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TABLE OF CONTENTS

GENERAL NOTICES

Gazette Notice No. 485 of 2024 are published by Order.

GAZETTE SUPPLEMENTS

Gazette	Description	Price
23	Compounding of Prescribed Offences Act, 2024. (Act 3 of 2024)	60.00
	Seychelles Ports Authority (Amendment) Bill, 2024. (Bill No. 3 of 2024)	76.00
	Tobacco Control (Amendment) Bill, 2024. (Bill No. 4 of 2024)	28.00
	Functional Capacity Assessment Board Bill, 2024. (Bill No. 5 of 2024)	72.00
	Law Commission (Special Revision Date for Specific Laws of Seychelles) Notice, 2024. (S.I. 34 of 2024)	8.00

GENERAL NOTICE

No. 485 of 2024

SEYCHELELS REVENUE COMMISSION ACT*(Cap 322)***Seychelles Revenue Commission Board**

In exercise of the powers conferred by section 3(3) of the Seychelles Revenue Commission Act (*as amended by Act 29 of 2017*), the President hereby appoints the following persons to the Board of the Commission —

Mr. Chrystold Chetty	—	Chairperson
Mrs. Varsha Singh	—	Commissioner General (<i>ex officio member</i>)
Ms. Astride Tamatave	—	Principal Secretary for Finance (<i>ex-officio member</i>)
Mr. Francis Lebon	—	Principal Secretary for Trade (<i>ex-officio member</i>)
Mr. Charles Morin	—	Member
Ms. Cillia Mangroo	—	Member
Ms. Ginny Elizabeth	—	Member
Mr. Serge Durup	—	Member

for a period of 3 years, with effect from 16th April, 2024.

Dated this 6th day of May, 2024.

**WAVEL RAMKALAWAN
PRESIDENT**

COMPOUNDING OF PRESCRIBED OFFENCES ACT, 2024

(Act 3 of 2024)

ARRANGEMENT OF SECTIONS

Sections

1. Short title
2. Interpretation
3. Purposes of the Act
4. Compounding of offences
5. Time limit to accept offer and make payment
6. Compounded amount
7. Compounding committee
8. Effect of compounding
9. Exclusion of time limit
10. Non-Application of the Act
11. Transitional
12. Regulations and amendment of Schedules

SCHEDULES

First Schedule

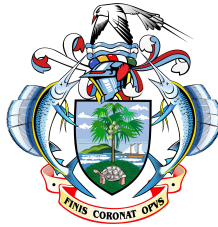
Relevant Enactments

Second Schedule

Prescribed Offences

Third Schedule

Form of Offer to Compound



COMPOUNDING OF PRESCRIBED OFFENCES ACT, 2024

(Act 3 of 2024)



I assent

A handwritten signature in black ink, appearing to read "Wavel".

Wavel Ramkalawan
President

26th April, 2024

AN ACT TO PROVIDE FOR THE COMPOUNDING BY THE ATTORNEY GENERAL OF PRESCRIBED OFFENCES AND TO PROVIDE FOR OTHER CONNECTED OR INCIDENTAL MATTERS.

ENACTED by the President and the National Assembly.

Short title

1. This Act may be cited as the Compounding of Prescribed Offences Act, 2024.

Interpretation

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

“alleged offender” means —

- (a) a person who has committed an offence under a relevant enactment for which a fixed penalty may be imposed; or
- (b) a person who has committed a prescribed offence and who has been issued with a fixed penalty notice for the prescribed offence but who has failed to pay the fixed penalty within the time limit prescribed for payment in the fixed penalty notice or under the relevant enactment and who is therefore liable to be criminally prosecuted for that offence;

“Committee” means the committee established under section 7 and includes an *ad hoc* committee;

“compounding amount” means the amount that the Attorney General shall determine and offer the alleged offender in the offer to compound;

“fixed penalty” means the amount of fixed penalty for a prescribed offence under a relevant enactment;

“fixed penalty notice” means the fixed penalty notice issued to an alleged offender under a relevant enactment, offering the alleged offender an opportunity to discharge his or her liability to conviction for the prescribed offence on payment of a fixed penalty;

“Minister” means the Minister responsible for legal affairs;

“offer to compound” means the written offer made by the Attorney General to an alleged offender inviting the alleged offender to compound a prescribed offence;

“prescribed offences” means the offences specified under the Second Schedule;

“proceedings” means criminal proceedings in respect of a prescribed offence;

“Registrar” means the Registrar of the Supreme Court and includes a Deputy Registrar, Assistant Registrar or any other officer of the Registry of the Supreme Court or Magistrates' Court;

“Registry” means the registry of the Supreme Court or Magistrates' Court;

“relevant enactment” means an Act specified in the First Schedule and includes any relevant regulations made under the Act; and

“working days” excludes Saturday, Sunday, a public holiday or a day where the Registry is not open.

Purposes of this Act

3. The purposes of this Act are —
- (a) to establish a legislative framework for the Attorney General to give an alleged offender of a prescribed offence the opportunity to pay an administrative penalty so as to divert the matter from the criminal justice system;
 - (b) make use of alternative methods of enforcing the law and holding an alleged offender of prescribed offences accountable for the commission of a prescribed offence without burdening the criminal justice system.

Compounding of offences

4.(1) Where a person is alleged to have committed a prescribed offence for which a fixed penalty notice was issued to that person or for which a fixed penalty may be imposed under a relevant enactment, the Attorney General may invite, or offer the option to, the alleged offender to compound the prescribed offence.

(2) The prescribed offences are set out in the Second Schedule.

(3) An offer to compound a prescribed offence shall be in writing in the form prescribed in the Third Schedule.

(4) The offer to compound shall specify —

- (a) the prescribed offence alleged to have been committed by the alleged offender;
- (b) a statement that upon the expiration of the time limit to pay the fixed penalty for the prescribed offence the alleged offender has committed, the alleged offender had failed to pay the fixed penalty;
- (c) the offer to compound the prescribed offence;
- (d) the compounding amount;
- (e) the time limit to accept the offer and pay the compounded amount;
- (f) the consequences of compounding or not compounding the prescribed offence; and
- (g) the acceptance or non-acceptance of the offer to compound by the alleged offender.

(5) An offer to compound may be signed by the Attorney General or any subordinate officer of the Office of the Attorney General acting for and on behalf of the Attorney General.

(6) Upon receiving the offer to compound the prescribed offence, the alleged offender may accept the offer and remit the compounded amount to the registry.

(7) The acceptance of the offer to compound and payment of the compounded amount shall be deemed as conclusive evidence of admission of the commission of the prescribed offence and acceptance to compound the prescribed offence.

(8) Notwithstanding subsection (1), an alleged offender who was issued with a fixed penalty notice but failed to pay the fixed penalty within the time limit specified in the fixed penalty notice or who committed a prescribed offence for which a fixed penalty could be imposed and who has not been served with summons in respect of proceedings for such offence may apply in writing to the Attorney General to compound the offence.

(9) The request to compound under subsection (8) shall specify —

- (a) details of the prescribed offence including the date and circumstances of the alleged offence; and
- (b) any relevant documentation, including a copy of the fixed penalty notice where applicable.

(10) Where the Attorney General receives an application under subsection (8), the Attorney General may make an offer to compound to the alleged offender.

Time limit to accept the offer and make payment

5.(1) An alleged offender to whom an offer to compound is made shall accept the offer and pay the compounded amount within a period of not less than 21 working days of the date of the offer to compound or within any other time limit specified in the offer to compound.

(2) An offer to compound may be issued or served on the alleged offender —

- (a) by delivering or tendering it to the alleged offender;
- (b) by delivering or tendering it at the alleged offender's residence, workplace or any other proper address of the alleged offender to a person who is more than 16 years old and who is a member of the alleged offender's household or an employee, agent or manager of the alleged offender;
- (c) by registered post addressed to the alleged offender;

- (d) by affixing it in a conspicuous place at the residence or workplace of the alleged offender or at the premises of the proper address of the alleged offender; or
- (e) by electronic delivery or email at such address provided by the alleged offender.

(3) The proper address of an alleged offender on whom an offer to compound is issued shall, in the case of a body corporate, be the registered or principal office or place of business of that body, and, in any other case, be the address contained in the fixed penalty notice or the last known address of the alleged offender.

(4) Upon receipt of the offer to compound, if the alleged offender agrees to compound the offence —

- (a) the alleged offender shall sign the offer to compound to confirm acceptance to compound the offence; and
- (b) pay the compounded amount within the time limit specified in the offer to compound or under this Act, as applicable, to the registrar at the registry or at such other place specified in the offer to compound.

(5) The alleged offender shall return the offer to compound along with the acceptance and documentary proof of payment of the compounded amount to the Office of the Attorney General as specified in the offer to compound.

(6) Where an acceptance is returned to the Attorney General without a signature but with proof of payment of the compounded amount, the offer to compound shall be deemed accepted and the Attorney General shall treat the prescribed offence as compounded.

Compounded amount

6.(1) The Attorney General shall not make an offer to compound for an amount less than double the amount of the fixed penalty in the fixed penalty notice.

(2) Notwithstanding subsection (1), the Attorney General may make an offer to compound for an amount less than double of the amount of the fixed penalty where —

- (a) the Attorney General determines that the sentencing pattern of the competent court or appellate court for such offence is a fine less than double the amount of the fixed penalty; or
- (b) the Committee advises the Attorney General that there are just and good grounds to do so.

(3) Notwithstanding subsection (1) and (2), the compounded amount shall not be less than SCR1000/-.

(4) Any amount paid for compounding an offence shall accrue to the Consolidated Fund.

Compounding committee

7.(1) The Attorney General may establish a compounding committee, *ad hoc* or otherwise, to assist the Attorney General in determining the appropriate amount to compound offences under this Act and to make any appropriate recommendations to the Attorney General.

(2) The Attorney General shall determine the composition of the Committee and term and condition of its members.

(3) The Committee shall consider relevant factors, including the appropriate legal provisions, the nature and circumstances of the offence, as well as the extent, gravity, past behavior, and previous convictions of the alleged offender.

(4) The Committee shall regulate its own proceedings and shall keep records and minutes of the proceedings.

Effect of compounding

8.(1) An acceptance by the alleged offender to compound an offence

and the payment of the compounded amount shall constitute or be deemed an admission of the commission of the offence and acceptance to compound the offence, and no prosecution shall be instituted, or, if proceedings have commenced, they shall be discontinued, by the Attorney General or any other relevant person or authority against the alleged offender for the commission of the prescribed offence.

(2) Where an alleged offender who is offered an option to compound an offence under this Act does not agree to compound the prescribed offence, or accepts to compound the prescribed offence but fails to pay the compounded amount within the prescribed time limit under this Act or in the offer to compound, the Attorney General may institute proceedings against the alleged offender for the prescribed offence.

(3) Without prejudice to the power of the Attorney General to discontinue proceedings under article 76 (4) of the Constitution, where an alleged offender who is offered to compound a prescribed offence under this Act accepts to compound the prescribed offence in accordance with this Act outside the time limit prescribed under this Act or specified in the offer to compound, the Attorney General may compound the prescribed offence where proceedings have not commenced against the alleged offender or where proceedings have commenced but the alleged offender has not been served with summons to appear in court in respect of the proceedings.

(4) Where an alleged offender has accepted to compound the prescribed offence and failed to pay the compounded amount within the time limit prescribed under this Act or specified in the offer to compound and proceedings are instituted against the alleged offender for that offence, the fact that the alleged offender has accepted to compound shall not be used against that alleged offender in the proceedings for the prescribed offence under any relevant enactment.

(5) In any proceedings brought against an alleged offender for a prescribed offence that the alleged offender has compounded under this Act by any person or authority, it shall be a defence if such alleged offender proves that the prescribed offence has been compounded under this Act.

Exclusion of time limit

9. Where a provision is made in a relevant enactment or any other enactment limiting the time within which proceedings for a prescribed offence may be brought against an alleged offender, the period of time given to compound the offence under this Act or in the offer to compound shall not be taken into account in calculating the period of time prescribed under the relevant enactment or any related enactment.

Non-application of the Act

10. This Act does not apply to a prescribed offence committed by an alleged offender for the fourth time or more within a period of twelve months from the date —

- (a) of commission of a similar offence which was earlier compounded;
- (b) of commission of a similar offence for which such alleged offender was earlier convicted.

Transitional

11. The Attorney General may compound prescribed offences committed prior to the coming into operation of this Act, provided that proceedings have not been instituted against the alleged offender or the alleged offender has not been served with summons for the proceedings.

Regulations and amendment of Schedules

12.(1) The Minister, in consultation with the Attorney General, may —

- (a) make regulations, for all matters which by or under this Act are required or necessary to be provided for giving effect to the provisions of this Act.
- (b) by statutory instrument, amend the schedules.

(2) Notwithstanding subsection (1), the Attorney General may, by statutory instrument, amend the form prescribed regarding the offer to compound contained in the Third Schedule.

SCHEDULES

First Schedule

(section 2)

Relevant Enactments

- (i)* Public Health Act, 2015, Act 13 of 2015
- (ii)* Fair Trading Act, 2022, Act 12 of 2022
- (iii)* Road Transport Act, Cap 206
- (iv)* Physical Planning Act, 2021, Act 55 of 2021
- (v)* Nature Reserves and Conservancy Act, 2022, Act 3 of 2022
- (vi)* Environment Protection Act, Act 18 of 2016
- (vii)* Minor Offences (Fixed Penalties) Decree, Cap 132
- (viii)* Licences Act, Cap 113

Second Schedule

(section 2)

Prescribed Offences

The prescribed offences that may be compounded are—

- (a) all the offences that are “prescribed offences” under the Minor Offences (Fixed Penalties) Act, Cap.132 and listed in the Minor Offences (Fixed Penalties) Regulations, S.I. 3 of 1980.
- (b) all offences under relevant enactments providing that a fixed penalty notice may be issued for an offence and for which the Attorney General is instructed to institute proceedings (notwithstanding the provisions for compounding of prescribed offences under the relevant enactments).

Third Schedule*[section 4(2)]**Form of Offer to Compound**Offer to Compound**Compounding of Prescribed Offences Act*

TO:

Name: [insert name of the alleged offender]
Address: [insert address of the alleged offender]
N.I.N.: [insert N.I.N of the alleged offender]

FROM:

Attorney General
3rd Floor, The Link Building
Ile du Port, Mahe, Seychelles

WHEREAS you, the alleged offender, are alleged to have committed the prescribed offence set out as item 1 in the schedule hereto.

WHEREAS according to the relevant enactment that creates the prescribed offence, to discharge your liability for a conviction for the prescribed offence you may be liable to pay a fixed penalty set out in item 2 of the Schedule hereto.*

WHEREAS you were served with a fixed penalty notice for the commission of the prescribed offence to pay the fixed penalty set out in item 2 of the Schedule hereto within the time limit prescribed under the Act creating the prescribed offence or such other enactment.*

WHEREAS upon the expiration of the time limit specified to pay the fixed penalty for the prescribed offence, you failed to pay the fixed penalty.*

On the premises, the Attorney General hereby gives you the option to compound the prescribed offence by signifying your acceptance to compound and by paying the compounded amount set out in item 3 of the Schedule within the time limit set out in item 4 of the Schedule at the place specified in item 5 of the Schedule.

If you accept to compound and pay the compounded amount, no criminal proceedings will be instituted against you for the prescribed offence.

If you do not agree to compound the prescribed offence or if you accept but fail to pay the compounded amount within the time limit set out in item 4 and/or at the place set out in item 5 of the Schedule hereto, criminal proceedings may be instituted against you for the prescribed offence.

SCHEDULE

Item 1 Prescribed offence

Item 2 Amount of fixed penalty

Item 3 Compounded amount

Item 4 Time limit to accept offer and pay compounded amount*

Item 5 Place to pay compounded amount: At any of the following registries:-

- (a) Registrar, Supreme Court, Palais de Justice, Ile du Port, Mahe;
- (b) The Assistant Registrar, Magistrates' Court, Grand'Anse, Praslin;
- (c) The Assistant Registrar, Magistrates' Court, Anse Royale.

Dated this.....day of....., 202....

.....
Attorney General/Chief Public Prosecutor/ etc...
For and on behalf of the Attorney General

ACCEPTANCE

I,

Name: [insert name of the alleged offender]
Address: [insert address of the alleged offender]
N.I.N.: [insert national identity no.],

the alleged offender to whom this offer to compound is made hereby —

Please indicate with a tick or cross

- 1. Accept the offer
- 2. Confirm payment of the compounded amount
- 3. Do not agree to compound the prescribed offence

Dated this.....day of....., 202....

.....
Alleged Offender

NOTE:- The Acceptance to Compound should be delivered to, or received by, the Attorney General within 21 working days of the date of the offer to compound.

That if the last day of the period is a Saturday, Sunday, a public holiday or a day that the registry is not open, the period shall not include that day and the last day for payment shall be the next working day.

RETURN ACCEPTANCE TO:

Attorney General
3rd Floor
The Link Building
Ile du Port, Mahe, Seychelles

or

email: compoundAG@gov.sc

**delete if inapplicable*

I certify that this is a correct copy of the Bill which was passed by the National Assembly on 17th April, 2024.



Mrs. Tania Isaac
Clerk to the National Assembly

S. I. 34 of 2024

LAW COMMISSION ACT

*(Act 16 of 2022)***Law Commission (Special Revision Date for Specific Laws of Seychelles) Notice, 2024**

IN EXERCISE OF THE POWERS CONFERRED BY SECTION 10(2) OF THE LAW COMMISSION ACT, ACT 16 OF 2022, THE ATTORNEY GENERAL GIVES THE FOLLOWING NOTICE —

Citation

1. This notice may be cited as the Law Commission (Special Revision Date for Specific Laws of Seychelles) Notice, 2024.

Appointment of special revision date of the specific laws

2. Notice is hereby given that the Law Commission shall prepare the revised edition of the following Acts and their corresponding statutory instruments as at 31st May, 2024 —

- (a) Anti-Money Laundering and Countering the Financing of Terrorism Act, 2020 (Act 5 of 2020);
- (b) Beneficial Ownership Act, 2020 (4 of 2020);
- (c) Prevention of Terrorism Act, Cap 179;
- (d) Proceeds of Crime (Civil Confiscation) Act, Cap 298;
- (e) Anti-Corruption Act, 2016 (Act 2 of 2016);
- (f) Custody, Management and Disposal of Seized, Forfeited or Confiscated Properties Act, 2021 (Act 61 of 2021);
- (g) Mutual Assistance in Criminal Matters Act, 2022 (Act 7 of 2022).

MADE this 8th day of May, 2024.

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

FUNCTIONAL CAPACITY ASSESSMENT BOARD BILL, 2024

(Bill No. 5 of 2024)

**EXPLANATORY STATEMENT OF OBJECTS AND REASONS
FOR THE BILL**

The objective of the Bill is to establish a Functional Capacity Assessment Board, which shall be vested with the responsibility of conducting assessment of a person referred to it seeking invalidity or disability benefits.

The Board would thereafter make the appropriate determination on the eligibility of such request to the Agency of Social Protection and the Seychelles Pension Fund.

This Bill seeks to make consequential amendments in the Social Security Act (Cap 225) and the Seychelles Pension Fund Act (Cap 220), for the purpose of enabling the relevant entities to comply with its provisions.

Dated this 10th day of May, 2024.

**PEGGY VIDOT
MINISTER OF HEALTH**

FUNCTIONAL CAPACITY ASSESSMENT BOARD BILL, 2024

(Bill No. 5 of 2024)

ARRANGEMENT OF SECTIONS

Sections

PART 1 - PRELIMINARY

1. Short title and commencement
2. Interpretation

PART 2 - FUNCTIONAL CAPACITY ASSESSMENT BOARD

3. Establishment of the Board
4. Functions of the Board
5. Powers of the Board

PART 3 - SECRETARIAT

6. Appointment of Manager
7. Staff of the Secretariat

PART 4 - ASSESSMENT AND DETERMINATION OF REFERRALS

8. Referral for assessment and determination by designated persons
9. Procedures for referral of cases
10. Assessment and determination of the Board
11. Register
12. Appeals

PART 5 - APPEALS COMMITTEE

13. Appeals Committee
14. Decision on appeal

PART 6 - MISCELLANEOUS

15. Offence and penalties
16. Compounding of offences

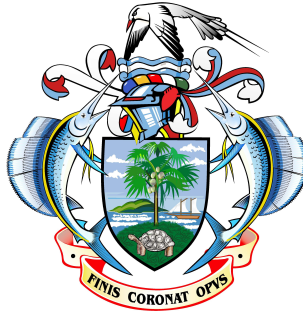
17. Annual Report
18. Directions by the Minister
19. Regulations
20. Protection against legal proceedings
21. Consequential amendments

SCHEDULES

- First Schedule** - Consequential amendments in Social Security Act (Cap 225)
- Second Schedule** - Consequential amendments in Seychelles Pension Fund Act (Cap 220)

FUNCTIONAL CAPACITY ASSESSMENT BOARD BILL, 2024

(Bill No. 5 of 2024)



A BILL

FOR

AN ACT TO ESTABLISH A FUNCTIONAL CAPACITY ASSESSMENT BOARD TO ASSESS THE FUNCTIONAL CAPACITY OF A PERSON IN ORDER TO DETERMINE WHETHER THAT PERSON IS ELIGIBLE FOR INVALIDITY OR DISABILITY BENEFITS UNDER THE SOCIAL SECURITY ACT (CAP 225) AND THE SEYCHELLES PENSION FUND ACT (CAP 220), AND TO PROVIDE FOR OTHER CONNECTED OR INCIDENTAL MATTERS.

ENACTED by the President and the National Assembly.

PART 1 - PRELIMINARY

Short title and commencement

1. This Act may be cited as the Functional Capacity Assessment Board Act, 2024, and shall come into operation on such date as the Minister may, by notice published in the Gazette, appoint.

Interpretation

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

“Board” means the Functional Capacity Assessment Board established under section 3;

“functional assessment tool” means any tool developed by the Board and approved by the Minister in accordance with the standards established for use in the assessment of the functionality of a person seeking invalidity or disability benefits;

“functional capacity assessment” means the process where the Board applies the adopted functional assessment tools to assess and determine the extent of functional capacity of a person referred to it for the eligibility of invalidity or disability benefits and such assessment shall include the reviews of —

- (a) medical reports;
- (b) results of specific social, physical, mental status or psychological test;
- (c) evidence-based expert opinions;
- (d) other documents the Board deems appropriate;

“Manager” means the Manager appointed under section 6;

“Minister” means the Minister responsible for health;

“relevant entity” means the —

- (a) Seychelles Pension Fund; and
- (b) Agency for Social Protection.

PART 2 - FUNCTIONAL CAPACITY ASSESSMENT BOARD

Establishment of the Board

3.(1) There is established a Board known as the Functional Capacity Assessment Board.

(2) The Minister shall appoint the members of the Board on such terms and conditions as the Minister may determine.

(3) The Board shall consist of the following members —

- (a) an allied health professional with experience in disability assessment;
- (b) a medical practitioner specialised in trauma or orthopaedic surgery;
- (c) a social worker;
- (d) a representative from the ministry responsible for employment;
- (e) a medical practitioner specialised in occupational health;
- (f) a medical practitioner specialised in paediatrics;
- (g) a health professional specialised in mental health; and
- (h) the Manager who shall be an *ex-officio* member.

(4) The Minister shall appoint a Chairperson and Vice-Chairperson from among the members and the Vice Chairperson shall, in the absence of the Chairperson, carry out all the responsibilities of the Chairperson.

(5) The Minister shall cause a notice of the names of the Chairperson, Vice-Chairperson and members of the Board to be published in the Gazette.

(6) The members shall have a minimum of three years' work experience in their respective fields.

(7) The members shall be appointed for a period of three years and are eligible for re-appointment for not more than three consecutive terms.

(8) The Minister may, upon the recommendation of the Board, at any time, terminate the appointment of a member who —

- (a) has been found guilty of any misconduct, default or breach of trust in the discharge of his or her duties;
- (b) committed an offence of such nature that renders it desirable that the member's appointment be terminated; and
- (c) is mentally or physically incapable of carrying out his or her duties under this Act.

(9) Any vacancy that arises in the membership of the Board shall be filled by a member who shall be appointed in accordance with subsections (1) and (2), and that member shall hold the tenure of the member whose post has become vacant by virtue of subsection (8).

(10) The members shall be persons of good standing, capable of performing their functions independently, impartially and in compliance with the highest ethical standards.

(11) The members shall be paid such remunerations as may be determined by the Minister responsible for finance.

(12) The Board may co-opt such expert as it deems necessary for the purpose of determining a request for invalidity or disability benefits.

(13) The Board shall meet not less than once a week, at such time and place as the Chairperson may determine.

(14) The quorum for the meeting of the Board shall be four members.

(15) The Board shall regulate its own proceedings.

Functions of the Board

4. The functions of the Board shall be to —

- (a) assess and determine cases referred to it pertaining to eligibility for invalidity and disability benefits;
- (b) develop and adopt relevant tools for functional assessment for approval by the Minister;
- (c) make recommendations on guidelines and policies to be followed in considering the referral; and
- (d) make recommendations to the relevant entities on whether the person referred to it, is eligible for invalidity or disability benefits;
- (e) make recommendations regarding the support required by a person referred to it;
- (f) perform such other functions as may be conferred upon it by the Minister.

Powers of the Board

5. In the exercise of its functions, the Board shall have the power to —

- (a) consider the referral submitted to it;
- (b) summon a person for an interview before it;
- (c) obtain and review copies of medical records from a health service provider;

- (d) consider any other relevant medical or documentary material;
- (e) adopt assessment tools for making the functional capacity assessment and determinations under section 10; and
- (f) make all determinations and recommendations on cases referred to it;
- (g) vary its own determinations after a set time or upon further referral.

PART 3 - SECRETARIAT

Appointment of the Manager

6.(1) The Minister shall appoint a Manager who shall be the head of the Secretariat.

(2) The Manager shall report to the Chairperson of the Board and shall, *inter alia* be responsible for —

- (a) the implementation of the decisions of the Board and the management of the affairs of the Secretariat;
- (b) providing the appropriate administrative support in relation to the cases referred to the Board;
- (c) compiling of case files and relevant functional assessment tools for assessment and evaluation by the Board;
- (d) liaising with the relevant entities and organisations to ensure conclusion of cases referred to the Board;
- (e) responding to any queries that members of the Board, a person referred to it or other interested parties may have regarding any matter before the Board;

- (f) explaining the policies and procedures to the person referred to it, or other interested parties;
- (g) processing and submitting the concluded cases to the Board;
- (h) ascertaining the status of the applications and maintaining reports for follow ups;
- (i) providing formal replies to the person referred to the Board pertaining to its determination;
- (j) keeping up to date records and statistics of the Board;
- (k) developing relevant standard operating procedures for the management of cases;
- (l) delegating any function of the Manager to a designated officer or employee of the secretariat; and
- (m) performing such other functions as the Board may, from time to time, assign.

Staff of the Secretariat

7. The Manager shall, on such terms and conditions as may be determined by the Minister, employ such number of other officers and employees as may be necessary in the performance of functions of the Secretariat.

PART 4 - ASSESSMENT AND DETERMINATION OF REFERRALS

Referral for assessment by designated persons

8. A person shall be referred for assessment to the Board, by any of the following designated persons —

- (a) a medical practitioner responsible for occupational health;

- (b) a medical specialist; or
- (c) a designated officer from the relevant entity.

Procedures for referral

9. The Board shall determine its own procedures and rules for the assessment and determination of referrals.

Assessment and determination by the Board

10.(1) Following receipt of a referral under section 8, the Board shall assess all relevant medical and other records relating to the referral and make the following determination —

- (a) whether the person has —
 - (i) no functioning restriction;
 - (ii) moderate functioning restrictions;
 - (iii) severe functioning restrictions; or
 - (iv) very severe functioning restrictions;
- (b) whether the person requires support measures to be made available to him or her, including —
 - (i) physical, medical, infrastructural or psycho-social support;
 - (ii) vocational or educational support to enable the reskilling of the person; or
 - (iii) financial support measures provided by the relevant entity.

(2) The Board may call for additional information at any stage of the assessment and determination process.

(3) The Board shall communicate in writing, the outcome of its determination to the relevant entity within 14 days after such determination is made.

Register

11. The Board shall keep records of its activities and decisions in a special register, which shall be in the custody and under the control of the Manager at the Secretariat or any other place that the Board may direct.

Appeals

12. A person, or where the person is unable through physical or mental incapacity to do so, his or her guardian, caregiver or person interested in his or her wellbeing aggrieved by any decision of the Board may, within 28 days of receiving such decision submit an appeal in writing to the Appeals Committee.

PART 5 - APPEALS COMMITTEE

Appeals Committee

13.(1) There is established an Appeals Committee to hear and determine appeals against the decisions of the Board.

(2) The Appeals Committee shall consist of the following members —

- (a) a specialist medical practitioner;
- (b) an allied health professional with at least three years' experience in disability assessment; and
- (c) a legal practitioner.

(3) The Minister shall appoint the members of the Appeals Committee including the Chairperson on such terms and conditions as the Minister may determine.

(4) The Chairperson and other members of the Appeals Committee shall hold office for a term of three years and shall be eligible for reappointment.

(5) The Minister may, upon the recommendation of the Board, at any time, terminate the appointment of a member of the Appeals Committee who —

- (a) has been found guilty of any misconduct, default or breach of trust in the discharge of his or her duties;
- (b) has committed an offence of such nature that renders it desirable that the member's appointment be terminated; and
- (c) is mentally or physically incapable of carrying out his or her duties under this Act.

(6) The members of the Appeals Committee shall receive such remuneration as may be determined by the Minister responsible for finance.

(7) The Minister may appoint a Secretary to the Appeals Committee who shall be responsible for receiving, processing and submitting appeals received for the consideration of the Appeals Committee.

(8) The Appeals Committee shall set its own procedures and rules for conducting appeals.

Decision on appeal

14.(1) At the hearing of an appeal the Appeals Committee may —

- (a) confirm the decision of the Board;
- (b) set aside the decision of the Board and recommend that it reassesses the referral and makes a new determination; or
- (c) set aside the decision of the Board and substitute any other decision that the Board has authority to make.

(2) The Appeals Committee may, whenever it deems appropriate in hearing an appeal, seek the opinion of an expert in any relevant discipline.

PART 6 - MISCELLANEOUS PROVISIONS

Offences and penalties

15.(1) A health service provider who, upon request of the Board fails to furnish complete medical records of his or her patient, commits an offence and is liable, on conviction to a fine not exceeding level 2 on the Standard Scale or imprisonment not exceeding six months or both.

(2) Any person who discloses any information acquired by him or her in the performance of any functions under this Act commits an offence and is liable, on conviction to a fine not exceeding level 2 on the Standard Scale or imprisonment not exceeding six months or both.

Compounding of offences

16.(1) The Chairperson of the Board, in consultation with the Attorney General, may compound any offence committed under this Act in the alternative of instituting legal proceedings or imposing an administrative penalty by accepting a sum of not more than the maximum fine specified for the offence;

(2) Where a minimum fine is provided, no sum of money less than the minimum shall be accepted.

(3) A sum of money received under this section shall be dealt with as though it were a fine imposed by a court.

(4) The Chairperson of the Board shall determine the sum of money to be paid by the offender, having due regard to the provisions of this Act, the nature, circumstances, extent and gravity of the offence and any previous conviction or compounding of offences under this Act.

(5) An ad-hoc compounding committee may be established to advise the Chairperson of the Board in the determination of the sum of money to be paid by the offender in accordance with subsection (1).

(6) Upon determination of the sum of money to be paid by the offender under subsection (4), the Chairperson of the Board shall sign the

compounding agreement and serve it on the offender, who shall pay the sum of money within 14 days from the date of service of the compounding agreement.

(7) In the event the offender fails to pay the sum of money within the period set under subsection (6), the compounding agreement shall be void and judicial proceedings shall be instituted or continued.

(8) On payment of the sums provided under this section, the compounding of any offence under subsection (1) shall be filed in court and the proceedings in connection with the commission of the offence which is pending shall be noted as compounded and the offender absolutely discharged.

(9) The compounding of an offence under this section shall be conclusive and final and no court proceedings shall be instituted for that offence.

(10) In any proceedings brought against any person for an offence under this Act, it shall be a defence if the person proves that the offence has been compounded under this section.

(11) Where a person has committed more than one offence under this Act, the Chairperson of the Board may compound the penalties.

Annual report

17.(1) The Board shall, after the expiration of each year and in any event not later than the 31st day of March in any year, submit to the Minister a report dealing generally with the activities of the Board during the preceding year.

(2) The report referred to under subsection (1) shall include —

- (a) the number of applications processed and determinations made in the period under review;
- (b) any impediment encountered in the discharge of its functions;

- (c) any policy matters that the Board may require to be addressed by the Minister; and
- (d) any other matter that the Board may consider necessary to the discharge of its functions under this Act.

(3) The Minister shall submit the report to the President and a copy shall be laid before the National Assembly.

Directions by the Minister

18. The Minister may give directions of policy to the Board in regard to the discharge of its functions under this Act and the Board shall comply with such directions.

Regulations

19. The Minister may, in consultation with the Board, make regulations for all matters which by or under this Act are required or necessary to be provided for in giving effect to the provisions of this Act.

Protection against legal proceedings

20. A member of the Board, the Manager, or any person acting under the authority of the Board under this Act, shall not be liable to any loss, damage, claim or be subjected to any legal action made in good faith in the performance of their functions.

Consequential amendments

21. The Social Security Act (Cap 225) and Seychelles Pension Fund Act (Cap 220) are amended to the extent specified in the First Schedule and Second Schedule.

FIRST SCHEDULE

Section 22

CONSEQUENTIAL AMENDMENTS

Amendments to the Social Security Act

Amendment of section 2

1. Section 2 of the Social Security Act (hereinafter referred to as the principal Act) is amended —

- (a) by repealing the definition “Medical Board” and substituting it with the following definition”.

“Functional Capacity Assessment Board” means the Board established under section 3 of the National Capacity Assessment Board Act.”

Amendment of section 30

2. Section 30 of the principal Act is repealed and substituted with the following —

“Functional Capacity Assessment Board

30. A person who is seeking invalidity or disability benefits shall be assessed by the Functional Capacity Assessment Board and its determination shall be conveyed in writing to the Agency of Social Protection.”

Repeal of Schedule

3. The Schedule to the principal Act is repealed.

SECOND SCHEDULE

Section 22

CONSEQUENTIAL AMENDMENTS

Amendments to the Seychelles Pension Fund Act

Amendment of section 2

1. Section 2 of the Seychelles Pension Fund Act (hereinafter referred

to as the principal Act) is amended by repealing the definition “Medical Board” and substituting it with the following definition” —

“Functional Capacity Assessment Board” means the Board established under section 3 of the National Capacity Assessment Board Act.”

Amendment of section 40

2. Section 40 of the principal Act is amended by repealing the words “Medical Board” in subsections (1), (3) and (5) and substituting them with the words “Functional Capacity Assessment Board”.

Amendment of section 43

3. Section 43 of the principal Act is amended by repealing the words “Medical Board” in subsection (3) and substituting them with the words “Functional Capacity Assessment Board”

Amendment of PART VIII

4. The heading of PART VIII of the principal Act is amended by repealing the words “Medical Board” and substituting them with the words “Functional Capacity Assessment Board”.

Amendment of section 56

5. Section 56 of the principal Act is repealed and substituted with the following —

“Functional Capacity Assessment Board

56. A person who is seeking invalidity or disability benefits shall be assessed by the Functional Capacity Assessment Board and its determination shall be conveyed in writing to the Seychelles Pension Fund.”.

TOBACCO CONTROL (AMENDMENT) BILL, 2024

(Bill No. 4 of 2024)

OBJECTS AND REASONS

The Tobacco Control Act (Cap. 235) (the “Act”) enacted in 2009 regulates and controls tobacco products.

Subsequent to the enactment of the Act, new products similar to tobacco that do not contain tobacco and products that do contain tobacco but are not smoked or used in the traditional way have come about and are in use.

The innovation of such new products and the need to regulate them necessitate the following amendments to the Act —

- (a) to regulate electronic cigarettes which are currently freely marketed and sold to anyone;
- (b) to regulate the manufacturing, importation, supply, display, distribution or sale of electronic nicotine delivery devices or heated tobacco products;
- (c) to make it mandatory to have health warnings and messages as specified by regulations displayed on all individual packages and outer packages of the device and consumable for sale in Seychelles;
- (d) to regulate the sale of electronic nicotine product or heated tobacco product, including its consumables, that is labelled or advertised to produce any attractive flavours that may be appealing to minors and may encourage them to start smoking; and
- (e) to provide enabling provisions to prescribe for tracking, tracing and plain packaging of tobacco products in line with obligations under the Framework Convention on Tobacco Control and the Protocol to Eliminate Illicit Trade in Tobacco Products.

Dated this 6th day of May, 2024.

**PEGGY VIDOT
MINISTER OF HEALTH**

TOBACCO CONTROL (AMENDMENT) BILL, 2024

(Bill No. 4 of 2024)

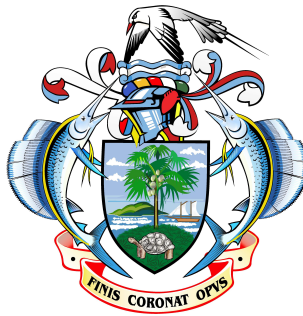
ARRANGEMENT OF SECTIONS

Sections

1. Short title
2. Amendment of section 2
3. Insertion of sections 13A, 13B, and 13C
4. Amendment of section 25
5. Amendment of section 27
6. Transitional provision

TOBACCO CONTROL (AMENDMENT) BILL, 2024

(Bill No. 4 of 2024)



A BILL

FOR

AN ACT TO AMEND THE TOBACCO CONTROL ACT, (CAP. 235).

ENACTED by the President and the National Assembly.

Short title

1. This Act may be cited as the Tobacco Control (Amendment) Act, 2023, and amends the Tobacco Control Act, (Cap. 235) (hereinafter referred to as the “principal Act”).

Amendment of section 2

2. The principal Act is amended in section 2 by —

- (a) repealing the definition of “advertisement” and substituting therefor the following —

“advertisement” means any audio or visual publicity, representation, endorsement or pronouncement made by means of light, sound, smoke, gas, print on billboards, windows, shop walls, vehicles, surfaces in public or private places, or in print media, electronic media, social media, internet or website and includes any notice, circular, label, wrapper, invoice or similar documents and the term “advertise” shall be construed accordingly;”;

- (b) repealing the definition of “tobacco product” and substituting therefor the following —

“ “tobacco” means any product obtained from the leaf or other parts of the *Nicotiana tobacum* plant or other related plants ;”;

- (c) inserting in the proper alphabetical order the following new definitions —

“Authority” means the Public Health Authority established under section 3 of the Public Health Authority Act, 2013 (Act 7 of 2013);

“electronic cigarette” means a product that —

- (a) can be used for the consumption of nicotine-containing vapour or aerosol via a mouth or a nose piece, or any component of that product, including a cartridge, a tank and a device without cartridge or tank, regardless of whether the product is disposable or refillable by means of a refill container, or a tank, or rechargeable with single use cartridges; and

(b) is not a medicinal product or medical device;

“electronic delivery device” means an electronic nicotine delivery device or an electronic non-nicotine delivery device that is not a medicinal product or medical device;

“electronic nicotine delivery device” means an electronically operated product designed to deliver an aerosol or vapour of nicotine to users;

“electronic non-nicotine delivery device” means an electronically operated product designed to deliver an aerosol or vapour that does not contain nicotine;

“nicotine” means nicotinic alkaloids;

“plain packaging” means measures to restrict or prohibit the use of logos, colours, brand images or promotional information on packaging other than brand names and product names displayed in a standardised colour and font style;

“tracking and tracing” means systematic monitoring and re-creation of the route or movement of tobacco products taken through the manufacturing or supply chain;”.

Insertion of sections 13A, 13B, and 13C

3. The principal Act is amended by inserting after section 13, the following sections —

“Health warnings and messages for electronic nicotine delivery devices or heated tobacco products

13A.(1) A person who manufactures, imports, supplies, displays, distributes or sells an electronic cigarette or heated tobacco product consumable for sale in Seychelles shall ensure that health warnings and messages as specified by regulations

shall be displayed on all individual packages and outer packages of the device .

(2) For the purpose of clarity, subsection (1) shall not apply to a person who imports an electronic nicotine delivery device including its consumables or heated tobacco products for personal consumption.

Prohibition of advertising or promotion of attractive flavours in electronic nicotine delivery device or heated tobacco

13B.(1) A person shall not sell an electronic nicotine delivery device or heated tobacco product, including its consumables, that is labelled to identify, promote or advertise any attractive flavour other than tobacco or menthol.

(2) For the purpose of clarity, subsection (1) shall not apply to a person who imports electronic nicotine delivery devices and their consumables or heated tobacco products for personal consumption.

Application of part II, III and IV

13C. The provisions of Part II, III and IV shall apply mutatis mutandis to electronic nicotine cigarettes.”.

Amendment of section 25

4. Section 25(2) of the principal Act is amended by inserting after the figure 13 the figures “13A, 13B,”.

Amendment of section 27

5. Section 27 of the principal Act is amended by —

(a) repealing paragraph (f) and substituting therefor —

“(f) the imposition of fixed penalty or spot fines;”

- (b) inserting after item (h) the following paragraphs —
- “(i) the manner and form to implement a system to enable the tracking and tracing of tobacco products;
 - (j) the manner and form for the implementation of plain packaging measures;
 - (k) create offences and provide penalties therefor to a fine not exceeding level 6 on the standard scale and to imprisonment not exceeding 5 years or to both such fine and imprisonment.”.

Transitional provision

6. Notwithstanding anything to the contrary under this Act, the application of sections 13A and 13B shall commence on the expiration of a period of 6 months of the coming into force of this Act.

SEYCHELLES PORTS AUTHORITY (AMENDMENT) BILL, 2024

(Bill No. 3 of 2024)

**EXPLANATORY STATEMENT OF THE OBJECTS AND REASONS
FOR THE BILL**

The primary object of the Bill is to amend the Seychelles Ports Authority Act *Cap 321*, to reflect the modernisation and digitalisation of the Seychelles Ports Authority, harmonious with the Port Rehabilitation and Extension Project.

The proposed amendments will allow the Authority to shift its activities towards a more commercial aspect as well as, strengthen its role as a “landlord port” and further emphasising the socio-economic objective of the Port as one of the main Port of entries into the country for trade of goods and entry of people.

The proposed Bill, *inter alia* provides —

- (a) new definitions under the interpretation section;
- (b) enabling provisions for certain commercial activities that the Seychelles Ports Authority will be able to conduct;
- (c) amendments in regards to the composition of the Board, its remuneration and the manner in which its business is conducted;
- (d) amendments in regards to the appointment of the Chief Executive Officer and introduces provisions for the appointment of a Deputy Chief Executive Officer;
- (e) amendments in regards to the appointment of the Harbour Master and introduces provisions for the appointment of a Deputy Harbour Master;
- (f) new provision for Pilotage, specific powers in regards to fishing ports and offences and penalties.

Dated this 10th day of May, 2024.

**ANTONY DERJACQUES
MINISTER OF TRANSPORT**

SEYCHELLES PORTS AUTHORITY (AMENDMENT) BILL, 2024

(Bill No. 3 of 2024)

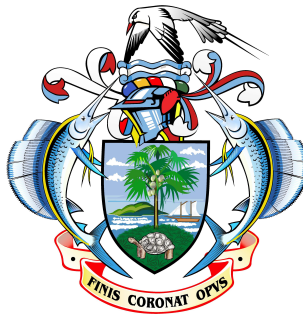
ARRANGEMENT OF SECTIONS

Sections

1. Short title
2. Amendment of section 2
3. Amendment of section 4
4. Amendment of section 5
5. Insertion of new section 6A
6. Repeal and replacement of section 7
7. Insertion of new section 7A
8. Repeal and replacement of section 8
9. Insertion of new section 8A, 8B, 8C and 8D.
10. Insertion of new section 10A.
11. Amendment of section 16
12. Amendment of section 17
13. Insertion of new section 19A and 19B
14. Amendment of section 20

SEYCHELLES PORTS AUTHORITY (AMENDMENT) BILL, 2024

(Bill No. 3 of 2024)



A BILL

FOR

AN ACT TO AMEND THE SEYCHELLES PORTS AUTHORITY ACT (CAP 321).

ENACTED by the President and the National Assembly.

Short title

1. This Act may be cited as the Seychelles Ports Authority (Amendment) Act, 2024.

Amendment of section 2

2. Section 2 of the Seychelles Ports Authority Act, in this Act referred to as the “principal Act” is amended —

- (a) by inserting, in alphabetical order, the following new definitions —

“Board” means the Board of the Authority constituted under section 4;

“Chairperson” means the Chairperson of the Board appointed under section 4(2);

“Chief Executive Officer” means the Chief Executive Officer of the Authority appointed under section 7;

“Deputy Chief Executive Officer” means the Deputy Chief Executive Officer of the Authority appointed under section 7A;

“harbour” means the Port of Victoria and any bay, roadstead or place within ten nautical miles from any coast within the Republic of Seychelles;

“Harbour Master” means the Harbour Master appointed under section 8;

“pilot” means a person appointed under section 8B;

“port and harbour dues” means the dues and rates prescribed by this Act;

“port facility” means a location where the vessel or port interface takes place including anchorages, berths and approaches;

“Port of Victoria” means the Port of Victoria, starting at Mahe Island bearing 000° by 4.6 nautical miles (Lat

04°53'S; Long 055°31'E), thence by a straight line in a north easterly direction to Fregate Island bearing 276° by 5.9 nautical miles (Lat 04° 36' S; Long 056° 03' E), thence by a straight line in a north north westerly direction to Grande Soeur Island bearing 230° by 7.7 nautical miles (Lat 04°12' S; Long 055° 58' E), thence by a straight line in a westerly direction to Aride Island bearing 094° by 7.5 nautical miles (Lat 04° 12' S; Long 055° 32' E), thence by a straight line in a west south westerly direction to North Island bearing 115° by 7 nautical miles (Lat 04° 20' S; Long 055° 08' E), thence by a straight line in a southerly direction to Silhouette Island bearing 030° by 10.8 nautical miles (Lat 04° 40' S; Long 055° 08' E), back to the starting point at Mahe Island bearing 0000 by 4.6 nautical miles or any other harbour as designated by the Minister under section 10A(4) ;

“Public Enterprise Monitoring Commission” means the Public Enterprise Monitoring Commission established under section 5 of the Public Enterprise Act, 2023;

“quay” means any quay, wharf, jetty, dolphin, landing place or other structure used for berthing or mooring vessels and includes pier, bridge, roadway or footway immediately adjacent and affording access thereto;

“Seychelles Fishing Authority” means the Seychelles Fishing Authority established under the Seychelles Fishing Authority (Establishment) Act, Cap 214;

“Seychelles Maritime Safety Authority” means the Seychelles Maritime Safety Authority established under the Seychelles Maritime Safety Authority Act, 2019;

“vessel” includes any ship, boat or any other description of vessel, artificial craft or water craft including non-displacement craft, WIG craft and seaplanes used in navigation and used or capable of being used as a means of

transportation on or in water, whether or not it is actually afloat and whether or not it has any means of propulsion, and also includes every article or thing or collection of things being or forming part of the tackle, apparel, furniture, equipment, cargo, stores or ballast of a vessel;

- (b) in the definition of “Minister”, by repealing the words “Transport”, and substituting it with the words “ports and maritime affairs”.
- (c) by repealing the definition of “Port” and substituting it with the following —

““Port” means any land, landing place, building, shed, port facility, quay, wharf and any other place vested in the Authority or under its control as may be defined or designated under this Act;”

Amendment of section 4

3. Section 4 of the principal Act is amended —

- (a) in subsection (1) —
 - (i) by repealing the word “five” and substituting it with the word “seven”;
 - (ii) by inserting after the words “members appointed by the”, the words “President in consultation with the”;
- (b) by repealing subsection (2) and substituting it with the following —

“(2) The President shall upon recommendation of the Minister appoint the Chairperson and Vice Chairperson from amongst the members of the Board.”

- (c) by repealing subsection (7) and substituting it with the following —

“(7) The salary and allowances and other terms and conditions of service of the Chairperson, Vice-Chairperson and members of the Board shall be in accordance with Government policies.”

- (d) by inserting immediately after subsection (7), the following new subsections —

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

(9) The Board may set up committees to assist the Board in matters regarding investment, audits, administration and other matters as may be determined by the Board.

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

Amendment of section 5

4. Section 5 of the principal Act is amended —

- (a) by repealing the word “Chairman” wherever it appears and substituting it with the word “Chairperson”;
- (b) by repealing the words “Chief Executive Officer” wherever they appear and substituting them with the words “Vice Chairperson”.

Insertion of new section 6A

5. The principal Act is amended by inserting immediately after section 6, the following new section —

“Powers of the Authority

- 6A.** Subject to this Act and any other law, the Authority

may do all things necessary for the carrying out of its duties, functions or powers under this Act, including —

- (a) acquire premises necessary or convenient for the exercise of its functions and for that purpose to buy, take on lease or exchange, hire or otherwise acquire immovable property and interests, rights, concessions, grants, powers and privileges in respect of such property;
- (b) buy, take in exchange, hire or otherwise acquire movable property necessary or convenient for the exercise of its functions;
- (c) maintain, alter or improve property acquired by it;
- (d) mortgage any assets or part of any assets, sell, exchange, lease, dispose of, turn to account or otherwise deal with any assets or part of any assets which are not required for the exercise of its functions for such consideration as the Board may determine;
- (e) draw, make, accept, endorse, discount, execute and issue for the purposes of its functions promissory notes, bills of exchange, bills of lading, securities and other negotiable or transferable instruments;
- (f) insure against losses, damages, risks and liabilities which may be incurred;
- (g) make contracts and enter into suretyships or give guarantees in connection with the exercise of its functions and modify or rescind such suretyships or guarantees;
- (h) enter into, renew, cancel or abandon arrangements with any government or authority, local or

otherwise that may seem conducive to the exercise of any of its functions and obtain from such government or authority, rights, privileges and concessions;

- (i) establish and administer such funds and reserves not specifically provided for in this Act as the Board may consider appropriate or necessary for the proper exercise of the Authority's functions;
- (j) pay such remuneration and allowances and grant such leave of absence;
- (k) construct dwellings, outbuildings or improvements for use or occupation by its members of staff on land purchased, taken on lease or in exchange or otherwise acquired by the Authority;
- (l) provide such services and facilities as the Board considers proper and charge for such services and facilities such fees as the Board may, determine;
- (m) grant leases, subleases or other interests or concessions in respect of land or buildings within the port and its environ on such terms and conditions and subject to the payment of rent or other consideration as the Authority may think fit;
- (n) grant loans to employees of the Authority for purposes approved by the Authority;
- (o) provide training for employees of the Authority;
- (p) generally to do anything that is calculated to facilitate or is incidental or conducive to the exercise of the Authority's functions under this Act or any other law.”

Repeal and replacement of section 7

6. The principal Act is amended by repealing section 7 and substituting it with the following —

“The Chief Executive Officer

7.(1) The President may, on the recommendation of the Minister, appoint the 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.

(3) The salary and allowances and other terms and conditions of service of the Chief Executive Officer shall be in accordance with Government policies.

(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.”

Insertion of new section 7A.

7. The principal Act is amended by inserting immediately after section 7, the following new section —

“Appointment of a Deputy Chief Executive Officer

7A.(1) The President may, upon recommendation of the Minister, appoint the Deputy Chief Executive Officer of the Authority.

(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.

(3) The salary and allowances and other terms and conditions of service of the Deputy Chief Executive Officer shall be in accordance with Government policies.

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

Repeal and replacement of section 8

8. The principal Act is amended by repealing section 8 and substituting it with the following —

“Appointment of a Harbour Master

8.(1) The Board shall appoint a Harbour Master on such terms and conditions as the Board shall determine.

(2) The Harbour Master shall perform his or her functions under the direction of the Chief Executive Officer which shall include —

- (a) enforcement of this Act and subsidiary legislations made under this Act;
- (b) assisting in drafting of policies and standards in line with both national and international maritime laws to ensure conformity with the operations of the Authority;
- (c) acting as the operational maritime advisor to the Board, the Ministry and management of the Authority on matters concerning port safety and security, port maritime operations and port management;
- (d) planning and coordination of maritime port operations and services on behalf of the Authority; and
- (e) ensuring that the Port's mandate to the Authority has efficient ship- to- shore interface.

(3) Where any vessel is sunk or abandoned in any harbour, the Harbour Master shall contact the Seychelles Maritime Safety Authority as receiver of wrecks to request for the appropriate disposal of the vessel.”

Insertion of new sections 8A, 8B, 8C and 8D.

9. The principal Act is amended by inserting immediately after section 8 the following new sections —

“Deputy Harbour Master

8A.(1) The Board may appoint the Deputy Harbour Master of the Authority.

(2) The Deputy Harbour Master shall discharge the functions of the Harbour Master —

- (a) during a vacancy in the office of the Harbour Master; or
- (b) during the period in which the Harbour Master is absent from duty or is unable to perform the functions of that office.

(3) The Deputy Harbour Master shall perform such other functions as the Harbour Master may delegate to him or her.

Salvage operations

8B.(1) The Authority shall, through the Harbour Master and subject to any permission required by the Chief Executive Officer, have the power to conduct salvage operations in the inner harbour, outer harbour, Seychelles waters, high seas or in another foreign jurisdiction.

(2) For the purpose of subsection (1), the Authority shall be remunerated in accordance with the framework in place governing salvage, depending on the jurisdiction where the salvage activity occurred.

Recovery of harbour dues by court proceedings

8C. Without prejudice to any other remedy, the Authority may recover harbour dues payable in respect of a vessel from the owner, master or agent of such vessel by proceedings in any court of competent jurisdiction.

Pilotage

8D.(1) The Board may appoint such number of qualified

persons as the Board may deem fit, to act as pilots in and for any one or more of the Seychelles Islands.

(2) Any pilot shall, besides the conduct of ships and vessels, discharge such other duties as the Authority may delegate.

(3) The Authority shall as soon as possible after the appointment of a pilot, furnish a security bond through an approved guarantee society, in the sum of SCR15, 000.

(4) The bond under subsection (3) shall be a condition for —

- (a) the careful pilotage of ships and vessels, which the pilot shall conduct in the execution of his or her office; and
- (b) his or her proper observance of all laws and regulations or orders affecting his or her office.

(5) The Authority shall not be responsible to any party aggrieved by any act done by any pilot in the execution of his or her office beyond the amount of the security bond of such pilot, and such responsibility shall cease on the production by the Authority of the said bond.

(6) Any party aggrieved by any act of a pilot in the execution of his or her office, may recover from the Authority and the guarantee society the amount of such security bond or any portion of it which may seem just to a competent court.

(7) A list of pilots appointed under this Act shall be affixed to a conspicuous part of the office of the Authority, and disseminated by any means possible.

(8) There shall be compulsory pilotage for vessels of

150 Gross Tonnage and above coming in, going out, anchoring, berthing, unberthing and shifting into the inner harbour, except where the Harbour Master issues exemptions and conditions, whenever required.

(9) Notwithstanding anything in any written law, the owner or master of a vessel navigating under circumstances in which pilotage is compulsory shall be answerable for any loss or damage caused by the vessel or by any fault of the navigation of the vessel in the same manner as he or she would if pilotage were not compulsory.”

Insertion of new section 10A.

10. The principal Act is amended by inserting immediately after section 10, the following new section —

“Specific powers

10A.(1) The Authority shall be responsible for the management and administration of all ports in Seychelles.

(2) Notwithstanding subsection (1) the Minister may, by order, designate any areas within or in the vicinity of the harbour as the artisanal and semi industrial fishing port of Seychelles.

(3) The Minister in consultation with the Minister responsible for fisheries may make regulations with respect to the administration and control of the artisanal and semi industrial fishing Port of Seychelles and, for that purpose may, in particular confer or impose powers and duties on the Seychelles Fishing Authority, including powers to make changes and levy fees in prescribed circumstances.

(4) The Minister may, by order, define and designate

any harbour, port, port facility, quay, port security area, and define lawful wharves, landing places, mooring places and marinas for the purposes of regulations made under this Act.

(5) All activities engaged on the premises demarcated as port premises shall be subject to terms and conditions specified by the Authority.”

Amendment of section 16

11. Section 16 of the principal Act is amended by repealing subsection (3) and substituting it with the following —

“(3) The provisions relating to audit of accounts or the law governing the monitoring of public enterprises shall apply in respect of the appointment of auditors to audit the accounts of the Authority.”

Amendment of section 17

12. The principal Act is amended by repealing section 17 and substituting it with the following —

“Annual report

17. The Authority shall prepare an annual report on its operations and shall, within three months after the end of each financial year submit it together with a copy of its annual audited accounts and any report by the auditors on its management and accounting practices, to the —

- (a) Minister;
- (b) Minister of Finance; and
- (c) Public Enterprise Monitoring Commission.”

Insertion of new sections 19A and 19B.

13. The principal Act is amended by inserting immediately after section 19, the following new sections —

“Liability of a master or agent of a vessel

19A. In the event of default of obligations by a vessel, the master, owner or appointed agent of the vessel shall be liable to the Authority for breach of this Act or regulations made under this Act by the vessel and shall bear the costs payable to the Authority.”

Offences and penalties

19B.(1) Any person who has not been appointed a pilot under this Act, and pilots any ship or vessel into or out of the harbour limits as prescribed by this Act, commits an offence and shall be liable on conviction to a fine not exceeding level 7 on the Standard Scale without prejudice in any such case to any action in damages in which he or she may be answerable for any act done by him or her.

(2) Any master or other person in charge of a ship or vessel, who willfully employs as a pilot any person who is not qualified under this Act to act as a pilot commits an offence and shall be liable on conviction to a fine not exceeding level 7 on the Standard Scale or to imprisonment not exceeding two years or to both.

(3) Subsection (2) shall not apply where any unqualified person is employed as a pilot to conduct a ship or vessel when such ship or vessel was in distress, or under circumstances which rendered it necessary for the master or person in charge of the ship or vessel to avail himself or herself of the best assistance which could be procured at the time.”

Amendment of section 20

14. Section 20 of the principal Act is amended —

- (a) by renumbering the existing section as subsection (1);
- (b) by inserting after subsection (1), the following new subsections —

“(2) Without limiting the generality of subsection (1), regulations made under that subsection may provide for —

- (a) the control of traffic in the harbour, wharves, landing places, quays, buoys and lighters of small craft, plying boats, motor boats employed in the harbour for the transport of persons and goods, and the tariff for such boats;
- (b) the prohibition, control and regulation of persons and goods entering or leaving the Port area;
- (c) the control of vessels in the Port and harbour area, the landing of cargo, the berthing, mooring and departure of ships;
- (d) pilotage, towage, anchorage, light, supplying of water to any vessel in the harbour and other dues to be paid to the Authority in respect of any vessel entering or leaving the harbour;
- (e) the powers of the Harbour Master and all matters concerning port operations by the Authority;
- (f) the tariffs to be charged by the Authority;

- (g) the remittance or reduction of any charges due under this Act;
 - (h) the control and directives of all marinas legally operating in Seychelles;
 - (i) the management systems and logistics of ports; and
 - (j) the control of marine pollution, garbage, waste water or sewage release from vessels within the harbour.
- (3) Regulations made under subsection (1) and (2) may provide for offences and in respect of those offences may provide —
- (a) for penalties of fines not exceeding level 7 on the Standard Scale or imprisonment not exceeding two years;
 - (b) where appropriate, imposition of fixed penalties in respect of an offence, and authorise one or more port security officers for such purpose;
 - (c) that the payment of a fixed penalty may discharge the person of liability from prosecution for an offence.”.