



OFFICIAL GAZETTE

REPUBLIC OF SEYCHELLES

EXTRAORDINARY

Published by Authority of the Government

Vol. XLVI

Friday 10th December 2021

No. 94

TABLE OF CONTENTS

GAZETTE SUPPLEMENTS

Gazette Supplements of 2021 are published by Order.

GAZETTE SUPPLEMENTS

Gazette	Description	Price
94	The International Business Companies Act and other Related Laws (Amendment) Bill, 2021. (Bill No. 67 of 2021)	64.00
	Anti-Corruption (Amendment) (No. 3) Bill, 2021. (Bill No. 68 of 2021)	24.00
	Seychelles Parks and Gardens Authority Bill, 2021. (Bill No. 69 of 2021)	56.00

**THE INTERNATIONAL BUSINESS COMPANIES ACT AND
OTHER RELATED LAWS (AMENDMENT) BILL, 2021**

(Bill No.67 of 2021)

OBJECTS AND REASONS

In 2016, Seychelles enacted a new International Business Companies Act (“IBC Act”), which replaced the old International Business Companies Act of 1994. During the implementation of the International Business Companies Act, 2016, over the couple of years, both the Financial Services Authority and private sector have encountered certain issues in relation to the new piece of legislation whereby amendments are required in order to ensure effective compliance on one side and to keep the competitiveness of the product on the other side. Along with the amendments to the International Business Companies Act, 2016, certain consequential and other amendments are also required in the Foundations Act, 2009, the Limited Partnerships Act, 2003 and the Trusts Act, 2021, to comply with the requirement of the Global Forum for Transparency and Exchange of Information on Tax Matters.

2. Amendments are being proposed in the International Business Companies Act, 2016 (Act 15 of 2016), the Foundations Act, 2009 (Cap.270), the Limited Partnerships Act, 2003 (Cap. 281) and the Trusts Act, 2021 (Act 34 of 2021) in line with Seychelles latest review by the Global Forum for Transparency and Exchange of Information on Tax Matters (under the ambit of the OECD), whereby certain observations were made in relation to the accounting records. Therefore, it is proposed to amend the International Business Companies Act, 2016 (Act 15 of 2016), the Limited Partnerships Act, 2003 (Cap. 281), the Foundations Act, 2009 (Cap.270) and the Trusts Act, 2021 (Act 34 of 2021), to sync with the requirements of the OECD.

3. The main amendments proposed under the International Business Companies Act, 2016 (IBC Act) are as follows:

- (a) to amend section 167 of the IBC Act to include enabling provision for the fees applicable when a registered agent

resigns. A fee of \$10 is already provided under paragraph (j) of Part II of the Second Schedule;

- (b) to repeal section 171 of the IBC Act, since the accounting records are now required to be kept in Seychelles and therefore, the submission of annual return becomes obsolete;
- (c) to amend section 175 of the IBC Act to rectify typographical correction (i.e., to remove double-negative) and to require a company which keeps its original accounting records in Seychelles and to inform its registered agent about the physical address of that place;
- (d) to amend section 276 of the IBC Act to allow the Registrar to restore companies that have been dissolved under section 275 and to exempt a company from submitting the consent of the outgoing registered agent during the restoration process, if that agent has resigned following the striking off of the company;
- (e) to amend section 277 of the IBC Act to extend restoration of dissolved companies by the Court to include companies that have been dissolved under section 275 (automatic dissolutions) and to extend the period from 3 years to 5 years, that a dissolved company can apply to Court for restoration;
- (f) to amend section 354(3) of the IBC Act to cap the maximum penalty imposed by the Registrar at US\$10,000;
- (g) to amend section 361 of the IBC Act to increase the penalty fee applicable for noncompliance of submission of annual return and the relevant accompanying documents;
- (h) to repeal the Sixth Schedule (Annual Return Content) of the IBC Act relating to annual return in view of the repeal of section 171;
- (i) amendment to section 60(2) of the International Business Companies (Amendment) Act, 2021 and to commence the said section from 1st January 2022 (rather than 6th August 2021); and

- (j) requirements brought by the IBC (Amendment) Act, 2021 to require a company to lodge its accounting records at its registered office in Seychelles shall apply with retrospective effect whereby every existing company (except a company which already keeps its accounting records in Seychelles) shall lodge its accounting records, relating to transactions over the past 7 years, at the company's registered office in Seychelles, within 6 months from the date of commencement of the International Business Companies (Amendment) Act, 2021.

4. The main amendments being proposed under the Foundations Act (Cap. 270) are as follows —

- (a) to require a foundation which keeps its original accounting records in Seychelles to inform its registered agent of the physical address of that place;
- (b) to replace the existing section 113 to expressly allow interested parties, including beneficiaries, founders and creditors, to apply to the Supreme Court of Seychelles for relief in relation to alleged breaches by councilors or protectors; and
- (c) to provide that the requirements brought by the Foundations (Amendment) Act, 2021 to require a Foundation to lodge its accounting records at its registered office in Seychelles shall apply with retrospective effect whereby every existing foundation (except a foundation which keeps its accounting records in Seychelles) shall lodge its accounting records, relating to transactions over the past 7 years, at the foundation's registered office in Seychelles within 6 months from the date of commencement of the Foundations (Amendment) Act, 2021.

5. The amendments being proposed under the Limited Partnerships Act (LP Act) (Cap. 281) are as follows:

- (a) to amend section 11A of the L P Act to rectify a typographical correction and to require a limited partnership which keeps its original accounting records in Seychelles to inform its registered agent of the physical address of that place;

- (b) the requirements brought by the Limited Partnerships (Amendment) Act, 2021 to require a limited partnership to lodge its accounting records at its registered office in Seychelles shall apply with retrospective effect whereby every existing limited partnership (except a limited partnership which keeps its accounting records in Seychelles) shall lodge its accounting records, relating to transactions over the past 7 years, at the limited partnership's registered office in Seychelles within 6 months from the date of commencement of the Limited Partnerships (Amendment) Act, 2021.

6. The main amendments being proposed under the Trusts Act are as follows —

- (a) to amend section 11 of the Trusts Act to rectify a typographical correction;
- (b) to amend section 27 of the Trusts Act to require an approved trustee which keeps the original accounting records in Seychelles, other than at its principal place of business or registered office, to keep a written record of the physical address of that place;
- (c) to amend section 28 of the Trusts Act to remove the requirement to keep register of trustees, beneficiaries, settlors and protector; and
- (d) to keep the accounting records of the trusts under its administration in Seychelles shall apply with retrospective effect whereby every trustee (except where the accounting records in relation to the trust is being kept in Seychelles) shall have a period of 6 months from the date of commencement of the Trusts Act, 2021 and to lodge in Seychelles, the accounting records relating to transactions over the past 7 years, in respect of all trusts under its administration.

Dated this 10th day of December, 2021.

**FRANK D.R. ALLY
ATTORNEY-GENERAL**

**THE INTERNATIONAL BUSINESS COMPANIES ACT AND
OTHER RELATED LAWS (AMENDMENT) BILL, 2021**

(Bill No. 67 of 2021)



A BILL

FOR

AN ACT TO AMEND THE INTERNATIONAL BUSINESS COMPANIES ACT, 2016 (ACT 15 OF 2016), LIMITED PARTNERSHIPS ACT, 2003 (CAP. 281), THE FOUNDATIONS ACT, 2009 (CAP.270) AND THE TRUSTS ACT, 2021 (ACT 34 OF 2021).

ENACTED by the President and the National Assembly.

**PART 1
PRELIMINARY**

Short title and commencement

1. This Act may be cited as the International Business Companies Act and Other Related Laws (Amendment) Act, 2021 and save as otherwise provided, the provisions of this Act shall come into force at once.

PART 2
AMENDMENTS TO THE INTERNATIONAL BUSINESS
COMPANIES ACT, 2016 (ACT 15 OF 2016)

2. The International Business Companies Act, 2016 (Act 15 of 2016) (hereinafter in this Part referred to as the principal Act) is hereby amended as follows —

Amendment of section 167

- (a) Section 167 of the principal Act is amended in subsection (5), by inserting after the words “under subsection (2)” the words “and the fee specified in Part II of the Second Schedule”;

Repeal of section 171

- (b) Section 171 of the principal Act is hereby repealed;

Amendment of section 173

- (c) Section 173 of the principal Act is amended in subsection (1) by repealing paragraph (d);

Amendment of section 175

- (d) Section 175 of the principal Act is amended —
- (i) in subsection (1B), in the opening paragraph, by repealing the word “not” after the words “other than a company”;
- (ii) by repealing subsection (2A) and substituting therefor the following subsections —
- “(2A) Where a company —
- (a) keeps a copy of its accounting records at its registered office;
- (b) keeps its original accounting records

in Seychelles at a place other than at its registered office,

the company shall notify in writing its registered agent of the physical address of the place where the original accounting records are kept.

(2B) Where there is a change in the place at which its original accounting records are kept, a company shall, within 14 days of the change, notify in writing its registered agent of the physical address of the place at which its original accounting records are kept.”;

Amendment of section 276

- (e) Section 276 of the principal Act is amended, with effect from 1st January, 2022 —
- (i) in subsection (1C),
 - (a) in paragraph (a), by repealing the word “date” and substituting therefor the words “date of striking off under section 272(1)(c) or within one year from the date”;
 - (b) in paragraph (b), by repealing the words “Sub-Part II, III or IV”, and substituting therefor the words “Sub-Part I,”;
 - (ii) in subsection (4), by inserting after the words “by the outgoing registered agent” the words “, unless the outgoing registered agent has resigned as registered agent of the company after the company was struck-off”;

Amendment of section 277

- (f) Section 277 of the principal Act is amended with effect from 1st January, 2022 —

- (i) in subsection (2), —
 - (A) in paragraph (a), by repealing the word “date” and substituting therefor the words “date of striking off under section 272(1)(c) or within one year from the date”;
 - (B) in paragraph (b), —
 - (a) by repealing the words “three years”, and substituting therefor the words “five years”;
 - (b) by repealing the words “Sub-Part”, and substituting therefor the words “Sub-Part I.”;
- (ii) in subsection (4A), by repealing the words “the Registrar” and substituting therefor the words “the Court”;

Amendment of section 354

- (g) Section 354 (3) of the principal Act is amended by repealing the words “US\$5,000” and substituting therefor the words “US\$10,000”;

Amendment of section 361

- (h) Section 361 (3) of the principal Act is amended by repealing the words “of US\$100 and to an additional penalty of US\$25 for each day or part thereof during which the contravention continues”, and substituting therefor the words “not exceeding US\$10,000”;

Amendment of section 389

- (i) Section 389 (1) of the principal Act is amended by repealing paragraph (b).

Repeal of SIXTH SCHEDULE

- (j) SIXTH SCHEDULE of the principal Act is hereby repealed.

Amendment of International Business Companies (Amendment) Act, 2021

3. Section 60(2) (*Commencement of certain provisions of this Act*) of the International Business Companies (Amendment) Act, 2021 is hereby amended with effect from the date of commencement of the International Business Companies (Amendment) Act, 2021, by repealing the words “except paragraph (iii)” and substituting therefor the words “except subsection (1C) (iii)”; and

Retrospective provision

4. Where a company has been incorporated, continued or converted as a company under the International Business Companies Act, 2016 (Act 15 of 2016) before the commencement of this Act, keeps its accounting records outside Seychelles, it shall lodge its accounting records relating to transactions over the past 7 years at the company's registered office in Seychelles within 6 months from the date of commencement of the International Business Companies (Amendment) Act, 2021.

PART 3

AMENDMENTS TO THE FOUNDATIONS ACT (CAP.270)

5. The Foundations Act (Cap. 270) (hereinafter in this Part referred to as the principal Act) is hereby amended as follows —

- (a) Section 75 of the principal Act is hereby amended by repealing subsection (3B) and substituting therefor the following subsections —

“(3B) Where a Foundation —

- (a) keeps a copy of its accounting records at its registered office;
- (b) keeps its original accounting records in Seychelles at a place other than at its registered office,

the Foundation shall inform its registered agent in writing of the physical address of the place where the original accounting records are kept.

(3BA) Where there is a change in the place at which its original accounting records are kept, the Foundation shall, within 14 days of the change, notify in writing its registered agent of the physical address of the place at which its original accounting records are kept.”;

Substitution of section 113

- (b) Section 113 of the principal Act is hereby repealed and substituting therefor the following section —

“Power of court to make orders

113.(1) This section applies where the court, on an application by a person of standing or of its own motion, is satisfied, in respect of a foundation, that a person has failed to comply with —

- (a) a requirement of this Act or of the charter or regulations of the foundation; or
- (b) an obligation imposed on a person by this Act or by the charter or regulations of the foundation.

(2) For the purposes of subsection (1), “a person of standing”, in respect of a foundation means —

- (a) the foundation;
- (b) a founder of the foundation;
- (c) a person, other than a founder of the foundation, who has endowed the foundation;

- (d) if any rights a founder of a foundation had in respect of the foundation and its assets have been assigned to some other person, that other person;
- (e) a person appointed under the regulations of the foundation;
- (f) a beneficiary of the foundation;
- (g) a councillor of the foundation;
- (h) a creditor of the foundation;
- (i) a supervisory person;
- (j) the foundation's registered agent;
- (k) the Registrar; or
- (l) the Attorney General.

(3) The court may make an order in respect of a foundation —

- (a) that a person shall comply with the requirement or obligation which that person has failed to comply with; or
- (b) otherwise facilitating compliance with the requirement or obligation which that person has failed to comply with.

(4) The court shall not make an order under subsection (3) unless it is satisfied that —

- (a) the same shall assist the foundation in the just and proper administration of its assets or the attainment of its objects; or

- (b) it is otherwise just and desirable that it should do so.

(5) Where the court makes an order under subsection (3)(b), its order shall have the same effect as if it were an action taken by the person required to comply with the requirement or obligation.

(6) An order made by the court under this section in respect of a foundation may, without limitation, provide for —

- (a) the action that the foundation or other person is required to take;
- (b) the appointment or removal of a person appointed under the charter or regulations of the foundation;
- (c) a person to make good a breach;
- (d) the foundation or other person to cease acting in such manner as may be specified by the court;
- (e) payment or distribution of an amount of money or other asset; or
- (f) directions by the court.

(7) If the court is satisfied that a foundation, acting through its council, has failed to carry out its objects or any of them, the court may, by order, require the foundation to do so.

(8) Any order made by the court under this section —

- (a) may be made on such terms; and
- (b) may impose such conditions,

as the court thinks fit.”;

Retrospective provision

6. Where a Foundation registered under the Foundations Act (Cap. 270) before the commencement of this Act, keeps its accounting records outside Seychelles, it shall lodge its accounting records relating to transactions over the past 7 years at the Foundation's registered office in Seychelles within 6 months from the date of commencement of the Foundations (Amendment) Act, 2021.

PART 4
AMENDMENTS TO THE LIMITED PARTNERSHIPS ACT
(CAP.281)

7. The Limited Partnerships Act (Cap. 281) (hereinafter in this Part referred to as the principal Act) is hereby amended as follows —

Amendment of section 11A

(a) Section 11A of the principal Act is amended —

- (i) in subsection (3), in paragraph (b), by repealing the words “the company's” and substituting therefor the words “the limited partnership's”;
- (ii) by repealing subsection (4A) and substituting therefor the following subsections —

“(4A) Where a limited partnership —

- (a) keeps a copy of its accounting records at its registered office;
- (b) keeps its original accounting records in Seychelles at a place other than at its registered office,

the limited partnership shall inform its registered agent in writing of the physical address of the place where the original accounting records are kept.

(4B) Where there is a change in the place at which its original accounting records are kept, a limited partnership shall, within 14 days of the change, notify in writing its registered agent of the physical address of the place at which its original accounting records are kept.”;

Retrospective provision

8. Where a limited partnership registered under the Limited Partnerships Act (Cap. 281) before the commencement of this Act keeps its accounting records outside Seychelles, it shall lodge its accounting records relating to transactions over the past 7 years at the limited partnership's registered office in Seychelles within 6 months from the date of commencement of the Limited Partnerships (Amendment) Act, 2021.

PART 5

AMENDMENTS TO THE TRUSTS ACT, 2021 (ACT 34 OF 2021)

9. The Trusts Act, 2021 (Act 34 of 2021) (hereinafter in this Part referred to as the principal Act) is hereby amended as follows —

Amendment of section 11

- (a) section 11 of the principal Act (*hereinafter referred to as the “principal Act”*) is amended in subsection (6), by repealing the word “section 88” and substituting thereof the words “section 87(3)”;

Amendment of section 27

- (b) section 27 of the principal Act is amended by repealing subsection (3) and substituting therefor the following subsections —

“(3) Where an approved trustee —

- (a) keeps a copy of the accounting records at its principal place of business or registered office in Seychelles;

- (b) keeps the original accounting records in Seychelles at a place other than at its principal place of business or registered office,

the approved trustee shall keep a written record of the physical address of the place where the original accounting records are kept.

(3A) Where there is a change in the place at which the original accounting records are kept, an approved trustee shall, within 14 days of the change, keep a written record of the physical address of the place at which the original accounting records are kept.”;

Amendment of section 28

- (c) section 28 of the principal Act is amended —

- (i) in subsection (1), by repealing paragraphs (a), (b), (c) and (d) and re-numbering the paragraphs (e) and (f) as paragraphs (a) and (b) respectively;

- (ii) in subsection (2), —

- (A) in paragraph (c), by repealing the words “a trustee, beneficiary, settlor, protector, enforcer, agent or service provider to the trust as the case may be, and in the case of a natural person identified under subsection (1), the date upon which such a person began exercising control over the trust” and substituting therefor the words “an enforcer, agent or service provider to the trust, as the case may be”;

- (B) in paragraph (d), by repealing the words “a trustee, beneficiary, settlor, protector, enforcer, agent or service provider to the trust as the case may be, and in the case of a natural person

identified under subsection (1), the date upon which the person ceased to exercise control over the trust” and substituting therefor the words “an enforcer, agent or service provider to the trust, as the case may be”;

Retrospective provision

10. Where a trustee of a trust registered (including every former trust deemed to have been re-registered as a registered trust) under the Trusts Act, 2021 (Act 34 of 2021) before the commencement of this Act, keeps the accounting records relating to the trust outside Seychelles, the trustee shall, within 6 months from the commencement of the Trusts Act, 2021, lodge, in respect of that trust, the accounting records relating to transactions of the trust over the past 7 years

- (a) at the licensed trustee's principal place of business in Seychelles, in the case where the approved trustee of the trust is a licensed trustee; or
- (b) at the private trust company's registered office in Seychelles, in the case where the approved trustee of the trust is a private trust company.

ANTI-CORRUPTION (AMENDMENT) (NO.3) BILL, 2021

(Bill No. 68 of 2020)

OBJECTS AND REASONS

The Anti-Corruption Commission Act, 2016 (Act 2 of 2016) was enacted to establish the Anti-Corruption Commission; provide for its functions and powers and to create a means by which it can investigate, detect and prevent corrupt practices.

2. The Anti-Corruption Commission Act, 2016 was amended in 2020 empowering the Commission to investigate money laundering aspects in corruption cases also.

3. This Bills seeks to amend section 51A of the Act to empower the Commission to investigate certain offences under Penal Code in furtherance of corrupt practices. It is proposed to expand the investigation scope of the Commission relating to corrupt practices.

4. It is proposed to amend section 64 of the Act, empowering the authority to institute prosecution against the accused in the cases investigated by the Commission.

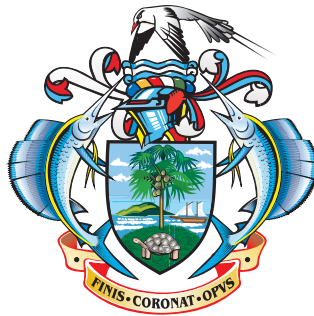
5. It is also proposed to insert new sections 64A, 64B and 64C relating to institution of criminal proceedings; discontinuance of proceedings; and the powers of the Commission to prosecute cases through a qualified person or through an Attorney-At-Law.

Dated this 10th day of December, 2021.

**FRANK D.R. ALLY
ATTORNEY-GENERAL**

ANTI-CORRUPTION (AMENDMENT) (NO.3) BILL, 2021

(Bill No. 68 of 2021)



**A BILL
FOR**

AN ACT TO AMEND THE ANTI-CORRUPTION ACT, 2016 (ACT 2 OF 2016).

ENACTED by the President and the National Assembly.

Short title

1. This Act may be cited as the Anti-Corruption (Amendment) (No.3) Act, 2021.

Amendments to Act 2 of 2016

2. The Anti-Corruption Act, 2016 (hereinafter referred to as the principal Act) is amended as follows —

- (a) in section 51A of the principal Act, repeal the words “Chapter X”, and therefor substitute the following words “Chapter V, Chapter X, Chapter XXVI, Chapter XXVII, Chapter XXVIII, Chapter XXX, Chapter XXXII, Chapter XXXV”;
- (b) in section 60 of the principal Act, after subsection (2), the following subsections shall be inserted —

“(2A) Where the Registrar General or any other public authority responsible for the registration of property or stamping of instruments under any law, has reasons to believe or has received reasonable information or reasonably infers that an investigation by the Commission is ongoing in respect of a property or a proprietor of a property registered with the Registrar General or the public authority, the Registrar General or the public authority shall —

- (a) on his or her own motion, restrict the registration or stamping of any instrument of disposal of, or dealing with, the property pending confirmation or otherwise under paragraph (b); and
- (b) seek confirmation of the investigation from the Commission.

(2B) A request for confirmation under subsection (2A)(b) shall be made within 3 days of the knowledge to the Registrar General or the public authority and the Commission shall within a period 3 days from the date of receipt of the request inform the Registrar General or the public authority about the investigation going on or otherwise.

- (2C) Where the Commission confirms the investigation under subsection (2A)(b), the Registrar General or the public authority responsible for the registration of property shall restrict the registration or the disposal of, or dealing with, the property or any other transaction related thereto for a period of 30 days from the date of such confirmation unless the Commission directs otherwise.”;
- (c) in section 64 of the principal Act, after the words “PART III”, the words “and money laundering offences committed under the Anti-Money Laundering the Countering the Financing of Terrorism Act, 2020 (Act 5 of 2020), in furtherance of the said corrupt practices” shall be added;
- (d) after section 64 of the principal Act, the following sections shall be inserted —

Institution of proceedings

“64A. Criminal proceedings instituted by the Commission by the powers conferred under section 64 shall be instituted and referred to as “Republic Versus _____” or “Anti-Corruption Commission Versus _____”.

Discontinuance of proceedings

64B. Subject to article 76 of the Constitution, the Commission may discontinue any proceedings instituted under section 64, at any stage before the delivery of the judgement by the Court.

Prosecution of cases by the Commissioner in person or by a qualified person.

64C.(1) The powers of the Commission under section 64 may be exercised by the Commissioner in person or a qualified person.

(2) Subject to article 76 of the Constitution and in the exercise of the powers conferred upon the Commission under subsection (1), the Commission shall not be subject to the direction and control of any other person.

(3) For the purposes of subsection (1), the term “qualified person” means —

- (a) an Attorney-At-Law employed by the Commission; or
- (b) an Attorney-At-Law appointed by the Commission acting in accordance with the general or specific instructions of the Commission; or
- (c) a person employed or appointed by the Commission for the purpose of conducting proceedings under this Act.

(4) A qualified person who is not an Attorney-At-Law shall take and subscribe to the oath of office under the Official Oaths Act (Cap. 153) before assuming the duties of his or her office, before the Chief Justice or a Judge of the Supreme Court in relation to such office.

(5) The Commission shall not later than the 31st January of each year or where the Commission has appointed a person in the course of a year, not later than 30 days after the appointment, notify the Registrar of the names and other prescribed particulars of the person employed by the Commission for the purposes of subsection (1) and the Registrar shall enter the names and the prescribed particulars of the person in a register kept for this purpose.

(6) The Commission shall notify the Registrar of the name of any person who is entered on the register referred to in subsection (5), who has ceased to be employed by the

Commission within 30 days of the person ceasing to be so employed and the Registrar shall remove the name of that person from the register.”.

SEYCHELLES PARKS AND GARDENS AUTHORITY BILL, 2021

(Bill No. 69 of 2021)

OBJECTS AND REASONS

The object of this Bill is to establish a public authority known as the Seychelles Parks and Gardens Authority that will manage and administer parks and gardens designated under this Act.

The affairs of the Authority shall be managed and administered by a Board whose members shall be appointed by the President from among persons having wide experience of, and, having shown capacity in matters relating to environment protection, conservation and business administration.

The Bill is divided into 5 parts.

Part I provides for preliminary matter, such as short title, commencement and interpretation.

Part II provides for the establishment of the Seychelles Parks and Gardens Authority and its functions.

Part III provides for the administration of the Authority by a Board, appointments of its members, terms and conditions of their appointment, proceedings in the meetings of the Board, appointment of a Chief Executive officer and a Deputy Executive Officer, their powers, terms and conditions of their appointment.

Part IV provides for funds of the Authority, insurance cover for property and liabilities, power of Minister to issue directions, preparation of operational plans, accounts and audits and annual returns.

Part V provides for miscellaneous matters such as application of certain provisions of the Penal Code, protection of acts done in good faith, regulation making powers, repeal, savings and transitional.

Dated this 10th day of December, 2021.

**FRANK D.R. ALLY
ATTORNEY-GENERAL**

SEYCHELLES PARKS AND GARDENS AUTHORITY BILL, 2021

(Bill No. 69 of 2021)

ARRANGEMENT OF SECTIONS**SECTIONS****PART I - PRELIMINARY**

1. Short title and commencement
2. Interpretation

PART II - ESTABLISHMENT AND FUNCTIONS OF THE AUTHORITY

3. Establishment of the Authority
4. Functions of the Authority

PART III - BOARD OF THE AUTHORITY

5. Board of the Authority
6. Meetings of Board
7. Powers of Board
8. Chief Executive Officer
9. Deputy Chief Executive Officer

PART IV - FINANCIAL PROVISIONS

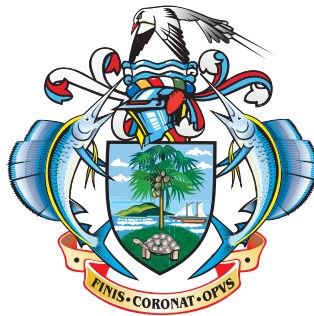
10. Funds of the Authority
11. Insurance
12. Directions of Minister
13. Operational Plan
14. Accounts and Audits
15. Annual reports

PART V - MISCELLANEOUS

16. Application of certain Penal Code provisions
17. Protection of acts done in good faith
18. Reference in other written laws
19. Regulations
20. Repeal
21. Savings and Transitional

SEYCHELLES PARKS AND GARDENS AUTHORITY BILL, 2021

(Bill No. 69 of 2021)



**A BILL
FOR**

AN ACT TO ESTABLISH THE SEYCHELLES PARKS AND GARDEN AUTHORITY TO MANAGE AND ADMINISTER PARKS AND GARDENS AND OTHER AREAS DESIGNATED AS SUCH AND FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

ENACTED by the President and the National Assembly.

PART I - PRELIMINARY

Short title and commencement

1. This Act may be cited as the Seychelles Parks and Garden Authority Act, 2021 and shall come into operation on such date as the Minister may, by notice published in the Gazette appoint.

Interpretation

2. In this Act —

“Appeals Board” means the appeals board established under section 73 of the Environment Protection Act, 2016, (Act 18 of 2016);

“Authority” means the Seychelles Parks and Garden Authority established by section 3;

“Board” means the Board established under section 5;

“Chief Executive Officer” means the Chief Executive Officer appointed under section 8;

Gardens —

(a) means the Botanical Gardens, Victoria; and

(b) includes any other gardens or areas of important botanical value designated by the Minister on the recommendation of the Board, by Order published in the *Gazette*;

“Member” means a member of the Board;

“Minister” means the Minister responsible for environment;

“National Botanical Gardens Foundation” means the foundation established under section 3 of the National Botanical Gardens Foundation Act, 2009, (Cap 288);

“National Parks Authority” means the National Parks Authority established under the Environment Protection (Seychelles National Parks Authority) Order (S.I. 30 of 2009) under the Environment Protection Act (Cap. 71); and

“Parks” means a clearly defined geographical space, recognised, dedicated and managed to meet objectives for conservation or

sustainable uses as may be designated by the Minister on the recommendation of the Board, by Order published in the *Gazette*.

PART II - ESTABLISHMENT AND FUNCTIONS OF THE AUTHORITY

Establishment of the Authority

3.(1) There is hereby established an Authority to be known as the Seychelles Parks and Garden Authority.

(2) The Authority, shall be a body corporate with perpetual succession and a common seal and shall, in its corporate name, be capable of —

- (a) suing and being sued;
- (b) purchasing or otherwise acquiring, holding, charging or disposing of movable or immovable property;
- (c) borrowing money with the approval of the Minister responsible for finance;
- (d) collecting all dues, rental fees and other monies payable to the Authority under this Act or any other law administered by the Authority; and
- (e) with the permission from the Minister responsible for finance open and maintain such accounts with a financial institution for any specific or general purpose.

(3) The Authority may enter into agreements and arrangements with any organisation in respect of any matter relating to parks and gardens or any matter the Authority deems expedient.

Functions of the Authority

4.(1) The functions of the Authority are —

- (a) promote the participation of Government, the public and businesses in conservation work;

- (b) protect and manage effectively the ecosystems and biodiversity in designated Protected Areas which fall under the jurisdiction of the Authority;
- (c) implement national conservation policies and obligations under multilateral agreements;
- (d) implement forestry practices and management;
- (e) protect habitats and ecosystems from anthropogenic threats such as forest fire, pollution and coral destruction;
- (f) undertake specialist services such as plant identification and offer specialist consultancy services;
- (g) facilitate and conduct research related to biodiversity and protected areas;
- (h) deliver services of a high standard for the users of gardens and parks;
- (i) engage in commercial activities related to the functions of the Authority;
- (j) provide tourism and recreational activities;
- (k) provide gardening and landscaping services, guided tours, and similar services;
- (l) Promote education and awareness activities.

PART III - BOARD OF THE AUTHORITY

Board of the Authority

5.(1) The Authority shall be administered by a Board consisting of seven members appointed by the President in consultation with the Minister from among persons having wide experience of, and knowledge and competence

having shown capacity in, matters relating to the management of parks and gardens, or possessing skills or experience in relevant fields.

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

(3) The salary and allowances and other terms and conditions of service of the Chairperson, Vice-Chairperson and Members of the Board shall be as per Governmental policies.

(4) A member of the Board shall hold office for such period, not exceeding three years, as the President may specify in the instrument of his or her appointment and shall be eligible for reappointment.

(5) A member of the Board may at any time resign by a letter addressed to the President and such member shall cease to be member of the Board from the date on which the President accepts the resignation.

(6) Where a member of the Board vacates office, the President shall, having regard to subsection (1), appoint a person to replace that member for the remaining period of the term of office of that member.

(7) Where the Chairperson, Vice-Chairperson or any member of the Board is temporarily unable to perform the functions of his or her office due to poor health, other infirmity, absence from Seychelles or any other cause, the President may, having regard to the provisions of this Act, appoint a person qualified under subsection (1) to act in the place of the Chairperson, Vice-Chairperson or member, as the case may be.

(8) The Chief Executive Officer shall be an *ex-officio* member of the Board.

(9) The appointment of the Chairperson, Vice-Chairperson and members of the Board shall be published in the *Gazette*.

Meetings of Board

6.(1) The Board shall meet at least once every two months or at such times as may be necessary or expedient for the transaction of business and the

meetings shall be held at such places and times and on such days as the Chairperson shall determine.

(2) The Chairperson shall preside at the meetings of the Board and if, for any reason, he or she is unable to attend any meeting, the Vice-Chairperson shall preside and in the absence of Chairperson and Vice-Chairperson any other member elected by the members present at such meeting shall preside over the meeting of the Board.

(3) Five members of the Board shall form a quorum for the meeting.

(4) The decisions of the Board shall be made by a simple majority of votes of the members present and in any case in which the voting is equal, the member presiding shall have an additional or casting vote.

(5) Where a quorum is present, the validity of any proceeding of the Board shall not be affected by any vacancy amongst its members or by any defect in the appointment of members.

(6) A member of the Board who has a direct or indirect interest in any matter to be decided by the Board shall disclose the nature of the interest at the meeting of the Board and shall not vote on the matter nor take part in any discussion in respect of that matter.

(7) Subject to the provisions of this Act and regulations made thereunder, the Board may regulate its own proceedings.

Powers of Board

7. The Board shall have all powers necessary for the proper performance of its administrative functions under this Act.

Chief Executive Officer

8.(1) The President may, on the recommendation of the Board, appoint a Chief Executive Officer of the Authority.

(2) The Chief Executive Officer shall be appointed for such term not

exceeding three years as the President may determine, and shall be eligible for reappointment on completion of the term of appointment.

(3) The salary and allowances and other terms and conditions of service of the Chief Executive Officer shall be such as may be determined by the President.

(4) The Chief Executive Officer —

- (a) shall be responsible for the implementation of the decisions of the Authority and for the management of the day-to-day affairs of the Authority;
- (b) may, subject to the direction of the Board, sign documents on behalf of the Authority;
- (c) may delegate any of his or her functions to the Deputy Chief Executive officer or any other employee of the Authority.

Deputy Chief Executive Officer

9.(1) The President may appoint a Deputy Chief Executive Officer of the Authority on the recommendation of the Board.

(2) The Deputy Chief Executive Officer shall be appointed for such term not exceeding three years as the President may determine, and shall be eligible for reappointment on completion of the term of appointment.

(3) The salary and allowances and other terms and conditions of service of the Deputy Chief Executive Officer shall be such as may be determined by the President.

(4) The Deputy Chief Executive Officer shall perform such functions as the Chief Executive Officer may assign or delegate to him or her.

(5) The Deputy Chief Executive Officer may act in the office of the Chief Executive Officer —

- (a) during the vacancy in the office of the Chief Executive Officer; or
- (b) during any period in which the Chief Executive Officer is absent from duty for any reason or is unable to perform the functions of that office.

PART IV - FINANCIAL PROVISIONS

Funds of the Authority

10.(1) The funds of the Authority shall consist of —

- (a) such moneys as may be appropriated by the National Assembly pursuant to an Appropriation Act for the purpose of the Authority;
- (b) any moneys received by the Authority from its operations or other payments;
- (c) any moneys as are from time to time received by the Authority by way of donations, gifts or grants, subject to the approval of the Minister responsible for finance.

(2) The funds of the Authority shall be applied in the discharge of expenses incurred in the carrying out of the functions of the Authority, the payment of remuneration to the Chairperson, members of the Board, officers and other employees of the Authority and in the repayment of any sum borrowed by the Authority.

Insurance

11. The Authority may enter into contract of insurance and take and maintain insurance policies in respect of —

- (a) properties that the Authority manages, holds, owns or occupies; and
- (b) any liability that may arise from the exercise of any of its function under this Act.

Directions by Minister

12.(1) The Minister may, in writing, give general or specific directions to the Authority regarding the performance of its functions under this Act or any other written law administered by it.

(2) The Authority shall comply with the directions issued under subsection (1).

Operational Plan

13.(1) The Authority shall prepare an operational plan at least 90 days before the beginning of each financial year and submit it to the Minister for his or her approval.

(2) The operational plan shall —

- (a) include a statement of the short and medium term operational objectives;
- (b) outline the strategies that the Authority intends to employ in order to achieve its objectives; and
- (c) include, *inter alia*, a financial plan, a human resources plan and performance indicators.

(3) The financial plan shall include estimates of expenditure and revenue for the financial year next following.

(4) The Authority may amend the operational plan with the approval of the Minister.

Accounts and Audits

14.(1) The financial year of the Authority shall be the calendar year.

(2) The Authority shall keep proper accounts and other relevant records and prepare a statement of accounts in such form as may be approved by the Auditor General.

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

Annual Reports

15.(1) The Authority shall, as soon as possible after the expiration of each financial year and in any event not later than the 31st day of March in any year, submit to the Minister, and the Minister responsible for finance, an annual report dealing generally with the administration and its activities during the preceding financial year.

(2) The Authority shall within three months of completion of the audit of its account in respect of any financial year, submit to the Minister and the Minister responsible for Finance —

- (a) a copy of its audited statement of accounts;
- (b) a copy of annual report specified under subsection (1) for that financial year together with a copy of the audited statement of accounts and a copy of any report by the Auditor General on the statement of accounts of the Authority.

(3) The Minister shall, within 30 days of receiving the Authority's audited statement of accounts, annual report and the report of the Auditor General on the statement of accounts, specified under subsection (2), cause them to be laid in the National Assembly.

PART V - MISCELLANEOUS

Application of certain Penal Code provisions

16. All members of the Board and officers of the Authority shall be deemed to be employed in the public service for the purpose of sections 91 to 96 of the Penal Code (Cap 158).

Protection of acts done in good faith

17. No civil or criminal proceedings shall lie against the Authority, Chairperson, Vice-Chairperson, or member of the Board or the officers and

other employees of the Authority in respect of an act done or omission made in good faith in the performance of the functions of the Authority, in pursuance of this Act.

Reference in other written laws

18. Any reference in any written law to the National Parks Authority, Marine Parks Authority or the National Botanical Gardens Foundation, its Chief Executive Officer or other officers shall be deemed to be a reference to the Seychelles Parks and Garden Authority, its Chief Executive Officer or other corresponding officers, as the case may be.

Regulations

19. The Minister may, in consultation with the Authority, make regulations for the purpose of carrying into effect the provisions of this Act.

Repeal

20. The Environment Protection (Seychelles National Parks Authority) Order, 2009, (S.I. 30 of 2009) and the National Botanical Gardens Foundation Act, Act 30 of 2009 (Cap 288) are hereby repealed.

Savings and Transitional

21.(1) On the commencement of operation of this Act, the Chief Executive Officers employed with the National Parks Authority and the National Botanical Gardens Foundation and shall cease to hold office until such time the President makes appointments under section 8 or 9.

(2) Subject to subsection (1), on the repeal of the Environment Protection (Seychelles National Parks Authority) Order, 2009, (S.I. 30 of 2009) and the National Botanical Gardens Foundation Act (Cap 288) the officers and other employees of the National Parks Authority and the National Botanical Gardens Foundation and holding office as such immediately before the repeal of the Environment Protection (Seychelles National Parks Authority) Order, 2009, (S.I. 30 of 2009) and the National Botanical Gardens Foundation Act (Cap 288) shall be deemed to be employees of the Seychelles Parks and Garden Authority appointed on the same terms and conditions of employment until these are amended, varied or repealed in accordance with

any scheme of service applicable to the employees of the Seychelles Parks and Garden Authority;

(3) The mention of the particular matters referred to in subsection (2) shall not be held to prejudice or affect the general application of section 31 of the Interpretation and General Provisions Act (Cap 103) with regard to the effect of repeal.

(4) On the commencement of operation of this Act —

- (a) all movable or immovable properties, assets, rights, interests and privileges acquired, accrued by, or vested in, the National Parks Authority and the National Botanical Gardens Foundation shall vest into, and be deemed to be, the assets of the Seychelles Parks and Garden Authority;
- (b) all liabilities and obligations incurred by the National Parks Authority and the National Botanical Gardens Foundation prior to the date of this Act shall be deemed to have been incurred by the Seychelles Parks and Garden Authority;
- (c) any contract or agreement executed by the National Parks Authority and the National Botanical Gardens Foundation prior to the date of the commencement of operation of this Act shall continue to have effect in accordance with its terms as if it was originally made and entered into by the Parks and Garden Authority; and
- (d) any right, privilege obligation or liability acquired or incurred by a person under the Environment Protection (Seychelles National Parks Authority) Order, 2009, (S.I. 30 of 2009) and the National Botanical Gardens Foundation Act (Cap 288) shall not be affected by the repeal and any legal investigation, legal proceedings or remedy in respect of such right, privilege, obligation or liability may be instituted, continued or enforced by or against the Seychelles Parks and Garden Authority.

SEYCHELLES PARKS AND GARDENS AUTHORITY BILL, 2021

(Bill No. 69 of 2021)

OBJECTS AND REASONS

The object of this Bill is to establish a public authority known as the Seychelles Parks and Gardens Authority that will manage and administer parks and gardens designated under this Act.

The affairs of the Authority shall be managed and administered by a Board whose members shall be appointed by the President from among persons having wide experience of, and, having shown capacity in matters relating to environment protection, conservation and business administration.

The Bill is divided into 5 parts.

Part I provides for preliminary matter, such as short title, commencement and interpretation.

Part II provides for the establishment of the Seychelles Parks and Gardens Authority and its functions.

Part III provides for the administration of the Authority by a Board, appointments of its members, terms and conditions of their appointment, proceedings in the meetings of the Board, appointment of a Chief Executive officer and a Deputy Executive Officer, their powers, terms and conditions of their appointment.

Part IV provides for funds of the Authority, insurance cover for property and liabilities, power of Minister to issue directions, preparation of operational plans, accounts and audits and annual returns.

Part V provides for miscellaneous matters such as application of certain provisions of the Penal Code, protection of acts done in good faith, regulation making powers, repeal, savings and transitional.

Dated this 10th day of December, 2021.

**FRANK D.R. ALLY
ATTORNEY-GENERAL**

SEYCHELLES PARKS AND GARDENS AUTHORITY BILL, 2021

(Bill No. 69 of 2021)

ARRANGEMENT OF SECTIONS**SECTIONS****PART I - PRELIMINARY**

1. Short title and commencement
2. Interpretation

PART II - ESTABLISHMENT AND FUNCTIONS OF THE AUTHORITY

3. Establishment of the Authority
4. Functions of the Authority

PART III - BOARD OF THE AUTHORITY

5. Board of the Authority
6. Meetings of Board
7. Powers of Board
8. Chief Executive Officer
9. Deputy Chief Executive Officer

PART IV - FINANCIAL PROVISIONS

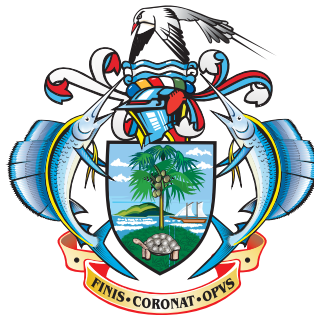
10. Funds of the Authority
11. Insurance
12. Directions of Minister
13. Operational Plan
14. Accounts and Audits
15. Annual reports

PART V - MISCELLANEOUS

16. Application of certain Penal Code provisions
17. Protection of acts done in good faith
18. Reference in other written laws
19. Regulations
20. Repeal
21. Savings and Transitional

SEYCHELLES PARKS AND GARDENS AUTHORITY BILL, 2021

(Bill No. 69 of 2021)



**A BILL
FOR**

AN ACT TO ESTABLISH THE SEYCHELLES PARKS AND GARDEN AUTHORITY TO MANAGE AND ADMINISTER PARKS AND GARDENS AND OTHER AREAS DESIGNATED AS SUCH AND FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

ENACTED by the President and the National Assembly.

PART I - PRELIMINARY

Short title and commencement

1. This Act may be cited as the Seychelles Parks and Garden Authority Act, 2021 and shall come into operation on such date as the Minister may, by notice published in the Gazette appoint.

Interpretation

2. In this Act —

“Appeals Board” means the appeals board established under section 73 of the Environment Protection Act, 2016, (Act 18 of 2016);

“Authority” means the Seychelles Parks and Garden Authority established by section 3;

“Board” means the Board established under section 5;

“Chief Executive Officer” means the Chief Executive Officer appointed under section 8;

Gardens —

(a) means the Botanical Gardens, Victoria; and

(b) includes any other gardens or areas of important botanical value designated by the Minister on the recommendation of the Board, by Order published in the *Gazette*;

“Member” means a member of the Board;

“Minister” means the Minister responsible for environment;

“National Botanical Gardens Foundation” means the foundation established under section 3 of the National Botanical Gardens Foundation Act, 2009, (Cap 288);

“National Parks Authority” means the National Parks Authority established under the Environment Protection (Seychelles National Parks Authority) Order (S.I. 30 of 2009) under the Environment Protection Act (Cap. 71); and

“Parks” means a clearly defined geographical space, recognised, dedicated and managed to meet objectives for conservation or

sustainable uses as may be designated by the Minister on the recommendation of the Board, by Order published in the *Gazette*.

PART II - ESTABLISHMENT AND FUNCTIONS OF THE AUTHORITY

Establishment of the Authority

3.(1) There is hereby established an Authority to be known as the Seychelles Parks and Garden Authority.

(2) The Authority, shall be a body corporate with perpetual succession and a common seal and shall, in its corporate name, be capable of —

- (a) suing and being sued;
- (b) purchasing or otherwise acquiring, holding, charging or disposing of movable or immovable property;
- (c) borrowing money with the approval of the Minister responsible for finance;
- (d) collecting all dues, rental fees and other monies payable to the Authority under this Act or any other law administered by the Authority; and
- (e) with the permission from the Minister responsible for finance open and maintain such accounts with a financial institution for any specific or general purpose.

(3) The Authority may enter into agreements and arrangements with any organisation in respect of any matter relating to parks and gardens or any matter the Authority deems expedient.

Functions of the Authority

4.(1) The functions of the Authority are —

- (a) promote the participation of Government, the public and businesses in conservation work;

- (b) protect and manage effectively the ecosystems and biodiversity in designated Protected Areas which fall under the jurisdiction of the Authority;
- (c) implement national conservation policies and obligations under multilateral agreements;
- (d) implement forestry practices and management;
- (e) protect habitats and ecosystems from anthropogenic threats such as forest fire, pollution and coral destruction;
- (f) undertake specialist services such as plant identification and offer specialist consultancy services;
- (g) facilitate and conduct research related to biodiversity and protected areas;
- (h) deliver services of a high standard for the users of gardens and parks;
- (i) engage in commercial activities related to the functions of the Authority;
- (j) provide tourism and recreational activities;
- (k) provide gardening and landscaping services, guided tours, and similar services;
- (l) Promote education and awareness activities.

PART III - BOARD OF THE AUTHORITY

Board of the Authority

5.(1) The Authority shall be administered by a Board consisting of seven members appointed by the President in consultation with the Minister from among persons having wide experience of, and knowledge and competence

having shown capacity in, matters relating to the management of parks and gardens, or possessing skills or experience in relevant fields.

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

(3) The salary and allowances and other terms and conditions of service of the Chairperson, Vice-Chairperson and Members of the Board shall be as per Governmental policies.

(4) A member of the Board shall hold office for such period, not exceeding three years, as the President may specify in the instrument of his or her appointment and shall be eligible for reappointment.

(5) A member of the Board may at any time resign by a letter addressed to the President and such member shall cease to be member of the Board from the date on which the President accepts the resignation.

(6) Where a member of the Board vacates office, the President shall, having regard to subsection (1), appoint a person to replace that member for the remaining period of the term of office of that member.

(7) Where the Chairperson, Vice-Chairperson or any member of the Board is temporarily unable to perform the functions of his or her office due to poor health, other infirmity, absence from Seychelles or any other cause, the President may, having regard to the provisions of this Act, appoint a person qualified under subsection (1) to act in the place of the Chairperson, Vice-Chairperson or member, as the case may be.

(8) The Chief Executive Officer shall be an *ex-officio* member of the Board.

(9) The appointment of the Chairperson, Vice-Chairperson and members of the Board shall be published in the *Gazette*.

Meetings of Board

6.(1) The Board shall meet at least once every two months or at such times as may be necessary or expedient for the transaction of business and the

meetings shall be held at such places and times and on such days as the Chairperson shall determine.

(2) The Chairperson shall preside at the meetings of the Board and if, for any reason, he or she is unable to attend any meeting, the Vice-Chairperson shall preside and in the absence of Chairperson and Vice-Chairperson any other member elected by the members present at such meeting shall preside over the meeting of the Board.

(3) Five members of the Board shall form a quorum for the meeting.

(4) The decisions of the Board shall be made by a simple majority of votes of the members present and in any case in which the voting is equal, the member presiding shall have an additional or casting vote.

(5) Where a quorum is present, the validity of any proceeding of the Board shall not be affected by any vacancy amongst its members or by any defect in the appointment of members.

(6) A member of the Board who has a direct or indirect interest in any matter to be decided by the Board shall disclose the nature of the interest at the meeting of the Board and shall not vote on the matter nor take part in any discussion in respect of that matter.

(7) Subject to the provisions of this Act and regulations made thereunder, the Board may regulate its own proceedings.

Powers of Board

7. The Board shall have all powers necessary for the proper performance of its administrative functions under this Act.

Chief Executive Officer

8.(1) The President may, on the recommendation of the Board, appoint a Chief Executive Officer of the Authority.

(2) The Chief Executive Officer shall be appointed for such term not

exceeding three years as the President may determine, and shall be eligible for reappointment on completion of the term of appointment.

(3) The salary and allowances and other terms and conditions of service of the Chief Executive Officer shall be such as may be determined by the President.

(4) The Chief Executive Officer —

- (a) shall be responsible for the implementation of the decisions of the Authority and for the management of the day-to-day affairs of the Authority;
- (b) may, subject to the direction of the Board, sign documents on behalf of the Authority;
- (c) may delegate any of his or her functions to the Deputy Chief Executive officer or any other employee of the Authority.

Deputy Chief Executive Officer

9.(1) The President may appoint a Deputy Chief Executive Officer of the Authority on the recommendation of the Board.

(2) The Deputy Chief Executive Officer shall be appointed for such term not exceeding three years as the President may determine, and shall be eligible for reappointment on completion of the term of appointment.

(3) The salary and allowances and other terms and conditions of service of the Deputy Chief Executive Officer shall be such as may be determined by the President.

(4) The Deputy Chief Executive Officer shall perform such functions as the Chief Executive Officer may assign or delegate to him or her.

(5) The Deputy Chief Executive Officer may act in the office of the Chief Executive Officer —

- (a) during the vacancy in the office of the Chief Executive Officer; or
- (b) during any period in which the Chief Executive Officer is absent from duty for any reason or is unable to perform the functions of that office.

PART IV - FINANCIAL PROVISIONS

Funds of the Authority

10.(1) The funds of the Authority shall consist of —

- (a) such moneys as may be appropriated by the National Assembly pursuant to an Appropriation Act for the purpose of the Authority;
- (b) any moneys received by the Authority from its operations or other payments;
- (c) any moneys as are from time to time received by the Authority by way of donations, gifts or grants, subject to the approval of the Minister responsible for finance.

(2) The funds of the Authority shall be applied in the discharge of expenses incurred in the carrying out of the functions of the Authority, the payment of remuneration to the Chairperson, members of the Board, officers and other employees of the Authority and in the repayment of any sum borrowed by the Authority.

Insurance

11. The Authority may enter into contract of insurance and take and maintain insurance policies in respect of —

- (a) properties that the Authority manages, holds, owns or occupies; and
- (b) any liability that may arise from the exercise of any of its function under this Act.

Directions by Minister

12.(1) The Minister may, in writing, give general or specific directions to the Authority regarding the performance of its functions under this Act or any other written law administered by it.

(2) The Authority shall comply with the directions issued under subsection (1).

Operational Plan

13.(1) The Authority shall prepare an operational plan at least 90 days before the beginning of each financial year and submit it to the Minister for his or her approval.

(2) The operational plan shall —

- (a) include a statement of the short and medium term operational objectives;
- (b) outline the strategies that the Authority intends to employ in order to achieve its objectives; and
- (c) include, *inter alia*, a financial plan, a human resources plan and performance indicators.

(3) The financial plan shall include estimates of expenditure and revenue for the financial year next following.

(4) The Authority may amend the operational plan with the approval of the Minister.

Accounts and Audits

14.(1) The financial year of the Authority shall be the calendar year.

(2) The Authority shall keep proper accounts and other relevant records and prepare a statement of accounts in such form as may be approved by the Auditor General.

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

Annual Reports

15.(1) The Authority shall, as soon as possible after the expiration of each financial year and in any event not later than the 31st day of March in any year, submit to the Minister, and the Minister responsible for finance, an annual report dealing generally with the administration and its activities during the preceding financial year.

(2) The Authority shall within three months of completion of the audit of its account in respect of any financial year, submit to the Minister and the Minister responsible for Finance —

- (a) a copy of its audited statement of accounts;
- (b) a copy of annual report specified under subsection (1) for that financial year together with a copy of the audited statement of accounts and a copy of any report by the Auditor General on the statement of accounts of the Authority.

(3) The Minister shall, within 30 days of receiving the Authority's audited statement of accounts, annual report and the report of the Auditor General on the statement of accounts, specified under subsection (2), cause them to be laid in the National Assembly.

PART V - MISCELLANEOUS

Application of certain Penal Code provisions

16. All members of the Board and officers of the Authority shall be deemed to be employed in the public service for the purpose of sections 91 to 96 of the Penal Code (Cap 158).

Protection of acts done in good faith

17. No civil or criminal proceedings shall lie against the Authority, Chairperson, Vice-Chairperson, or member of the Board or the officers and

other employees of the Authority in respect of an act done or omission made in good faith in the performance of the functions of the Authority, in pursuance of this Act.

Reference in other written laws

18. Any reference in any written law to the National Parks Authority, Marine Parks Authority or the National Botanical Gardens Foundation, its Chief Executive Officer or other officers shall be deemed to be a reference to the Seychelles Parks and Garden Authority, its Chief Executive Officer or other corresponding officers, as the case may be.

Regulations

19. The Minister may, in consultation with the Authority, make regulations for the purpose of carrying into effect the provisions of this Act.

Repeal

20. The Environment Protection (Seychelles National Parks Authority) Order, 2009, (S.I. 30 of 2009) and the National Botanical Gardens Foundation Act, Act 30 of 2009 (Cap 288) are hereby repealed.

Savings and Transitional

21.(1) On the commencement of operation of this Act, the Chief Executive Officers employed with the National Parks Authority and the National Botanical Gardens Foundation and shall cease to hold office until such time the President makes appointments under section 8 or 9.

(2) Subject to subsection (1), on the repeal of the Environment Protection (Seychelles National Parks Authority) Order, 2009, (S.I. 30 of 2009) and the National Botanical Gardens Foundation Act (Cap 288) the officers and other employees of the National Parks Authority and the National Botanical Gardens Foundation and holding office as such immediately before the repeal of the Environment Protection (Seychelles National Parks Authority) Order, 2009, (S.I. 30 of 2009) and the National Botanical Gardens Foundation Act (Cap 288) shall be deemed to be employees of the Seychelles Parks and Garden Authority appointed on the same terms and conditions of employment until these are amended, varied or repealed in accordance with

any scheme of service applicable to the employees of the Seychelles Parks and Garden Authority;

(3) The mention of the particular matters referred to in subsection (2) shall not be held to prejudice or affect the general application of section 31 of the Interpretation and General Provisions Act (Cap 103) with regard to the effect of repeal.

(4) On the commencement of operation of this Act —

- (a) all movable or immovable properties, assets, rights, interests and privileges acquired, accrued by, or vested in, the National Parks Authority and the National Botanical Gardens Foundation shall vest into, and be deemed to be, the assets of the Seychelles Parks and Garden Authority;
- (b) all liabilities and obligations incurred by the National Parks Authority and the National Botanical Gardens Foundation prior to the date of this Act shall be deemed to have been incurred by the Seychelles Parks and Garden Authority;
- (c) any contract or agreement executed by the National Parks Authority and the National Botanical Gardens Foundation prior to the date of the commencement of operation of this Act shall continue to have effect in accordance with its terms as if it was originally made and entered into by the Parks and Garden Authority; and
- (d) any right, privilege obligation or liability acquired or incurred by a person under the Environment Protection (Seychelles National Parks Authority) Order, 2009, (S.I. 30 of 2009) and the National Botanical Gardens Foundation Act (Cap 288) shall not be affected by the repeal and any legal investigation, legal proceedings or remedy in respect of such right, privilege, obligation or liability may be instituted, continued or enforced by or against the Seychelles Parks and Garden Authority.

**THE INTERNATIONAL BUSINESS COMPANIES ACT AND
OTHER RELATED LAWS (AMENDMENT) BILL, 2021**

(Bill No.67 of 2021)

OBJECTS AND REASONS

In 2016, Seychelles enacted a new International Business Companies Act (“IBC Act”), which replaced the old International Business Companies Act of 1994. During the implementation of the International Business Companies Act, 2016, over the couple of years, both the Financial Services Authority and private sector have encountered certain issues in relation to the new piece of legislation whereby amendments are required in order to ensure effective compliance on one side and to keep the competitiveness of the product on the other side. Along with the amendments to the International Business Companies Act, 2016, certain consequential and other amendments are also required in the Foundations Act, 2009, the Limited Partnerships Act, 2003 and the Trusts Act, 2021, to comply with the requirement of the Global Forum for Transparency and Exchange of Information on Tax Matters.

2. Amendments are being proposed in the International Business Companies Act, 2016 (Act 15 of 2016), the Foundations Act, 2009 (Cap.270), the Limited Partnerships Act, 2003 (Cap. 281) and the Trusts Act, 2021 (Act 34 of 2021) in line with Seychelles latest review by the Global Forum for Transparency and Exchange of Information on Tax Matters (under the ambit of the OECD), whereby certain observations were made in relation to the accounting records. Therefore, it is proposed to amend the International Business Companies Act, 2016 (Act 15 of 2016), the Limited Partnerships Act, 2003 (Cap. 281), the Foundations Act, 2009 (Cap.270) and the Trusts Act, 2021 (Act 34 of 2021), to sync with the requirements of the OECD.

3. The main amendments proposed under the International Business Companies Act, 2016 (IBC Act) are as follows:

- (a) to amend section 167 of the IBC Act to include enabling provision for the fees applicable when a registered agent

resigns. A fee of \$10 is already provided under paragraph (j) of Part II of the Second Schedule;

- (b) to repeal section 171 of the IBC Act, since the accounting records are now required to be kept in Seychelles and therefore, the submission of annual return becomes obsolete;
- (c) to amend section 175 of the IBC Act to rectify typographical correction (i.e., to remove double-negative) and to require a company which keeps its original accounting records in Seychelles and to inform its registered agent about the physical address of that place;
- (d) to amend section 276 of the IBC Act to allow the Registrar to restore companies that have been dissolved under section 275 and to exempt a company from submitting the consent of the outgoing registered agent during the restoration process, if that agent has resigned following the striking off of the company;
- (e) to amend section 277 of the IBC Act to extend restoration of dissolved companies by the Court to include companies that have been dissolved under section 275 (automatic dissolutions) and to extend the period from 3 years to 5 years, that a dissolved company can apply to Court for restoration;
- (f) to amend section 354(3) of the IBC Act to cap the maximum penalty imposed by the Registrar at US\$10,000;
- (g) to amend section 361 of the IBC Act to increase the penalty fee applicable for noncompliance of submission of annual return and the relevant accompanying documents;
- (h) to repeal the Sixth Schedule (Annual Return Content) of the IBC Act relating to annual return in view of the repeal of section 171;
- (i) amendment to section 60(2) of the International Business Companies (Amendment) Act, 2021 and to commence the said section from 1st January 2022 (rather than 6th August 2021); and

- (j) requirements brought by the IBC (Amendment) Act, 2021 to require a company to lodge its accounting records at its registered office in Seychelles shall apply with retrospective effect whereby every existing company (except a company which already keeps its accounting records in Seychelles) shall lodge its accounting records, relating to transactions over the past 7 years, at the company's registered office in Seychelles, within 6 months from the date of commencement of the International Business Companies (Amendment) Act, 2021.

4. The main amendments being proposed under the Foundations Act (Cap. 270) are as follows —

- (a) to require a foundation which keeps its original accounting records in Seychelles to inform its registered agent of the physical address of that place;
- (b) to replace the existing section 113 to expressly allow interested parties, including beneficiaries, founders and creditors, to apply to the Supreme Court of Seychelles for relief in relation to alleged breaches by councilors or protectors; and
- (c) to provide that the requirements brought by the Foundations (Amendment) Act, 2021 to require a Foundation to lodge its accounting records at its registered office in Seychelles shall apply with retrospective effect whereby every existing foundation (except a foundation which keeps its accounting records in Seychelles) shall lodge its accounting records, relating to transactions over the past 7 years, at the foundation's registered office in Seychelles within 6 months from the date of commencement of the Foundations (Amendment) Act, 2021.

5. The amendments being proposed under the Limited Partnerships Act (LP Act) (Cap. 281) are as follows:

- (a) to amend section 11A of the L P Act to rectify a typographical correction and to require a limited partnership which keeps its original accounting records in Seychelles to inform its registered agent of the physical address of that place;

- (b) the requirements brought by the Limited Partnerships (Amendment) Act, 2021 to require a limited partnership to lodge its accounting records at its registered office in Seychelles shall apply with retrospective effect whereby every existing limited partnership (except a limited partnership which keeps its accounting records in Seychelles) shall lodge its accounting records, relating to transactions over the past 7 years, at the limited partnership's registered office in Seychelles within 6 months from the date of commencement of the Limited Partnerships (Amendment) Act, 2021.

6. The main amendments being proposed under the Trusts Act are as follows —

- (a) to amend section 11 of the Trusts Act to rectify a typographical correction;
- (b) to amend section 27 of the Trusts Act to require an approved trustee which keeps the original accounting records in Seychelles, other than at its principal place of business or registered office, to keep a written record of the physical address of that place;
- (c) to amend section 28 of the Trusts Act to remove the requirement to keep register of trustees, beneficiaries, settlors and protector; and
- (d) to keep the accounting records of the trusts under its administration in Seychelles shall apply with retrospective effect whereby every trustee (except where the accounting records in relation to the trust is being kept in Seychelles) shall have a period of 6 months from the date of commencement of the Trusts Act, 2021 and to lodge in Seychelles, the accounting records relating to transactions over the past 7 years, in respect of all trusts under its administration.

Dated this 10th day of December, 2021.

**FRANK D.R. ALLY
ATTORNEY-GENERAL**

**THE INTERNATIONAL BUSINESS COMPANIES ACT AND
OTHER RELATED LAWS (AMENDMENT) BILL, 2021**

(Bill No. 67 of 2021)



**A BILL
FOR**

AN ACT TO AMEND THE INTERNATIONAL BUSINESS COMPANIES ACT, 2016 (ACT 15 OF 2016), LIMITED PARTNERSHIPS ACT, 2003 (CAP. 281), THE FOUNDATIONS ACT, 2009 (CAP.270) AND THE TRUSTS ACT, 2021 (ACT 34 OF 2021).

ENACTED by the President and the National Assembly.

**PART 1
PRELIMINARY**

Short title and commencement

1. This Act may be cited as the International Business Companies Act and Other Related Laws (Amendment) Act, 2021 and save as otherwise provided, the provisions of this Act shall come into force at once.

PART 2
AMENDMENTS TO THE INTERNATIONAL BUSINESS
COMPANIES ACT, 2016 (ACT 15 OF 2016)

2. The International Business Companies Act, 2016 (Act 15 of 2016) (hereinafter in this Part referred to as the principal Act) is hereby amended as follows —

Amendment of section 167

- (a) Section 167 of the principal Act is amended in subsection (5), by inserting after the words “under subsection (2)” the words “and the fee specified in Part II of the Second Schedule”;

Repeal of section 171

- (b) Section 171 of the principal Act is hereby repealed;

Amendment of section 173

- (c) Section 173 of the principal Act is amended in subsection (1) by repealing paragraph (d);

Amendment of section 175

- (d) Section 175 of the principal Act is amended —
- (i) in subsection (1B), in the opening paragraph, by repealing the word “not” after the words “other than a company”;
- (ii) by repealing subsection (2A) and substituting therefor the following subsections —
- “(2A) Where a company —
- (a) keeps a copy of its accounting records at its registered office;
- (b) keeps its original accounting records

in Seychelles at a place other than at its registered office,

the company shall notify in writing its registered agent of the physical address of the place where the original accounting records are kept.

(2B) Where there is a change in the place at which its original accounting records are kept, a company shall, within 14 days of the change, notify in writing its registered agent of the physical address of the place at which its original accounting records are kept.”;

Amendment of section 276

- (e) Section 276 of the principal Act is amended, with effect from 1st January, 2022 —
- (i) in subsection (1C),
 - (a) in paragraph (a), by repealing the word “date” and substituting therefor the words “date of striking off under section 272(1)(c) or within one year from the date”;
 - (b) in paragraph (b), by repealing the words “Sub-Part II, III or IV”, and substituting therefor the words “Sub-Part I,”;
 - (ii) in subsection (4), by inserting after the words “by the outgoing registered agent” the words “, unless the outgoing registered agent has resigned as registered agent of the company after the company was struck-off”;

Amendment of section 277

- (f) Section 277 of the principal Act is amended with effect from 1st January, 2022 —

- (i) in subsection (2), —
 - (A) in paragraph (a), by repealing the word “date” and substituting therefor the words “date of striking off under section 272(1)(c) or within one year from the date”;
 - (B) in paragraph (b), —
 - (a) by repealing the words “three years”, and substituting therefor the words “five years”;
 - (b) by repealing the words “Sub-Part”, and substituting therefor the words “Sub-Part I.”;
- (ii) in subsection (4A), by repealing the words “the Registrar” and substituting therefor the words “the Court”;

Amendment of section 354

- (g) Section 354 (3) of the principal Act is amended by repealing the words “US\$5,000” and substituting therefor the words “US\$10,000”;

Amendment of section 361

- (h) Section 361 (3) of the principal Act is amended by repealing the words “of US\$100 and to an additional penalty of US\$25 for each day or part thereof during which the contravention continues”, and substituting therefor the words “not exceeding US\$10,000”;

Amendment of section 389

- (i) Section 389 (1) of the principal Act is amended by repealing paragraph (b).

Repeal of SIXTH SCHEDULE

- (j) SIXTH SCHEDULE of the principal Act is hereby repealed.

Amendment of International Business Companies (Amendment) Act, 2021

3. Section 60(2) (*Commencement of certain provisions of this Act*) of the International Business Companies (Amendment) Act, 2021 is hereby amended with effect from the date of commencement of the International Business Companies (Amendment) Act, 2021, by repealing the words “except paragraph (iii)” and substituting therefor the words “except subsection (1C) (iii)”; and

Retrospective provision

4. Where a company has been incorporated, continued or converted as a company under the International Business Companies Act, 2016 (Act 15 of 2016) before the commencement of this Act, keeps its accounting records outside Seychelles, it shall lodge its accounting records relating to transactions over the past 7 years at the company's registered office in Seychelles within 6 months from the date of commencement of the International Business Companies (Amendment) Act, 2021.

PART 3

AMENDMENTS TO THE FOUNDATIONS ACT (CAP.270)

5. The Foundations Act (Cap. 270) (hereinafter in this Part referred to as the principal Act) is hereby amended as follows —

- (a) Section 75 of the principal Act is hereby amended by repealing subsection (3B) and substituting therefor the following subsections —

“(3B) Where a Foundation —

- (a) keeps a copy of its accounting records at its registered office;
- (b) keeps its original accounting records in Seychelles at a place other than at its registered office,

the Foundation shall inform its registered agent in writing of the physical address of the place where the original accounting records are kept.

(3BA) Where there is a change in the place at which its original accounting records are kept, the Foundation shall, within 14 days of the change, notify in writing its registered agent of the physical address of the place at which its original accounting records are kept.”;

Substitution of section 113

- (b) Section 113 of the principal Act is hereby repealed and substituting therefor the following section —

“Power of court to make orders

113.(1) This section applies where the court, on an application by a person of standing or of its own motion, is satisfied, in respect of a foundation, that a person has failed to comply with —

- (a) a requirement of this Act or of the charter or regulations of the foundation; or
- (b) an obligation imposed on a person by this Act or by the charter or regulations of the foundation.

(2) For the purposes of subsection (1), “a person of standing”, in respect of a foundation means —

- (a) the foundation;
- (b) a founder of the foundation;
- (c) a person, other than a founder of the foundation, who has endowed the foundation;

- (d) if any rights a founder of a foundation had in respect of the foundation and its assets have been assigned to some other person, that other person;
- (e) a person appointed under the regulations of the foundation;
- (f) a beneficiary of the foundation;
- (g) a councillor of the foundation;
- (h) a creditor of the foundation;
- (i) a supervisory person;
- (j) the foundation's registered agent;
- (k) the Registrar; or
- (l) the Attorney General.

(3) The court may make an order in respect of a foundation —

- (a) that a person shall comply with the requirement or obligation which that person has failed to comply with; or
- (b) otherwise facilitating compliance with the requirement or obligation which that person has failed to comply with.

(4) The court shall not make an order under subsection (3) unless it is satisfied that —

- (a) the same shall assist the foundation in the just and proper administration of its assets or the attainment of its objects; or

- (b) it is otherwise just and desirable that it should do so.

(5) Where the court makes an order under subsection (3)(b), its order shall have the same effect as if it were an action taken by the person required to comply with the requirement or obligation.

(6) An order made by the court under this section in respect of a foundation may, without limitation, provide for —

- (a) the action that the foundation or other person is required to take;
- (b) the appointment or removal of a person appointed under the charter or regulations of the foundation;
- (c) a person to make good a breach;
- (d) the foundation or other person to cease acting in such manner as may be specified by the court;
- (e) payment or distribution of an amount of money or other asset; or
- (f) directions by the court.

(7) If the court is satisfied that a foundation, acting through its council, has failed to carry out its objects or any of them, the court may, by order, require the foundation to do so.

(8) Any order made by the court under this section —

- (a) may be made on such terms; and
- (b) may impose such conditions,

as the court thinks fit.”;

Retrospective provision

6. Where a Foundation registered under the Foundations Act (Cap. 270) before the commencement of this Act, keeps its accounting records outside Seychelles, it shall lodge its accounting records relating to transactions over the past 7 years at the Foundation's registered office in Seychelles within 6 months from the date of commencement of the Foundations (Amendment) Act, 2021.

PART 4
AMENDMENTS TO THE LIMITED PARTNERSHIPS ACT
(CAP.281)

7. The Limited Partnerships Act (Cap. 281) (hereinafter in this Part referred to as the principal Act) is hereby amended as follows —

Amendment of section 11A

(a) Section 11A of the principal Act is amended —

- (i) in subsection (3), in paragraph (b), by repealing the words “the company's” and substituting therefor the words “the limited partnership's”;
- (ii) by repealing subsection (4A) and substituting therefor the following subsections —

“(4A) Where a limited partnership —

- (a) keeps a copy of its accounting records at its registered office;
- (b) keeps its original accounting records in Seychelles at a place other than at its registered office,

the limited partnership shall inform its registered agent in writing of the physical address of the place where the original accounting records are kept.

(4B) Where there is a change in the place at which its original accounting records are kept, a limited partnership shall, within 14 days of the change, notify in writing its registered agent of the physical address of the place at which its original accounting records are kept.”;

Retrospective provision

8. Where a limited partnership registered under the Limited Partnerships Act (Cap. 281) before the commencement of this Act keeps its accounting records outside Seychelles, it shall lodge its accounting records relating to transactions over the past 7 years at the limited partnership's registered office in Seychelles within 6 months from the date of commencement of the Limited Partnerships (Amendment) Act, 2021.

PART 5

AMENDMENTS TO THE TRUSTS ACT, 2021 (ACT 34 OF 2021)

9. The Trusts Act, 2021 (Act 34 of 2021) (hereinafter in this Part referred to as the principal Act) is hereby amended as follows —

Amendment of section 11

- (a) section 11 of the principal Act (*hereinafter referred to as the “principal Act”*) is amended in subsection (6), by repealing the word “section 88” and substituting thereof the words “section 87(3)”;

Amendment of section 27

- (b) section 27 of the principal Act is amended by repealing subsection (3) and substituting therefor the following subsections —

“(3) Where an approved trustee —

- (a) keeps a copy of the accounting records at its principal place of business or registered office in Seychelles;

- (b) keeps the original accounting records in Seychelles at a place other than at its principal place of business or registered office,

the approved trustee shall keep a written record of the physical address of the place where the original accounting records are kept.

(3A) Where there is a change in the place at which the original accounting records are kept, an approved trustee shall, within 14 days of the change, keep a written record of the physical address of the place at which the original accounting records are kept.”;

Amendment of section 28

- (c) section 28 of the principal Act is amended —

- (i) in subsection (1), by repealing paragraphs (a), (b), (c) and (d) and re-numbering the paragraphs (e) and (f) as paragraphs (a) and (b) respectively;

- (ii) in subsection (2), —

- (A) in paragraph (c), by repealing the words “a trustee, beneficiary, settlor, protector, enforcer, agent or service provider to the trust as the case may be, and in the case of a natural person identified under subsection (1), the date upon which such a person began exercising control over the trust” and substituting therefor the words “an enforcer, agent or service provider to the trust, as the case may be”;

- (B) in paragraph (d), by repealing the words “a trustee, beneficiary, settlor, protector, enforcer, agent or service provider to the trust as the case may be, and in the case of a natural person

identified under subsection (1), the date upon which the person ceased to exercise control over the trust” and substituting therefor the words “an enforcer, agent or service provider to the trust, as the case may be”;

Retrospective provision

10. Where a trustee of a trust registered (including every former trust deemed to have been re-registered as a registered trust) under the Trusts Act, 2021 (Act 34 of 2021) before the commencement of this Act, keeps the accounting records relating to the trust outside Seychelles, the trustee shall, within 6 months from the commencement of the Trusts Act, 2021, lodge, in respect of that trust, the accounting records relating to transactions of the trust over the past 7 years

- (a) at the licensed trustee's principal place of business in Seychelles, in the case where the approved trustee of the trust is a licensed trustee; or
- (b) at the private trust company's registered office in Seychelles, in the case where the approved trustee of the trust is a private trust company.

ANTI-CORRUPTION (AMENDMENT) (NO.3) BILL, 2021

(Bill No. 68 of 2020)

OBJECTS AND REASONS

The Anti-Corruption Commission Act, 2016 (Act 2 of 2016) was enacted to establish the Anti-Corruption Commission; provide for its functions and powers and to create a means by which it can investigate, detect and prevent corrupt practices.

2. The Anti-Corruption Commission Act, 2016 was amended in 2020 empowering the Commission to investigate money laundering aspects in corruption cases also.

3. This Bills seeks to amend section 51A of the Act to empower the Commission to investigate certain offences under Penal Code in furtherance of corrupt practices. It is proposed to expand the investigation scope of the Commission relating to corrupt practices.

4. It is proposed to amend section 64 of the Act, empowering the authority to institute prosecution against the accused in the cases investigated by the Commission.

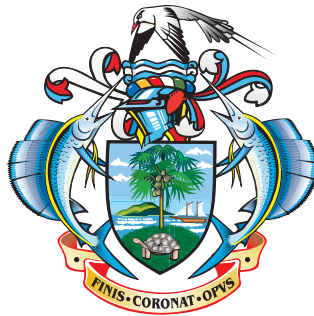
5. It is also proposed to insert new sections 64A, 64B and 64C relating to institution of criminal proceedings; discontinuance of proceedings; and the powers of the Commission to prosecute cases through a qualified person or through an Attorney-At-Law.

Dated this 10th day of December, 2021.

**FRANK D.R. ALLY
ATTORNEY-GENERAL**

ANTI-CORRUPTION (AMENDMENT) (NO.3) BILL, 2021

(Bill No. 68 of 2021)



**A BILL
FOR**

AN ACT TO AMEND THE ANTI-CORRUPTION ACT, 2016 (ACT 2 OF 2016).

ENACTED by the President and the National Assembly.

Short title

1. This Act may be cited as the Anti-Corruption (Amendment) (No.3) Act, 2021.

Amendments to Act 2 of 2016

2. The Anti-Corruption Act, 2016 (hereinafter referred to as the principal Act) is amended as follows —

- (a) in section 51A of the principal Act, repeal the words “Chapter X”, and therefor substitute the following words “Chapter V, Chapter X, Chapter XXVI, Chapter XXVII, Chapter XXVIII, Chapter XXX, Chapter XXXII, Chapter XXXV”;
- (b) in section 60 of the principal Act, after subsection (2), the following subsections shall be inserted —

“(2A) Where the Registrar General or any other public authority responsible for the registration of property or stamping of instruments under any law, has reasons to believe or has received reasonable information or reasonably infers that an investigation by the Commission is ongoing in respect of a property or a proprietor of a property registered with the Registrar General or the public authority, the Registrar General or the public authority shall —

- (a) on his or her own motion, restrict the registration or stamping of any instrument of disposal of, or dealing with, the property pending confirmation or otherwise under paragraph (b); and
- (b) seek confirmation of the investigation from the Commission.

(2B) A request for confirmation under subsection (2A)(b) shall be made within 3 days of the knowledge to the Registrar General or the public authority and the Commission shall within a period 3 days from the date of receipt of the request inform the Registrar General or the public authority about the investigation going on or otherwise.

- (2C) Where the Commission confirms the investigation under subsection (2A)(b), the Registrar General or the public authority responsible for the registration of property shall restrict the registration or the disposal of, or dealing with, the property or any other transaction related thereto for a period of 30 days from the date of such confirmation unless the Commission directs otherwise.”;
- (c) in section 64 of the principal Act, after the words “PART III”, the words “and money laundering offences committed under the Anti-Money Laundering the Countering the Financing of Terrorism Act, 2020 (Act 5 of 2020), in furtherance of the said corrupt practices” shall be added;
- (d) after section 64 of the principal Act, the following sections shall be inserted —

Institution of proceedings

“64A. Criminal proceedings instituted by the Commission by the powers conferred under section 64 shall be instituted and referred to as “Republic Versus _____” or “Anti-Corruption Commission Versus _____”.

Discontinuance of proceedings

64B. Subject to article 76 of the Constitution, the Commission may discontinue any proceedings instituted under section 64, at any stage before the delivery of the judgement by the Court.

Prosecution of cases by the Commissioner in person or by a qualified person.

64C.(1) The powers of the Commission under section 64 may be exercised by the Commissioner in person or a qualified person.

(2) Subject to article 76 of the Constitution and in the exercise of the powers conferred upon the Commission under subsection (1), the Commission shall not be subject to the direction and control of any other person.

(3) For the purposes of subsection (1), the term “qualified person” means —

- (a) an Attorney-At-Law employed by the Commission; or
- (b) an Attorney-At-Law appointed by the Commission acting in accordance with the general or specific instructions of the Commission; or
- (c) a person employed or appointed by the Commission for the purpose of conducting proceedings under this Act.

(4) A qualified person who is not an Attorney-At-Law shall take and subscribe to the oath of office under the Official Oaths Act (Cap. 153) before assuming the duties of his or her office, before the Chief Justice or a Judge of the Supreme Court in relation to such office.

(5) The Commission shall not later than the 31st January of each year or where the Commission has appointed a person in the course of a year, not later than 30 days after the appointment, notify the Registrar of the names and other prescribed particulars of the person employed by the Commission for the purposes of subsection (1) and the Registrar shall enter the names and the prescribed particulars of the person in a register kept for this purpose.

(6) The Commission shall notify the Registrar of the name of any person who is entered on the register referred to in subsection (5), who has ceased to be employed by the

Commission within 30 days of the person ceasing to be so employed and the Registrar shall remove the name of that person from the register.”.