, if on examination the officer has reasonable cause to believe that such conveyance is or has been used for the commission of such offence, seize such conveyance and any endangered species or property found in the conveyance that is reasonably believed to furnish evidence of the commission of such offence.

(2) The person in control or in charge of the conveyance shall, if required to do so by the enforcement officer —

- (a) stop the conveyance and allow the enforcement officer to examine it; and
- (b) open all parts of the conveyance for examination and take all measures necessary to enable or facilitate the carrying out of such examination as the enforcement officer considers necessary.

(3) A person who contravenes subsection (2) commits an offence and is liable on conviction to a fine not exceeding SCR 50, 000 or to imprisonment for a term not exceeding 2 years, or to both such fine and term of imprisonment.

### **Forfeiture of seized endangered species**

**26.(1)** Any endangered species or property seized in exercise of any power conferred under this Act is liable to forfeiture as directed by the Supreme Court or in accordance with this section.

(2) The Management Authority or the Attorney General may apply to the Supreme Court by way of a notice of motion and an accompanying affidavit of facts for an order of forfeiture.



(3) An order for the forfeiture of the endangered species or property may be made if it is proved to the satisfaction of the Supreme Court that an offence under this Act has been committed and that the endangered species or property was the subject-matter of or was used in the commission of the offence, even though no person has been convicted of such offence.

(4) If it is proved that an offence has been committed and that the endangered species or property was the subject-matter of or was used in the commission of such offence, the Judge may order the endangered species or property to be forfeited, and shall, in the absence of such proof, order its release.

(5) Any endangered species or property forfeited or abandoned shall be delivered to the Management Authority and shall be disposed of in such manner as the Management Authority thinks fit, including repatriation under subsection (6) if the Management Authority so decides.

(6) When a decision of repatriation is made under this Act in respect of any endangered species which has been imported or introduced from the sea into Seychelles in contravention of this Act, the owner or importer of the endangered species shall, if required in writing by the Management Authority, provide or be responsible for —

- (a) free passage for the return of the endangered species to the place at which the endangered species was shipped to Seychelles, or to any other port or place designated by the Management Authority; and
- (b) proper maintenance and housing of the endangered species during the voyage, flight or journey.

(7) No person is liable under subsection (6) unless the decision of repatriation has been made by the Management Authority within —

- (a) 12 months from the date on which the endangered species was imported or introduced into Seychelles; or
- (b) 6 months after the date of proceedings, for the offence in connection with such importation or introduction into

Seychelles, are concluded by the Supreme Court, or from the date after the offence is compounded pursuant to section 30, whichever is later.

(8) Any person who contravenes subsection (7) commits an offence and is liable on conviction to a fine not exceeding SCR 50, 000 or a term of imprisonment not exceeding 2 years, or to both such fine and term of imprisonment.

### **Release of seized endangered species**

27. Notwithstanding section 25, the Management Authority may, where it thinks fit, at any time direct that any endangered species or property seized under this Act be released to the person from whose possession, custody or control it was seized.

### **Supreme Court may order costs of holding seized endangered species**

28. (1) Where any endangered species or property seized under this Act is held in the custody of the Management Authority, pending completion of any proceedings in respect of an offence under this Act, the Supreme Court may grant an order for the costs of holding the endangered species or property in custody, in the event of any person being found liable of such offence.

(2) The Management Authority may, on the direction of a Judge, submit a report to the Supreme Court which outlines the costs of holding the endangered species or property.

(3) A report submitted pursuant to subsection (2) is conclusive evidence of the costs of holding the endangered species or property in the custody of the Management Authority.

### **Obstruction of enforcement officers**

29. Any person who —

- (a) obstructs or impedes an enforcement officer in the execution of the officer's duty under this Act; or

- (b) refuses or fails, without reasonable excuse, to produce or furnish such book, document, paper or information or render all necessary assistance as may be required or directed by an enforcement officer,

commits an offence and is liable on conviction to a fine not exceeding SCR 50, 000 or to imprisonment for a term not exceeding 2 years, or to both such fine and term of imprisonment.

## **PART 6 GENERAL**

### **Compounding of offences**

**30.(1)** The Attorney General may, in consultation with the Management Authority, compound any offence under this Act which is prescribed as a compoundable offence by collecting from a person reasonably suspected of having committed the offence a sum not exceeding SCR 100, 000.

(2) An offer under subsection (1) may be made at any time after the offence has been committed, but before any prosecution for it has been instituted.

(3) If the amount specified in the offer under subsection (1) is not paid within the time specified in the offer or within such extended period as the Attorney General may grant, prosecution for the offence may be instituted at any time after that against the person to whom the offer was made.

(4) Where an offence has been compounded under subsection (1), no prosecution shall thereafter be instituted in respect of such offence against the person to whom the offer to compound the offence was made, and any endangered species or property seized in connection with the offence may be released to, or forfeited by, the Government, subject to such terms and conditions as the Management Authority thinks fit to impose in accordance with the conditions of the compound.

### **False declarations**

**31.(1)** Any person who makes, orally or in writing, signs or furnishes any declaration, return, certificate or other document or information required

under this Act which is untrue, inaccurate or misleading in any particular commits an offence and is liable on conviction to a fine not exceeding SCR 10, 000 or to imprisonment for a term not exceeding 6 months, or to both such fine and term of imprisonment.

(2) Any person who —

- (a) without lawful authority alters or forges any permit, certificate, licence or registration; or
- (b) knowingly makes use of any permit, certificate, licence or registration which has been so altered or forged,

commits an offence and is liable on conviction to a fine not exceeding SCR 20, 000 or to imprisonment for a term not exceeding 1 year, or to both such fine and term of imprisonment.

### **Penalty where no penalty is provided**

**32.** In respect of proceedings for offences under this Act, the Supreme Court may award the Government such other costs and expenses incurred in relation to those proceedings as the Supreme Court may deem proper.

### **Protection against suit and legal proceedings**

**33.** No action shall lie or prosecution shall be brought, instituted or maintained in any court against —

- (a) any member or officer of the Management Authority or enforcement officer; and
- (b) any other person for or on account of or in respect of any act done or purported to be done by that person under the order, direction or instruction of the Management Authority, or enforcement officer,

if the act was done in good faith and in a reasonable belief that it was necessary for the purpose intended to be served by it and for the carrying into effect the provisions of this Act.

**Rescue centres**

**34.** The Minister may establish rescue centres for the purposes of looking after the welfare of any living endangered species that was seized, confiscated, forfeited or abandoned.

**Rewards**

**35.** The Management Authority may order such rewards as it thinks fit to any person for services rendered in connection with the detection of any offence, or in connection with any seizures made under this Act.

**Power to make regulations**

**36.(1)** The Minister may make such regulations as may be expedient or necessary for the better carrying out of this Act.

(2) Without prejudice to the generality of subsection (1), regulations may be made —

- (a) to prescribe the forms for the purposes of this Act;
- (b) to prescribe the form, duration, types, terms, conditions or restrictions of any permit, certificate, licence or registration;
- (c) to prescribe the records or documents to be kept the holder of the permit, certificate, licence or registration;
- (d) to prescribe all matters relating to rescue centres;
- (e) to prescribe any matters relevant to the Scientific Authority;
- (f) to prescribe all matters relating to captive bred animals or artificially propagated plants or animals;
- (g) to prescribe all matters relating to the branding, packaging, marking either permanently or temporarily and labelling of endangered species for the purpose of identification;
- (h) to prescribe the offences which may be compounded;

- (i) to prescribe fees which may be prescribed under this Act;
- (j) to amend any Schedule to this Act; or
- (k) to provide for such other matters as are contemplated by or necessary for giving full effect to this Act and for their due administration.

(3) Regulations made under this section may prescribe any act in contravention of the regulations to be an offence and may prescribe penalties of a fine not exceeding SCR 50, 000.

### **Prevention of anomalies**

**37.(1)** The Minister may whenever it appears to the Minister necessary or expedient to do so, whether for the purpose of removing difficulties or preventing anomalies in consequence of the enactment of this Act, by regulations, amend any provision in this Act.

(2) The Minister shall not exercise the powers conferred by this section after the expiration of 2 years from the date of coming into operation of this Act.

## **SCHEDULE 1**

### **(Section 20)**

#### **ENFORCEMENT OFFICERS**

1. An officer of the Management Authority;
2. An authorized fishery officer as defined in section 3 of the Fisheries Act, 2014;
3. Police officer as defined in section 2 of the Police Force Act, CAP 172;
4. Member of the Defence Force as defined in section 2 of the Defence Act, CAP 58;

5. Officer of Customs as defined under section 8 of the Customs Management Act, 2011;
6. Biosecurity Officer as defined under section 2 of the Animal and Plant Biosecurity Act, 2014.