

CONSOLIDATED TO 6 JANUARY 2014

LAWS OF SEYCHELLES

CHAPTER 42

CONSTITUTION OF THE REPUBLIC OF SEYCHELLES

[21st June, 1993]

SI. 38 of 1993

Act 7 of 1994

Act 5 of 1995

Act 19 of 1995

Act 14 of 1996

Act 7 of 2000

Act 7 of 2011

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ARRANGEMENT OF ARTICLES

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PREAMBLE

We, the People of Seychelles,

GRATEFUL to Almighty God that we inhabit one of the most beautiful countries in the World;

EVER MINDFUL of the uniqueness and fragility of Seychelles;

CONSCIOUS of our colonial history before becoming an Independent Republic;

AWARE and PROUD that s descendants of different races we have learnt to live together as one Nation under God and can serve as an example for a harmonious multi-racial society;

HAVING attained national stability and political maturity despite the pressures of a sadly divided world;

DESIROUS to build a just, fraternal and humane society in a spirit of friendship and co-operation with all peoples of the world;

RECOGNISING the inherent dignity and the equal and inalienable rights of all members of the human family as the foundation for freedom, justice, welfare, fraternity, peace and unity;

REAFFIRMING that these rights include the rights of the individual to life, liberty and the pursuit of happiness free from all types of discrimination;

CONSIDERING that these rights are most effectively maintained and protected in a democratic society where all powers of Government spring from the will of the people

EXERCISING our natural and inalienable right to a framework of Government which shall secure for ourselves and posterity the blessings of truth, liberty, fraternity, equality or opportunity, justice, peace, stability and prosperity;

INVOKING the blessings of Almighty God;

SOLEMNLY DECLARING our unswaying commitment, during this our Third Republic, to

\*maintain Seychelles as an independent State both politically and economically;

\*uphold the rule of law based on the recognition of the fundamental human rights and freedoms enshrined in this Constitution and on respect for the equality and dignity of human beings;

\*develop a democratic system which will ensure the creation of an adequate and progressive social order guaranteeing food, clothing, shelter, education, health and a steadily rising standard of living for all Seychellois;

\*participate actively in the sustainable economic and social development of our society;

\*exercise our individual rights and freedoms with due regard to the rights and freedoms of others and the common interest;

\*help preserve a safe, healthy and functioning environment for ourselves and for posterity;

HEREBY adopt and confer upon ourselves this Constitution as the fundamental and supreme law of our Sovereign and Democratic Republic.

## CHAPTER I - THE REPUBLIC

### Declaration of Republic

Short title

1. Seychelles is a sovereign democratic Republic.

National territory

## Interpretation

2. (1) The territory of Seychelles shall consist of -

(a) the islands of the Seychelles Archipelago, as set out in Part 1 of Schedule 1;

(b) the territorial waters and historic waters of Seychelles and the seabed and subsoil underlying those waters;

(c) the airspace above those islands and those waters; and

(d) such additional areas as may be declared by law to be part of the territory of Seychelles.

(2) Notwithstanding clause (1), a law may proclaim complete or partial jurisdiction of the Republic over any other area of land, water or airspace.

(3) An Act shall declare the limit of the territorial waters and historic waters of Seychelles and may prescribe the limit of the airspace referred to in clause (1)(c).

## National symbols

3. There shall be a Public Seal, a National Flag, a National Anthem, a National Emblem and a National Motto, each of which shall be as prescribed by an Act.

## National languages

4. (1) The national languages of Seychelles shall be Creole, English and French.

(2) Notwithstanding clause (1), a person may use any of the national languages for any purpose but a law may provide for the use of any one or more of the national languages for any specific purpose.

## Constitution is supreme law

5. This Constitution is the supreme law of Seychelles and any other law found to be inconsistent with this Constitution is, to the extent of the inconsistency, void.

## Principles of interpretation

6. Schedule 2 shall apply for and with respect to the interpretation of this Constitution.

## CHAPTER II - CITIZENSHIP

### Persons continuing to be citizen

7. A person who, immediately before the coming into force of this Constitution, was a citizen of Seychelles by birth, descent, naturalization or registration shall, on and after that date, continue by virtue of this article to be a citizen of Seychelles by birth, descent, naturalization or registration, as the case may be.

## Persons born in Seychelles

8. Subject to article 9, a person born in Seychelles on or after the coming into force of this Constitution, shall become a citizen of Seychelles at the date of birth.

## Limitation on operation of article 8

9. (1) A person shall not become a citizen of Seychelles by virtue of article 8 if, at the date of birth, neither of the person's parents is a citizen of Seychelles.

(2) A person shall not become a citizen of Seychelles by virtue of article 8 if, at the date of birth,-

(a) either of the person's parents possesses such immunity from suit and legal process as is accorded to an envoy of a foreign sovereign power accredited to Seychelles; or

(b) either of the person's parents is a citizen of a country with which Seychelles is at war and the birth occurs in a place then under occupation by that country,

and neither of the person's parents is a citizen of Seychelles.

## Persons born outside Seychelles before Independence Day

10. (1) This article shall apply to a person-

(a) who would not, but for this article be or become a citizen of Seychelles;

(b) who was born outside Seychelles before Independence Day; and

(c) any one of whose grand parents or parents was born in Seychelles.

(2) Subject to any Act, a person to whom this article applies shall be eligible to become a citizen of Seychelles by naturalization or registration.

## Persons born outside Seychelles after Independence Day but before 5th June 1979

10A. A person born outside Seychelles on or after the Independence Day but before the 5th June, 1979 whose mother was a Seychellois at the time of the person's birth is eligible to become a citizen of Seychelles by naturalization or registration.

## Persons born outside Seychelles after this Constitution comes into force

11. A person born outside Seychelles on or after the coming into force of this Constitution shall become a citizen of Seychelles at the date of birth if at that date the person's father or mother is a citizen of Seychelles.

## Marriage to citizen of Seychelles

12. (1) A person who, on or after the coming into force of this Constitution, marries another person who is or becomes a citizen of Seychelles shall, subject to any Act, be eligible to become a citizen of Seychelles by naturalization.

(2) Clause (1) shall apply to a person who is not a citizen of Seychelles or eligible to become a citizen of Seychelles under article 10 and who, on or after Independence Day, and before the coming into force of this Constitution, married another person who was or became, or who becomes, a citizen of Seychelles, as it applies to a person such as is referred to in clause (1).

#### Acquisition of citizenship, etc

13. (1) Provision may be made by or under an Act-

(a) for the acquisition of citizenship of Seychelles by any person who is not eligible or who is no longer eligible to become a citizen of Seychelles under this Chapter;

(b) for depriving any person of citizenship of Seychelles, it was unlawfully acquired;

(c) for the renunciation of citizenship of Seychelles by any person; and

(d) for the maintenance of a register of citizens of Seychelles who are also citizens of other countries.

(2) A person who is a citizen of Seychelles may concurrently possess the citizenship of another country and a law made for the purposes of clause (1)(a) shall not require, as a condition for the acquisition of citizenship of Seychelles, that a person renounces any other citizenship that the person may possess at the time.

#### Interpretation of Chapter II

14. (1) For the purposes of this Chapter-

(a) a person born on a registered ship or aircraft shall be deemed to have been born at the place where the ship or aircraft was registered; and

(b) a person born on an unregistered ship or aircraft belonging to the government of a country shall be deemed to have been born in that country.

(2) Any reference in this Chapter to the national status of the father or mother of a person at the time of the birth of that person shall, in relation to a person born after the death of the father or mother, be construed as a reference to the national status of the father or mother at the time of the father's or mother's death; and accordingly, where that death occurred before the coming into force of this Constitution, the national status that the father or mother would have had if he or she had died on the coming into force of this Constitution shall be deemed to be his or her national status at the time of his or her death.

#### CHAPTER III

## PART I - SEYCHELLOIS CHARTER OF FUNDAMENTAL HUMAN RIGHTS AND FREEDOMS

### Right to life

15. (1) Everyone has a right to life and no one shall be deprived of life intentionally.
- (2) A law shall not provide for a sentence of death to be imposed by any court.
- (3) Clause (1) is not infringed if there is a loss of life-
  - (a) by any act or omission which is made not punishable by any law reasonably justifiable in a democratic society; or
  - (b) as a result of a lawful act of

### war. Right to dignity

16. Every person has a right to be treated with dignity worthy of a human being and not to be subjected to torture, cruel, inhuman or degrading treatment or punishment.

### Freedom from slavery and forced or compulsory labour

17. (1) Every person has a right not to be held in slavery or bondage.
- (2) Every person has a right not to be compelled to perform forced or compulsory labour.
- (3) Labour forced or compelled to be performed pursuant to a law necessary in a democratic society does not infringe clause (2).

### Right to liberty

18. (1) Every person has a right to liberty and security of the person.
- (2) The restriction, in accordance with fair procedures established by law, of the right under clause (1) in the following cases shall not be treated as an infringement of clause (1)-
  - (a) the arrest or detention in execution of a sentence or other lawful order of a court;
  - (b) the arrest or detention on reasonable suspicion of having committed or of being about to commit an offence for the purposes of investigation or preventing the commission of the offence and of producing, if necessary, the offender before a competent court;
  - (c) the arrest or detention to prevent the spread of infectious or contagious diseases which constitute a serious threat to public health;
  - (d) the arrest or detention for the treatment and rehabilitation of a person who is, or reasonably suspected to be, of unsound mind or addicted to drugs to prevent harm to that person or to the community;

(e) the arrest or detention for the purpose of preventing the unauthorized entry into Seychelles of a person, not being a citizen of Seychelles, or for the purpose of deportation or extradition of that person;

(f) the detention for the rehabilitation and welfare of a minor with the consent of the parent or guardian or of the Attorney-General where such detention is ordered by a competent court.

(3) A person who is arrested or detained has a right to be informed at the time of the arrest or detention or as soon as is reasonably practicable thereafter in, as far as is practicable, a language that the person understands of the reason for the arrest or detention, a right to remain silent, a right to be defended by a legal practitioner of the person's choice and, in the case of a minor, a right to communicate with the parent or guardian.

(4) A person who is arrested or detained shall be informed at the time of the arrest or detention or as soon as is reasonably practicable thereafter of the rights under clause (3).

(5) A person who is arrested or detained, if not released, shall be produced before a court within twenty-four hours of the arrest or detention or, having regard to the distance from the place of arrest or detention to the nearest court or the non-availability of a judge or magistrate, or force majeure, as soon as is reasonably practicable after the arrest or detention.

(6) A person charged with an offence has a right to be tried within a reasonable time.

(7) A person who is produced before a court shall be released, either unconditionally or upon reasonable conditions, for appearance at a later date for trial or for proceedings preliminary to a trial except where the court, having regard to the following circumstances, determines otherwise-

(a) where the court is a magistrates' court, the offence is one of treason or murder;

(b) the seriousness of the offence;

(c) there are substantial grounds for believing that the suspect will fail to appear for the trial or will interfere with the witnesses or will otherwise obstruct the course of justice or will commit an offence while on release;

(d) there is a necessity to keep the suspect in custody for the suspect's protection or where the suspect is a minor, for the minor's own welfare;

(e) the suspect is serving a custodial sentence;

(f) the suspect has been arrested pursuant to a previous breach of the conditions of release for the same offence.

(8) A person who is detained has the right to take proceedings before the Supreme Court in order that the Court may decide on the lawfulness of the detention and order the release of the person if the detention is not lawful.

(9) Proceedings under clause (8) shall be dealt with as a matter of urgency by the Supreme Court and shall take priority over the proceedings of the Court listed for hearing on that day.

(10) A person who has been unlawfully arrested or detained has a right to receive compensation from the person who unlawfully arrested or detained that person or from any other person or authority, including the State, on whose behalf or in the course of whose employment the unlawful arrest or detention was made or from both of them.

(11) A person who has not been convicted of an offence, if kept or confined in a prison or place of detention, shall not be treated as a convicted person and shall be kept away from any convicted person.

(12) An offender or a suspect who is a minor and who is kept in lawful custody or detention shall be kept separately from any default offender or suspect.

(13) A female offender or suspect who is kept in lawful custody or detention shall be kept separately from any male offender or suspect.

(14) Where a person is convicted of any offence, any period which the person has spent in custody in respect of the offence shall be taken into account by the court in imposing any sentence of imprisonment for the offence.

(15) A person shall not be imprisoned merely on the ground of the inability to fulfill a contractual obligation.

(16) Clause (15) shall not limit the powers of a court under any law in enforcing its orders. Right to fair and public hearing

19. (1) Every person charged with an offence has the right, unless the charge is withdrawn, to a fair hearing within a reasonable time by an independent and impartial court established by law.

(2) Every person who is charged with an offence-

(a) is innocent until the person is proved or has pleaded guilty;

(b) shall be informed at the time the person is charged or as soon as is reasonably practicable, in, as far as is practicable, a language that the person understands and in detail, of the nature of the offence;

(c) shall be given adequate time and facilities to prepare a defence to the charge;

(d) has a right to be defended before the court in person, or, at the person's own expense by a legal practitioner of the person's own choice, or, where a law so provides, by a legal practitioner provided at public expense;

(e) has a right to examine, in person or by a legal practitioner, the witnesses called by the prosecution before any court, and to obtain the attendance and carry out the examination of witnesses to testify on the person's behalf before the court on the same conditions as those applying to witnesses called by the prosecution;



(f) shall, as far as is practicable, have without payment the assistance of an interpreter if the person cannot understand the language used at the trial of the charge;

(g) shall not be compelled to testify at the trial or confess guilt;

(h) shall not have any adverse inference drawn from the exercise of the right to silence either during the course of the investigation or at the trial; and

(i) shall, except with the person's own consent, not be tried in the person's absence unless the person's conduct renders the continuance of the proceedings in the person's presence impracticable and the court has ordered the person to be removed and the trial to proceed in the person's absence.

(3) When a person is tried for any offence that person or any other person authorised by that person in that behalf shall, if either of them so requires and subject to payment of such reasonable fee as may be specified by or under any law, be given as soon as is practicable after judgment a copy for the use of that person of any record of the proceedings made by or on behalf of the court.

(4) Except for the offence of genocide or an offence against humanity, a person shall not be held to be guilty of an offence on account of any act or omission that did not, at the time it took place, constitute an offence, and a penalty shall not be imposed for any offence that is more severe in degree or description for any offence that is more severe in degree or description than the maximum penalty that might have been imposed for the offence at the time when it was committed.

(5) A person who shows that the person has been tried by a competent court for an offence and either convicted or acquitted shall not be tried again for that offence or for any other offence of which the person could have been convicted at the trial for that offence, save upon the order of a superior court in the course of appeal or review proceedings relating to the conviction or acquittal.

(6) A person shall not be tried for an offence if the person shows that the person has been pardoned for that offence in accordance with an Act made pursuant to article 60(2).

(7) Any court or other authority required or empowered by law to determine the existence or extent of any civil right or obligation shall be established by law and shall be independent and impartial, and where proceedings for such a determination are instituted by any person before such a court or other authority the case shall be given a fair hearing within a reasonable time.

(8) Subject to clause (9), all proceedings of every court and proceedings for the determination of the existence or extent of any civil right or obligation before any court or other authority, including the announcement of the decision of the court or other authority, shall be held in public.

(9) Anything in clause (8) shall not prevent the court or other authority from excluding from the proceedings, except for the announcement of the decision of the court or other authority, persons other than the parties thereto, their legal representatives and legal practitioners to such extent as the court or other authority-

(a) may by law be empowered so to do and may consider necessary in the circumstances where publicity would prejudice the interests of justice, or in interlocutory proceedings, or in the interests of public morality, the welfare of persons under the age of eighteen years or the protection of the privacy of persons concerned in the proceedings; or

(b) may by law be empowered or required to do so in the interests of defence, public safety or public order.

(10) Anything contained in or done under the authority of any law necessary in a democratic society shall not be held to be inconsistent with or in contravention of -

(a) clause (1), (2)(e) or (8), to the extent that the law in question makes necessary provision relating to the grounds of privilege or public policy on which evidence shall not be disclosed or witnesses are not competent or cannot be compelled to give evidence in any proceedings;

(b) clause (2)(a), to the extent that the law in question imposes upon any person charged with an offence the burden of proving particular facts or declares that the proof of certain facts shall be prima facie proof of the offence or of any element thereof;

(c) clause (2)(e), to the extent that the law in question imposes conditions that must be satisfied if witnesses called to testify on behalf of an accused person are to be paid their expenses out of public funds;

(d) clause (5), to the extent that the law in question authorizes a court to try a member of a disciplinary force for an offence notwithstanding any trial and conviction or acquittal of that member under the disciplinary law of that force, so, however, that any court so trying such a member and convicting the member shall in sentencing the person to any punishment take into account any punishment awarded the member under that disciplinary law.

(11) Every person convicted of an offence shall be entitled to appeal in accordance with law against the conviction, sentence and any order made on the conviction.

(12) For the purposes of clause 2(i), a person who has, in accordance with law, been served with a summons or other process requiring the person to appear at the time and place appointed for the trial and who does not so appear shall be deemed to have consented to the trial taking place in the person's absence.

(13) Every person convicted of an offence and who has suffered punishment as a result of the conviction shall, if it is subsequently shown that there has been a serious miscarriage of justice, be entitled to be compensated by the State according to law.

#### Right to privacy

20. (1) Every person has a right not to be subjected -

(a) without the consent of that person, to the search of the person or property or premises of that person or to the unlawful entry by others on the premises of that person;

(b) without the consent of the person or an order of the Supreme Court, to the interception of the correspondence or other means of communication of that person either written, oral or through any medium.

(2) Anything contained in or done under the authority of any law shall not be held to be inconsistent with or in contravention of clause (1) (a) to the extent that the law in question makes provision-

(a) that is reasonably required in the interest of defence, public safety, public order, public morality, public health, the administration of Government, town and country planning, nature conservation and the economic development and well-being of the country;

(b) that is reasonably required for the purpose of protecting the rights or freedoms of other persons;

(c) that authorizes an officer or agent of the Government or a local authority, or a body corporate established by law for public purposes, to enter on the premises of any person in order to inspect or value those premises or anything therein for the purpose of any tax, rate, due or duty or in order to carry out work connected with any property that is lawfully on those premises and that belongs to the Government or that authority or body corporate, as the case may be; or

(d) that authorizes, for the purpose of enforcing of the judgment or order of a court in any civil proceedings, the search of any person or property by order of a court or the entry upon any premises by such order.

except so far as that provision or, as the case may be, the thing done under the authority thereof is shown not to be necessary in a democratic society.

#### Freedom of conscience

21. (1) Every person has a right to freedom of conscience and for the purpose of this article this right includes freedom of thought and religion, freedom to change religion or belief and freedom either alone or in community with others and both in public and in private, to manifest and propagate the religion or belief in worship, teaching, practice and observance.

(2) The freedom to manifest and propagate a religion or belief may be subject to such limitations as may be prescribed by a law and necessary in a democratic society-

(a) in the interests of defence, public safety, public order, public morality or public health; or

(b) for the purpose of protecting the rights or freedoms of other persons.

(3) A person attending any place of education shall not be compelled to impart or receive religious instruction or to take part in or attend any religious ceremony or observance.

(4) Subject to this Constitution or any other law, a person shall not be compelled to take any oath that is contrary to the religion or belief of that person or to take any oath in a manner that is contrary to that religion or belief.

(5) A person shall not be required to profess any religion as a qualification for public office.

(6) A law shall not make provision for the establishment of any religion or the imposition of any religious observance.

(7) Anything in this article shall not preclude any religious community or denomination from providing religious instruction for persons of that community or denomination in the course of any education provided by that community or denomination.

#### Freedom of expression

22. (1) Every person has a right to freedom of expression and for the purpose of this article this right includes the freedom to hold opinions and to seek, receive and impart ideas and information without interference.

(2) The right under clause (1) may be subject to such restrictions as may be prescribed by a law and necessary in a democratic society-

(a) in the interest of defence, public safety, public order, public morality or public health;

(b) for protecting the reputation, rights and freedoms or private lives of persons;

(c) for preventing the disclosure of information received in confidence;

(d) for maintaining the authority and independence of the courts or the National Assembly;

(e) for regulating the technical administration, technical operation, or general efficiency of telephones, telegraphy, posts, wireless broadcasting, television, or other means of communication or regulating public exhibitions or public entertainment; or

(f) for the imposition of restrictions upon public

officers. Right of assembly and association

23. (1) Every person has a right to freedom of peaceful assembly and association and for the purpose of this article this right includes the right to assemble freely and associate with other persons and in particular to form or to belong to political parties, trade unions or other associations for the protection of the interests of that person and not to be compelled to belong to any association.

(2) The right under clause (1) may be subject to such restrictions as may be prescribed by a law and necessary in a democratic society-

(a) in the interests of defence, public safety, public order, public morality or public health;

(b) in respect of the registration of associations or political parties;

(c) for the protection of the rights and freedoms of other persons,

(d) for imposition of restrictions-

(i) on persons who are not citizens of Seychelles; or

(ii) on public officers or members of the disciplinary

forces. Right to participate in Government

24. (1) Subject to this Constitution, every citizen of Seychelles who has attained the age of eighteen years has a right-

(a) to take part in the conduct of public affairs either directly or through freely chosen representatives;

(b) to be registered as a voter for the purpose of and to vote by secret ballot at public elections which shall be by universal and equal suffrage;

(c) to be elected to public office; and

(d) to participate, on general terms of equality, in public service.

(2) The exercise of the rights under clause (1) may be regulated by a law necessary in a democratic society.

Freedom of movement

25. (1) Every person lawfully present in Seychelles has a right of freedom of movement and for the purpose of this article this right includes the right to move freely within Seychelles, the right to reside in any part of Seychelles, the right to leave Seychelles and the right not to be expelled from Seychelles.

(2) Every person who is a citizen of Seychelles has a right to enter Seychelles and, subject to clause (3)(d), not to be expelled from Seychelles.

(3) The right under clause (1) may be subject to such restrictions as are prescribed by a law necessary in a democratic society-

(a) in the interests of defence, public safety, public order, public morality or public health;

(b) for protecting the rights and freedoms of other persons;

(c) for the prevention of a crime or compliance with an order of a court;

(d) for extradition of persons from Seychelles; or

(e) for lawful removal of persons who are not citizens of Seychelles from Seychelles.

(4) A law providing for the extradition of persons from Seychelles shall not authorise the extradition to a country in respect of an offence punishable with death in that country unless that country undertakes not to carry into effect a sentence of death in respect of the offence.

(5) A law providing for the lawful removal from Seychelles of persons lawfully present in Seychelles shall provide for the submission, prior to removal, of the reasons for the removal and for the review and for review by a competent authority of the order of removal.

#### Right to property

26. (1) Every person has a right to property and for the purpose of this article this right includes the right to acquire, own, peacefully enjoy and dispose of property either individually or in association with others.

(2) The exercise of the right under clause (1) may be subject to such limitations as may be prescribed by law and necessary in a democratic society-

- (a) in the public interest;
- (b) for the enforcement of an order or judgment of a court in civil or criminal proceedings;
- (c) in satisfaction of any penalty, tax, rate, duty or due;
- (d) in the case of property reasonably suspected of being acquired by the proceeds of drug trafficking or serious crime;
- (e) in respect of animals found trespassing or straying;
- (f) in consequence of a law with respect to limitation of actions or acquisitive prescription;
- (g) with respect to property of citizens of a country at war with Seychelles;
- (h) with regard to the administration of the property of persons adjudged bankrupt or of persons who have died or of persons under legal incapacity; or
- (i) for vesting in the Republic of the ownership of underground water or unextracted oil or minerals of any kind or description.

(3) A law shall not provide for the compulsory acquisition or taking of possession of any property by the State unless-

- (a) reasonable notice of the intention to compulsorily acquire or take possession of the property and of the purpose of the intended acquisition or taking of possession are given to persons having an interest or right over the property;
- (b) the compulsory acquisition or taking of possession is necessary in the public interest for the development or utilization of the property to promote public welfare or benefit or for public defence, safety, order, morality or health or for town and country planning;
- (c) there is reasonable justification for causing any hardship that may result to any person who has an interest in or over the property;
- (d) the State pays prompt and full compensation for the property;

(e) any person who has an interest or right over the property has a right of access to the Supreme Court whether direct or on appeal from any other authority for the determination of the interest or right, the legality of the acquisition or taking of possession of the property, the amount of compensation payable to the person and for the purpose of obtaining prompt payment of compensation.

(4) Where the property acquired by the State under this article is not used, within a reasonable time, for the purpose for which it was acquired, the State shall give, to the person who owned it immediately before the acquisition of the property, an option to buy the property.

(5) A law imposing any restriction on the acquisition or disposal of property by a person who is not a citizen of Seychelles shall not be held to be inconsistent with clause (1).

#### Right to equal protection of the law

27. (1) Every person has a right to equal protection of the law including the enjoyment of the rights and freedoms set out in this Charter without discrimination on any ground except as is necessary in a democratic society.

(2) Clause (1) shall not preclude any law, programme or activity which has as its object the amelioration of the conditions of disadvantaged persons or groups.

#### Right of access to official information

28. (1) The State recognises the right of access of every person to information relating to that person and held by a public authority which is performing a governmental function and the right to have the information rectified or otherwise amended, if inaccurate.

(2) The right of access to information contained in clause (1) shall be subject to such limitations and procedures as may be prescribed by law and are necessary in a democratic society including-

- (a) for the protection of national security;
- (b) for the prevention and detection of crime and the enforcement of law;
- (c) for the compliance with an order of a court or in accordance with a legal privilege;
- (d) for the protection of the privacy or rights or freedoms of others;

(3) The State undertakes to take appropriate measures to ensure that information collected in respect of any person for a particular purpose is used only for that purpose except where a law necessary in a democratic society or an order of a court authorizes otherwise.

(4) The State recognises the right of access by the public to information held by a public authority performing a government function subject to limitations contained in clause (2) and any law necessary in a democratic society.

#### Right to health care

29. (1) The State recognises the right of every citizen to protection of health and to the enjoyment of the attainable standard of physical and mental health and with a view to ensuring the effective exercise of this right the State undertakes -

(a) to take steps to provide for free primary health care in State institutions for all its citizens.

(b) to take appropriate measures to prevent, treat and control epidemic, endemic and other diseases;

(c) to take steps to reduce infant mortality and promote the healthy development of the child;

(d) to promote individual responsibility in health matters;

(e) to allow, subject to such supervision and conditions as are necessary in a democratic society, for the establishment of private medical services.

Note: the omission of a subsection (2) is consistent with the last official revised edition (1994)

#### Right of working mothers

30. The State recognises the unique status and natural maternal functions of women in society and undertakes as a result to take appropriate measures to ensure that a working mother is afforded special protection with regard to paid leave and her conditions at work during such reasonable period as provided by law before and after childbirth.

#### Right of minors

31. The State recognises the right of children and young persons to special protection in view of their immaturity and vulnerability and to ensure effective exercise of this right the State undertakes -

(a) to provide that the minimum age of admission to employment shall be fifteen years, subject to exceptions for children who are employed part-time in light work prescribed by law without harm to their health, morals or education;

(b) to provide for a higher minimum age of admission to employment with respect to occupations prescribed by law which the State regards as dangerous, unhealthy or likely to impair the normal development of a child or young person;

(c) to ensure special protection against social and economic exploitation and physical and moral dangers to which children and young persons are exposed;

(d) to ensure, save in exceptional and judicially recognized circumstances, that a child of young age is not separated from his parents.

#### Protection of families



32. (1) The State recognises that the family is the natural and fundamental element of society and the right of everyone to form a family and undertakes to promote the legal, economic and social protection of the family.

(2) The right contained in clause (1) may be subject to such restrictions as may be prescribed by law and necessary in a democratic society including the prevention of marriage between persons of the same sex or persons within certain family degrees.

#### Right to education

33. The State recognises the right of every citizen to education and with a view to ensuring the effective realization of this right undertakes -

(a) to provide compulsory education, which shall be free in State schools, for such minimum period, which shall not be less than ten years, as may be prescribed by law;

(b) to ensure that the educational programmes in all schools are aimed at the complete development of the person;

(c) to afford, on the basis of intellectual capability, every citizen equal access to educational opportunities and facilities beyond the period of compulsory education;

(d) to allow, subject to such reasonable restrictions, supervision and conditions as are necessary in a democratic society, any person, organization or institution to establish and maintain a private school;

(e) to respect the right of parents to choose whether to send their children to a State or private school.

#### Right to shelter

34. The State recognises the right of every citizen to adequate and decent shelter conducive to health and well-being and undertakes either directly or through or with the co-operation of public or private organizations to facilitate the effective realization of this right.

#### Right to work

35. The State recognises the right of every citizen to work and to just and favourable conditions of work and with a view to ensuring the effective exercise of these rights the State undertakes-

(a) to take necessary measures to achieve and maintain a high and stable level of employment, as is practicable, with a view to attaining full employment;

(b) subject to such restrictions as are necessary in a democratic society, to protect effectively the right of a citizen to earn a dignified living in a freely chosen occupation, profession or trade;

(c) to promote vocational guidance and training;

(d) to make and enforce statutory provisions for safe, healthy and fair conditions of work, including reasonable rest, leisure, paid holidays, remuneration which guarantees, as a minimum, dignified and decent living conditions for the workers and their families, fair and equal wages for work of equal value without distinction and stability of employment;

(c) to promote machinery for voluntary negotiations between employers and workers or their organizations with a view to the regulation of conditions of employment by means of collective agreements;

(d) to promote the establishment and use of appropriate machinery for conciliation and voluntary arbitrations for the settlement of labour disputes;

(e) subject to such restrictions as are necessary in a democratic society, and necessary for safeguarding public order, for the protection of health or morals and the rights and freedoms of others, to ensure the right of workers to organize trade unions and to guarantee the right to strike.

#### Right of the aged and the disabled

36. The State recognises the right of the aged and the disabled to special protection and with a view to ensuring the effective exercise of this right undertakes -

(a) to make reasonable provision for improving the quality of life of and for the welfare and maintenance of the aged and disabled;

(b) to promote programmes specifically aimed at achieving the greatest possible development of the disabled.

#### Right to social security

37. The State recognises the right of every citizen to a decent and dignified existence and with a view to ensuring that its citizens are not left unprovided for by reason of incapacity to work or involuntary unemployment undertakes to maintain a system of social security.

#### Right to safe environment

38. The State recognises the right of every person to live in and enjoy a clean, healthy and ecologically balanced environment and with a view to ensuring the effective realization of this right the State undertakes-

(a) to take measures to promote the protection, preservation and improvement of the environment

(b) to ensure a sustainable socio-economic development of Seychelles by a judicious use and management of the resources of Seychelles;

(c) to promote public awareness of the need to protect, preserve and improve the environment.

#### Right to cultural life and values

39. (1) The State recognises the right of every person to take part in cultural life and to profess, promote, enjoy and protect the cultural and customary values of the Seychellois people subject to such restrictions as may be provided by law and necessary in a democratic society including-

- (a) the protection of public order, public morals and public health;
- (b) the prevention of crime;
- (c) the protection of the rights and freedoms of other persons.

(2) The State undertakes to take reasonable steps to ensure the preservation of the cultural heritage and values of the Seychellois people.

## PART II - FUNDAMENTAL DUTIES

### Fundamental duties

40. It shall be the duty of every citizen of Seychelles-

- (a) to uphold and defend this Constitution and the law;
- (b) to further the national interest and to foster national unity;
- (c) to work conscientiously in a chosen profession, occupation or trade;
- (d) to contribute towards the well-being of the community;
- (e) to protect, preserve and improve the environment; and
- (f) generally, to strive towards the fulfillment of the aspirations contained in the Preamble of this Constitution.

## PART III - STATE OF EMERGENCY AND

### SAVINGS Declaration of State of emergency

41. (1) The President may, where the President has reason to believe that-

- (a) a grave threat to national security or public order has arisen or is imminent; or
- (b) a grave civil emergency has arisen or is imminent,

in Seychelles or in any part of Seychelles, by a Proclamation published in the Gazette, declare that a state of emergency exists in Seychelles or that part of Seychelles, as the case may be.

(2) A declaration made under clause (1) shall cease to have effect on the expiration of a period of seven days beginning with the date of the publication of the declaration unless, before the expiration of the declaration unless, before the expiration of the period, it is

approved by a resolution passed by not less than two-thirds of the number of members of the National Assembly.

(3) The President shall, within seventy-two hours after the publication of the Proclamation under clause (1), send to the Speaker of the National Assembly the facts and circumstances leading to the declaration of the state of emergency and the Speaker shall, within seven days after the publication, cause the declaration and the facts and circumstances leading to the declaration to be considered by the Assembly.

(4) Subject to clause (5), a declaration of emergency approved by the National Assembly under clause (2) shall continue in force until the expiration of a period of three months beginning with the date of its approval or until such earlier date as may be specified in the resolution.

(5) The National Assembly may, by a resolution passed by the votes of a majority of members of the National Assembly, at any time, revoke a declaration approved by the National Assembly under this article.

(6) Whenever an election to the office of President results in a change in the holder of that office a declaration under this article which is in force immediately before the day on which the President assumes office shall cease to have effect on the expiration of seven days beginning with that day.

(7) Notwithstanding clause (1), where the National Assembly resolves under clause (2) that the declaration of a state of emergency should not continue or revokes a declaration of state of emergency under clause (5), the President shall not, within thirty days of the resolution or revocation, declare a state of emergency based wholly or mainly on the same facts unless the National Assembly has, by a resolution passed by the votes of a majority of its members, authorised the making of the declaration.

(8) Where due to circumstances prevailing at the time of a declaration of a state of emergency under clause (1) it is impracticable to publish in the Gazette the Proclamation under that clause, the Proclamation may be published in such manner as the President may determine so as to give it as much publicity as is possible and such publication shall be deemed to be a sufficient compliance with clause (1) for the purposes of this article.

(9) Clauses (2) to (6) and (8) shall apply in respect of a declaration of emergency made under clause (7).

#### Provisions where National Assembly is not sitting or in session

42. (1) Where the National Assembly is in session but not sitting when a declaration is made under article 41(1) or (7), the Speaker shall immediately summon the Assembly to meet on a date that is not more than seven days after the publication of the declaration.

(2) Where the National Assembly stands dissolved when a declaration is made under article 41(1) or (7), the President shall, in the Proclamation making the declaration, summon the members of the dissolved Assembly to meet on a date that is not more than seven days after the making of the declaration and the members may, until a new National Assembly first

meets, meet and continue to meet for the purpose of discharging the functions of the National Assembly for the purposes of article 41.

(3) For the purposes of clause (2), the Speaker or Deputy Speaker immediately before the dissolution of the National Assembly shall preside over the sittings of the National Assembly.

#### Restrictions of rights and freedoms during a state of public emergency

43. (1) This article shall apply during any period of public emergency.

(2) Notwithstanding this Chapter but subject to clause (3), a law may provide for the taking during a period of public emergency of such measures as are strictly required to meet the exigencies of the situation.

(3) A law referred to in clause (2) shall not provide for the taking of measures that are inconsistent with articles 15, 16, 17, 18(3), 19(2) to (6) and (11), 21 and 27.

(4) Where a law referred to in clause (2) provides for the detention of persons provision shall be made in the law-

(a) that, as soon as is reasonably practicable and in any case not more than seven days after the commencement of the detention, the person detained shall be furnished with a statement in writing, in, as far as is practicable, a language that the person understands, specifying in detail the grounds upon which the person is detained;

(b) that not more than seven days after the commencement of the detention, a notice shall be published in the Gazette and a local daily newspaper of wide circulation in Seychelles stating the name of the person detained and the particulars of the law under which the detention was made;

(c) that not more than a month after the detention and thereafter at intervals of not more than three months the detention of the person shall be reviewed by an independent and impartial tribunal appointed by the President from candidates proposed by the Constitutional Appointments Authority for this purpose;

(d) that the person detained shall be entitled to choose and be afforded reasonable facilities to consult a legal practitioner, to appear, in person or through the legal practitioner, before the tribunal, and that where the law so provides the services of the legal practitioner shall be at public expense;

(e) that the person detained shall be released forthwith if the tribunal reviewing the detention is satisfied that it is not reasonably necessary or expedient for the purpose of the emergency to continue with the detention;

(f) where the tribunal reviewing the detention of a person does not order the release of the person the tribunal may make recommendation to the authority detaining the person concerning the necessity or expediency of continuing with the detention and a copy of the recommendation shall be served on the person detained.

(5) A tribunal appointed under clause (4)(c) shall have a Judge as chairman.

## Savings in relation to disciplinary force

44. (1) A law made in relation to a disciplinary force of Seychelles may, in so far as it is necessary in a democratic society, provide for the derogation against the provisions of the Charter, other than articles 15, 16, and 17.

(2) A law of a country other than Seychelles whose disciplinary force is lawfully in Seychelles in pursuance of arrangements made between the Government of Seychelles and another government or an international organization shall, in so far as the law applies to that disciplinary force, not be held to be inconsistent or in contravention of the provisions of the Charter.

(3) A law which authorizes the taking of any measure against a member of a disciplinary force of a country with which Seychelles is at war shall not be held to be inconsistent with the Charter.

(4) A law referred to in clause (3) shall not provide for the doing of anything which constitutes the crime of genocide or a crime against humanity.

## PART IV - REMEDIES

### Abuse of right or freedom

45. This Chapter shall not be interpreted so as to confer on any person or group the right to engage in any activity aimed at the suppression of a right or freedom contained in the Charter.

### Remedies for infringement of the Charter

46. (1) A person who claims that a provision of this Charter has been or is likely to be contravened in relation to the person by any law, act or omission may, subject to this article, apply to the Constitutional Court for redress.

(2) An application under clause (1) may, where the Constitutional Court is satisfied that the person whose right or freedom has been or is likely to be contravened is unable to do so, be made by another person acting on behalf of that person, with or without that person's authority.

(3) The Constitutional Court may decline to entertain an application under clause (1) where the Court is satisfied that the applicant has obtained redress for the contravention under any law and where the applicant has obtained redress in the Constitutional Court for any matter for which an application may be made under clause (1), a court shall not entertain any application for redress for such matter except on appeal from a decision of such court.

(4) Where the Constitutional Court on an application under clause (1) is satisfied that adequate means of redress for the contravention alleged are or have been available to the person concerned in any other court under any other law, the Court may hear the application or transfer the application to the appropriate court for grant of redress in accordance with law.

(5) Upon hearing of an application under clause (1) the Constitutional Court may-

- (a) declare any act or omission which is the subject of the application to be a contravention of the Charter;
  - (b) declare any law or the provision of any law which contravenes the Charter void;
  - (c) make such declaration or order, issue such writ and give such directions as it may consider appropriate for the purpose of enforcing or securing the enforcement of the Charter and disposing of all the issues relating to the application;
  - (d) award any damages for the purpose of compensating the person concerned for any damages suffered;
  - (e) make such additional order under this Constitution or as may be prescribed by law.
- (6) Where the Constitutional Court makes a declaration under clause (5)(b) the Court shall, subject to any decision in appeal therefrom, send a copy of the declaration to the President and the Speaker.
- (7) Where in the course of any proceedings in any court, other than the Constitutional Court or the Court of Appeal, a question arises with regard to whether there has been or is likely to be a contravention of the Charter, the court shall, if it is satisfied that the question is not frivolous or vexatious or has already been the subject of a decision of the Constitutional Court or the Court of Appeal, immediately adjourn the proceedings and refer the question for determination by the Constitutional Court.
- (8) Where in an application under clause (1) or where a matter is referred to the Constitutional Court under clause (7), the person alleging the contravention or risk of contravention establishes a prima facie case, the burden of proving that there has not been a contravention or risk of contravention shall, where the allegation is against the State, be on the State.
- (9) The court in which the question referred to in clause (7) arose shall dispose of the case in accordance with the decision of the Constitutional Court, or if that decision is the subject of an appeal to the Court of Appeal, in accordance with the decision of the Court of Appeal.
- (10) The Chief Justice may make rules for the purpose of this article with respect to the practice and procedure of the Constitutional Court in relation to the jurisdiction and power conferred upon it by or under this article, including rules with respect to the time within which an application or a reference may be made or brought.

## PART V - PRINCIPLES OF INTERPRETATION

### Scope of exceptions

47. Where a right or freedom contained in this Charter is subject to any limitation or qualification, that limitation, restriction or qualification -

- (a) shall have no wider effect than is strictly necessary in the circumstances; and
- (b) shall not be applied for any purpose other than that for which it has been prescribed.

## Consistency with international obligations of Seychelles

48. This Chapter shall be interpreted in such a way so as not to be inconsistent with any international obligations of Seychelles relating to human rights and freedoms and a court shall, when interpreting the provision of this Chapter, take judicial notice of -

- (a) the international instrument containing these obligations;
- (b) the reports and expression of views of bodies administering or enforcing these instruments;
- (c) the reports, decisions or opinions of international and regional institutions administering or enforcing Conventions on human rights and freedoms;
- (d) the Constitutions of other democratic States or nations and decisions of the courts of the States or nations in respect of their Constitutions.

## Interpretation

49. In this Chapter, unless the context otherwise requires-

“Chapter” or “Seychelles Charter of Fundamental Human Rights and Freedoms” means Part 1 of this Chapter;

“contravene”, in relation to a requirement or condition in this Chapter, includes a failure to comply with the requirement or condition;

“court” means any court of law or tribunal having jurisdiction in Seychelles excepting, save as in articles 19 and 46, a court established by or under a disciplinary law;

“democratic society” means a pluralistic society in which there is tolerance, proper regard for the fundamental human rights and freedoms and the rule of law and where there is a balance of power among the Executive, Legislature and Judiciary;

“disciplinary force” means-

- (a) a naval, military or air force;
- (b) the police force of Seychelles;
- (c) the prison service of Seychelles;
- (d) any other similar force established by law.

“disciplinary law” means a law regulating the discipline of a disciplinary force;

“government authority” includes a department, division, agency or instrumentality of the Government and any statutory body or body set up by administrative action for governmental or official purposes;



“legal practitioner” means a person lawfully in or entitled to be in Seychelles and entitled to practice law in Seychelles;

“member”, in relation to a disciplinary force, includes any person who, under the law regulating the discipline of that force, is subject to that discipline;

“minor” means an individual who has not attained the age of eighteen years; “period of public emergency” means any period during which

(a) Seychelles is at war; or

(b) a declaration made under article 41 is in force;

“person” means an individual or a body corporate;

“public officer” includes a person employed by a governmental authority.

#### CHAPTER IV - THE PRESIDENT

##### President of Seychelles

50. There shall be a President of Seychelles who shall be the Head of State, Head of Government and Commander-in-Chief of the Defence Forces of Seychelles.

##### Qualification for election as President and election

51. (1) A person is qualified for election as President if-

(a) the person is a citizen of Seychelles;

(b) the person is not disqualified from registration as a voter under this Constitution.

(2) Subject to clause (6), Schedule 3 shall have effect with regard to the election of the President.

(3) The Constitutional Court shall have jurisdiction to hear and determine whether a person has been validly elected to the office of President.

(4) An application under clause (3) may be made by a person entitled to vote at an election of the President, a person who was a candidate at the election or the Attorney-General.

(5) Where a person other than the Attorney-General makes an application under this article, the Attorney-General may intervene and may appear or be represented in the proceedings.

(6) A law may provide for -

(a) the circumstances and manner in which and the imposition of conditions upon which an application may be made to the Constitutional Court for the determination of a question under clause (3);

(b) the powers, practice and procedure of the Constitutional Court in relation to the application; and

(c) any matter, not otherwise provided for in Schedule 3, which is necessary or required to ensure a true, fair and effective election of the President.

#### Tenure of office of President

52. (1) Subject to this article, a person elected as President shall hold office for a term of five years-

(a) beginning with the date next following the date of the declaration of the election of President; or

(b) where another person holds office as President on the date next following the date of the declaration of the election of President, beginning on the date next following the date on which the office next becomes vacant.

(2) A person shall hold office as President under this Constitution for not more than three terms.

(3) The office of President becomes vacant-

(a) on the expiration of the period specified in clause (1);

(b) where an election for the office of President is held before the expiration of five years referred to in clause (1), on the date next following the date of declaration of the election of President; or

(c) where the incumbent dies or resigns or is removed from office under this Constitution.

(4) Where, but for this clause, the office of President would become vacant on a particular date by reason of the operation of clause (3)(a), but on that date an election held under article 51 has not resulted in the election of the President, the incumbent President shall continue to hold office until the end of the day on which the President is elected under article 51.

(5) The President may, by writing addressed to the Speaker, resign from the office of President.

(6) Where a period of public emergency subsists at the time when the term of office of President would end, the National Assembly may, by resolution approved by a majority of the members of the Assembly, extend the term of office of President -

(a) where there is a declaration of a state of emergency, for not more than six months at a time but up to a maximum aggregate period of twelve months;

(b) where Seychelles is at war, for not more than twelve months at a time but up to a maximum aggregate period of forty-eight months,

and a period of extension shall not extend beyond the duration of the current session of the National Assembly or beyond the period by which the session of the National Assembly is extended in the same circumstances under this Constitution.

Appealing for fresh mandate

52A. (1) The provisions of this article shall have effect notwithstanding anything to the contrary in the other provisions of this Chapter.

(2) The President may, at any time after the expiration of one year from the commencement of the President's first or second term of office, by Proclamation published in the Gazette, declare the President's intention of appealing to the People for a mandate to hold office, by election, for a further term.

(3) Upon the making of a Proclamation under clause (2), the Electoral Commission shall, subject to the provisions of this article, hold a Presidential election.

(4) (a) The President may revoke a Proclamation made under this article by notice published in the Gazette, at any time before the day appointed as nomination day in relation to the election of the President.

(b) The President shall not withdraw the President's nomination as candidate at such election.

(5) If at any time after the date of a Proclamation made under clause (2) and before the close of the poll at the election held in pursuance of the Proclamation, the incumbent President dies, the Proclamation shall be deemed to have been revoked with effect from the date of such death, and the election to be held in pursuance of the Proclamation shall be deemed to be cancelled.

(6) The person declared elected as President at an election held under this article shall, if such person -

(a) is the incumbent President, hold office for a further term of five years beginning with the date next following the date on which the term of office of the incumbent President is deemed to have expired under clause (7);

(b) is a person other than the incumbent President, hold office for a term of five years beginning with the date next following the date of declaration of the election of President.

(7) Where an election is held under this article the term of office of the incumbent President -

(a) shall be deemed to have expired on the date next following the date of declaration of election of President in that election; and

(b) shall constitute one term for the purpose of article

52(2). Removal of the President for incapacity

53. (1) This article shall have effect with regard to the removal of the President from office on the ground of mental or physical incapacity.

(2) Where the Cabinet resolves, upon a motion supported by the votes of a majority of all the members of the Cabinet, that the question of the mental or physical capacity of the President to discharge the functions of the office of President ought to be investigated, the Cabinet shall so inform the Chief Justice.

(3) Where notice in writing signed by not less than half the number of members of the National Assembly of a motion requesting that the question of the mental or physical capacity of the President to discharge the functions of the office of President ought to be investigated is given to the Speaker, the Speaker shall-

(a) where the National Assembly is sitting or has been summoned to meet within five days, cause the motion to be considered by the Assembly as soon as is practicable within seven days of the notice;

(b) where the National Assembly is not then sitting, summon the Assembly to meet on a date within fourteen days of the notice and cause the motion to be considered at that meeting.

(4) Where a motion under clause (3) is proposed for consideration by the National Assembly, the Assembly shall not debate the motion but the Speaker shall forthwith cause a vote to be taken on the motion and, if the motion is supported by the votes of not less than two-thirds of the number of its members, shall declare the motion to be passed and shall deliver a copy of the motion to the President and the Chief Justice.

(5) Where the Chief Justice is informed under clause (2) or receives a copy of a motion under clause (4), the Chief Justice shall appoint a medical board consisting of not less than three persons selected by the Chief Justice from among persons who are qualified as medical practitioners under a law, and the medical board shall inquire into the matter and shall make a report to the Chief Justice stating the opinion of the board as to whether or not the President is, by reason of any infirmity of body or mind, incapable of discharging the functions of the office of President.

(6) Where under clause (5) the medical board reports that the President is capable of discharging the functions of the office of President, the Chief Justice shall inform accordingly-

(a) where the investigation was carried out at the instance of the Cabinet, the Cabinet; or

(b) where the investigation was carried out at the instance of the National Assembly, the Speaker,

and, as soon as is practicable, thereafter the Cabinet shall inform the President accordingly or the Speaker shall inform the President and the National Assembly accordingly, as the case may be.

(7) Where under clause (5) the medical board reports that the President is incapable of discharging the functions of the office of President, the Chief Justice shall certify in writing accordingly and-

(a) where the investigation was carried out at the instance of the Cabinet, and the Cabinet shall inform the President of the findings and submit the findings to the Speaker; or

(b) where the investigation was carried out at the instance of the National Assembly, submit the findings to the Speaker and the Speaker shall inform the President of the findings.

(8) Where the Speaker receives a report under clause (7), the Speaker shall,-

(a) where the National Assembly is sitting or has been summoned to meet within five days, cause the findings of the medical board to be considered by the Assembly as soon as is practicable; or

(b) where the National Assembly is not sitting, immediately summon the Assembly to meet and cause the findings of the medical board to be considered at that meeting.

(9) Where the National Assembly, when it meets pursuant to clause (8), resolves by the votes of not less than two-thirds of the number of its members that the finding of the medical board be adopted, the President shall cease to hold office on the passing of the resolution.

#### Removal of President for violation of Constitution or gross misconduct

54. (1) Where notice in writing signed by not less than half the number of the members of the National Assembly of a motion alleging that the President has committed a violation of this Constitution or a gross misconduct and specifying the particulars of the allegation and proposing that the Constitutional Court investigate the allegations is given to the Speaker, the Speaker shall-

(a) if the National Assembly is then sitting or has been summoned to meet within five days, cause the motion to be considered by the Assembly within seven days of the notice; or

(b) if the National Assembly is not sitting, summon the Assembly to meet on a date within fourteen days of the notice and cause the motion to be considered at that meeting.

(2) Where a motion under clause (1) is proposed for consideration by the National Assembly, the Assembly shall not debate the motion but the Speaker shall forthwith cause a vote to be taken on the motion and, if the motion is supported by the votes of not less than two-thirds of the number of its members, shall declare the motion to be passed.

(3) Where a motion is declared to be passed under clause (2)-

(a) the Speaker shall deliver a copy of the motion to the President and the Chief Justice;

(b) the Chief Justice shall place the matter before the Constitutional Court;

(c) the Constitutional Court shall investigate the matter and report to the Speaker whether it finds that the particulars of the allegation specified in the motion constitute a prima facie case for the removal of the President; and

(d) the Constitutional Court in investigating the matter under paragraph (c) may summon and examine any witnesses or otherwise exercise all the powers of the Supreme Court.

(4) The President shall have the right to appear and be represented before the Constitutional Court during its investigation of the allegation.

(5) Where the Constitutional Court reports to the Speaker that the Court finds that the particulars of an allegation against the President specified in the motion do not constitute a prima facie case for the removal of the President, no further proceedings shall be taken under this article in respect of that allegation.

(6) Where the Constitutional Court reports to the Speaker that the Court finds that the particulars of an allegation against the President specified in the motion constitute a prima facie case for the removal of the President, the Speaker shall, within ten days after a report is made to the Speaker pursuant to clause (3)(c) -

(a) where the National Assembly is sitting or has been summoned to meet within five days, cause the findings of the Court to be considered, as soon as is practicable, by the Assembly; or

(b) where the National Assembly is not sitting, immediately summon the National Assembly and cause the findings of the Court to be considered by the Assembly.

(7) Where the National Assembly when it meets pursuant to clause (6) resolves by the votes of not less than Constitutional Court be adopted, the President shall cease to hold office on the passing of the resolution.

#### Vacancy in the office of President

55. (1) Where the President dies, resigns or is removed from office, the Vice-President shall assume the office of President for the unexpired term of the President with effect from the death, resignation or removal from office of the President.

For the purpose of this clause, a person who would, but for that person's death, have been declared elected as President at the Presidential election and the person designated as the Vice-President of the first mentioned person shall be deemed to have been the President and Vice-President respectively, holding office immediately before the death of the first-mentioned person and accordingly, such Vice-President shall assume the office of President.

(2) Where the President ceases to hold office under article 110(3), the Vice-President shall discharge the functions of the President until a person is elected under article 51 to the office of President.

(3) Where the Vice-President discharges the functions of the President under clause (2) or article 56, the Vice-President shall not have power to-

(a) revoke the appointment of a Minister, or

(b) invoke article 110.

#### Discharge of functions of President during temporary absence from office

56. Where the President is on leave of absence, absent from Seychelles or unable for any other reasons, except for a reason specified in article 55, to discharge the functions of the office of President, the Vice-President shall discharge those functions until the President

returns from leave of absence or from outside Seychelles and resumes the functions of the office of President or is able to discharge the functions of the office of President.

#### Oath of President

57. A person assuming the office of President shall, before entering upon the office, take and subscribe before the Chief Justice or another Judge the oath of allegiance and the Presidential oath prescribed in this Constitution.

#### Salary and allowances for President

58. (1) The President shall receive such salary, allowances and gratuity as may be prescribed by an Act.

(2) Where the person holding the office of President ceases to hold office otherwise than by being removed under article 54, the person shall receive such pension, gratuity or allowance as may be prescribed by an Act.

(3) The salary, allowance, pension or gratuity, as the case may be, payable under this article to the President or a person who has ceased to be President shall be a charge on the Consolidated Fund and shall not be altered to the disadvantage of the President or the person who has ceased to be President.

(4) Clauses (2) and (3) shall apply to a person who held office as President under any previous Constitution of Seychelles.

(5) Where a person who has previously held office as President under this or a previous Constitution is elected to the office of President, the person shall not, while holding office as President, be entitled to receive the pension, gratuity or allowance payable under clause (2).

#### Protection of President in respect of legal proceedings during office

59. (1) Whilst any person holds, or discharges under article 55 or article 56 the functions of, the office of President no criminal proceedings shall be instituted or continued against the person in respect of anything done or omitted to be done by the person in either an official or private capacity and no civil proceedings shall be instituted or continued in respect of which relief is claimed against the person in respect anything done or omitted to be done in such private capacity.

(2) Notwithstanding article 18(6) or article 19(1) or (7) or any other law, proceedings such as are referred to in clause (1) may be brought within three years of a person ceasing to hold or discharge the functions of the office of President unless the period prescribed by law for bringing the proceedings concerned had expired before the person assumed or commenced to discharge those functions.

(3) Where provision is made by law limiting the time within which proceedings such as are referred to in clause (1) may be brought against any person, a period of time during which a person holds, or discharges the functions of, the office of President shall not be taken into account in calculating any period of time prescribed by that law which determines whether any such proceedings may be brought against that person.

## Power of pardon

60. (1) The President may, after obtaining the advice of the advisory committee appointed under article 61 -

- (a) grant to any person convicted of any offence a pardon, either free or subject to lawful conditions;
  - (b) grant to any person a respite, either indefinite or for a specified period, of the execution of any punishment imposed on that person for any offence;
  - (c) substitute a less severe form of punishment for any punishment imposed on any person for any offence; or
  - (d) remit the whole or part of any punishment imposed on any person for any offence or of any penalty or forfeiture otherwise due to the republic on account of any offence.
- (2) Except as otherwise permitted by or under an Act, the exercise of the power conferred by clause (1) shall not be held out, offered or promised in advance of conviction.
- (3) Nothing in this article shall prevent the establishment by an Act of systems of probation, parole or release on licence, or any similar system.
- (4) Any reference in this article to a conviction or the imposition of a punishment, penalty, sentence or forfeiture includes a reference to a conviction or the imposition of a punishment, penalty, sentence or forfeiture by a court-martial or other military court.
- (5) This article shall not apply in relation to any conviction by a court established under the law of a country other than Seychelles that has jurisdiction in Seychelles in pursuance of arrangements made between the Government of Seychelles and another government or an international organization relating to the presence in Seychelles of members of a disciplinary force of that other country or under the control of the international organization or in relation to any punishment imposed in respect of any such conviction or any penalty or forfeiture resulting from any such conviction.

## Advisory committee

61. There shall be an advisory committee on the power of pardon under article 60 which shall consist of not less than three and not more than five persons as may be appointed for a term of seven years by the President from candidates proposed by the Constitutional Appointments Authority.

## Establishment and abolition of and appointment to offices

62. (1) Subject to this Constitution and to any other law, the powers of establishing and abolishing offices for the Republic shall vest in the President.

(2) The President may, by order, declare that an office established by the President under clause (1) shall not be an office in the public service.



(3) Appointment to an office declared by the President not to be an office in the public service shall be made by the President from candidates proposed by the Constitutional Appointments Authority.

(4) Appointment to an office, established by the President under clause (1), other than an office referred to in clause (2), shall be made by the President or by a person or body authorised by the President.

#### Appointments subject to approval of National Assembly

63. (1) Where under this Constitution, an appointment to an office or the designation of a person for any purpose by the President is expressed to be subject to the approval of the National Assembly, particulars of the proposed appointment or designation shall be sent to the Speaker and the Speaker shall cause the National Assembly to vote on the proposed appointment or designation.

(2) The Speaker shall notify the President of the decision of the National Assembly and only if the decision is in favour of the appointment may the appointment or designation be made.

#### Diplomatic representation and execution of treaties

64. (1) The President may, with the approval of a majority of members of the National Assembly, appoint a person as Ambassador, High Commissioner or any other principal representative of Seychelles to represent Seychelles abroad.

(2) The President may receive envoys accredited to Seychelles.

(3) The President may execute or cause to be executed treaties, agreements or conventions in the name of the Republic.

(4) A treaty, agreement or convention in respect of international relations which is to be or is executed by or under the authority of the President shall not bind the Republic unless it is ratified by -

(a) an Act; or

(b) a resolution passed by the votes of a majority of the members of the National Assembly.

(5) Clause (4) shall not apply where a written law confers upon the President the authority to execute or authorise the execution of any treaty, agreement or convention.

#### Presidential message

65. The President shall -

(a) at the beginning of each year; and

(b) before a dissolution, pursuant to article 106(2) (a) or (b), of the National

Assembly, deliver to the Assembly a message on the state of the nation.

## CHAPTER V - THE EXECUTIVE

### Executive authority of the Republic

66. (1) The executive authority of the Republic shall vest in the President and shall be exercised in accordance with this Constitution and the laws of Seychelles.

(2) The executive authority vested in the President under this article shall extend to the execution and maintenance of this Constitution and the laws of Seychelles and to all matters with respect to which the National Assembly has power to make laws.

(3) Subject to this Constitution, the functions conferred on the President by clause (1) may be exercised by the President directly or through subordinate officers.

(3A) The President is politically responsible for a Ministry or department that the President has not specifically assigned to the Vice-President or a Minister.

(4) Nothing in this article shall prevent the National Assembly from conferring, by or under an Act, functions on a person other than the President or on an authority.

### Vice-President

66A. (1) There shall be a Vice-President of Seychelles who shall perform the functions assigned to the Vice-President by the Constitution, an Act or the President.

(2) The President may assign the Vice-President the political responsibility of one or more Ministries.

(3) The Vice-President shall be a person who is qualified to be elected President under article 51.

(4) A candidate at an election for president shall designate a person as the candidate's Vice-President and on the election of the candidate as President the person designated as Vice-President by the candidate becomes Vice-President.

(5) A person who is a member of the National Assembly or the Judiciary shall upon becoming Vice-President cease to be a member of the National Assembly or Judiciary.

(6) The term of office of the Vice-President shall be the same as that of the President under article 52.

(7) A person shall not hold office as Vice-President for more than 3 terms.

(8) The Vice-President shall, before starting to perform the functions of Vice-President, take and subscribe the oath of allegiance and the Vice-Presidential oath set out in Schedule 6.

(9) The Vice-President may resign or be removed from office in the same manner as a Minister and articles 73 and 74 shall apply to the Vice-President.

(10) Where the person who is Vice-President ceases to hold office as Vice-President, otherwise than under clause (11), the President shall designate another person as Vice-President for approval by the National Assembly.

(11) Where the Vice-President assumes the office of President under article 55(1) -

(a) the President shall, with the approval of the National, appoint a person to be Vice-President;

(b) the person who at the time is designated Minister shall immediately cease to be designated Minister and the President shall designate a person, who may be the first-mentioned person, for approval by the National Assembly as designated Minister.

(12) Where under article 55(1) the Vice-President assumes the office of President for a term which exceeds two thirds of the term of the President, the Vice-President is only eligible to serve for 2 other terms as President.

(13) The Vice-President shall receive such salary, allowance and gratuity as may be prescribed by an Act and the salary, allowance or gratuity shall be a charge on the Consolidated Fund.

#### Cabinet

67. (1) There shall be a Cabinet consisting of the Vice-President and Ministers.

(2) The President or, in the absence of the President for any reason, the Vice-President shall preside at meetings of the Cabinet.

(3) Subject to clause (2), the Cabinet shall determine its own procedure in connection with its meetings.

#### Functions of the Cabinet

68. The Cabinet shall be responsible for advising the President with respect to the policy of the Government and with respect to such other matters as may be referred to it by the President.

#### Ministers

69. (1) There shall be such number of Ministers, not being less than seven or more than fourteen, as the President may, from time to time, determine.

(2) The President may, with the approval of a majority of the members of the National Assembly, appoint a person who is a citizen of Seychelles and who has attained the age of eighteen years to the office of Minister.

(3) Where a person who is a member of the National Assembly is appointed to the office of Minister, the person shall, on assuming the office, cease to be a member of the Assembly.

(4) A person shall, before assuming office as Minister, subscribe before the President the oath of allegiance and such other oath, as may be prescribed by an Act, for the due execution of the functions of that office.

(5) A Minister shall receive such salary, allowances and gratuity as may be prescribed by an Act.

(6) The salary, allowances or gratuity payable under clause (5) shall be a charge on the Consolidated Fund.

(7) Where a person is appointed as Minister and in addition to this article is entitled to receive under any other provision of the Constitution a salary, pension, gratuity or allowance, the person shall not, while holding the office of a Minister, be concurrently entitled to receive the salary, pension, gratuity or allowance under this article and under any other provision of the Constitution but may opt to receive the salary, pension, gratuity or allowance under either this article or any other provision of the Constitution.

#### Functions of Ministers

70. (1) A Minister has such title, portfolio and responsibility as may be determined from time to time by the President and a Minister may be assigned the responsibility of more than one Ministry at any time.

(2) Nothing in this article operates to prevent the conferring of functions on a Minister by or under an Act.

(3) Ministers shall perform their functions under clause (1) under the direction of the President.

#### Collective responsibility of Cabinet

71. The Vice-President and the Ministers shall be individually accountable to the President for the administration of their Ministries and departments assigned to them and shall collectively be responsible for a decision of Cabinet.

#### Term of office of Ministers

72. A Minister, unless the Minister-

(a) dies;

(b) resigns; or

(c) is removed from office under and in accordance with this Constitution,

shall hold office until immediately before the beginning of the term of the person next elected, after the Minister's appointment, to the office of President.

#### Resignation and removal of Ministers

73. (1) A Minister may resign from office by delivering to the President a notice of resignation but the resignation shall not have effect until it is received by the President.

(2) The President may and, where the National Assembly has passed a vote of censure in respect of the Minister under article 74, shall, by instrument in writing, remove a Minister from office.

(3) The President shall cause to be published in the Gazette notice of the fact of the resignation or removal of a Minister from office.

#### Vote of censure

74. (1) The National Assembly may, by resolution approved by the votes of not less than two-thirds of the number of its members, pass a vote of censure against a Minister.

(2) A motion for a resolution under clause (1) shall not be moved in the National Assembly unless-

(a) seven days' notice has been given of the motion; and

(b) the notice for the motion has been signed by not less than one-third of the number of members of the Assembly.

(3) The Speaker shall, upon receipt of the notice of the motion under clause (2) -

(a) send a copy of the notice to the President; and

(b) unless the Minister has ceased to hold office beforehand,

cause the motion to be debated in the National Assembly within fourteen days after receiving notice of the motion.

(4) The Minister in respect of whom a vote of censure is to be debated under clause (3) is entitled to be heard during the debate.

(5) Where a vote of censure is passed against a Minister under this article, the Speaker shall as soon as is practicable thereafter notify the President and the President shall, unless the Minister otherwise ceases to hold office, remove the Minister from office under article 73(2) not later than seven days after being notified by the Speaker.

#### Designated Minister

75. (1) At the time of submitting the names to the National Assembly for its approval of the persons to be appointed as Ministers, the President shall designate one person who shall discharge the functions of designated Minister under the Constitution or an Act.

(2) The approval of the National Assembly under clause (1) or article 66A(10) or (11) shall be by a majority of the members of the Assembly.

(3) Where the National Assembly does not approve the designation of a person under clause (1) or article 66A(10) or (11) or a person whose designation has been approved under that clause ceases to be a Minister, the President shall designate another person for approval by the National Assembly.

(4) Where under the Constitution a function is required to be performed by the President and both the President and the Vice-President are unable to perform the function, the function may be performed by the designated Minister until the President or Vice-President is able to perform the function.

(5) Where under the Constitution a function, not being a function related to a Ministry or department assigned to the Vice-President by the President under article 66A(2), is required to be performed by the Vice-President and the Vice-President is unable to perform the function, the function may be performed by the designated the Minister until the Vice-President is able to perform the function.

(6) A restriction or limitation which the Constitution imposes on the President or Vice-President with regard to the exercise of the function of President or Vice-President shall apply to the designated Minister when performing a function under clause (4) or clause (5).

#### Attorney-General

76. (1) There shall be an Attorney-General who shall be appointed by the President from candidates proposed by the Constitutional Appointments Authority.

(2) A person shall hold office as Attorney-General for a term of not more than seven years and is eligible for reappointment at the end of a term of office.

(3) A person shall not be appointed to the office of Attorney-General unless the person is qualified for appointment to the office of Judge.

(4) The Attorney-General shall be the principal legal advisor to the Government and, subject to clause (11), shall have power, in any case in which the Attorney-General considers it desirable so to do-

(a) to institute and undertake criminal proceedings against any person before any court in respect of any offence alleged to have been committed by that person;

(b) to take over and continue any such criminal proceedings that have been instituted or undertaken by any other person or authority; and

(c) to discontinue at any stage before judgment is delivered any criminal proceedings instituted or undertaken under subclause (a) or by any other person or authority.

(5) The powers of the Attorney-General under clause (4) may be exercised by the Attorney-General in person or by subordinate officers acting in accordance with the general or special instructions of the Attorney-General.

(6) Subject to clause (7), the power conferred on the Attorney-General by clause (4)(b) to take over any proceedings or by clause (4)(c) to discontinue any proceedings shall be vested in the Attorney-General to the exclusion of any other person or authority.

(7) Where a person or authority, other than the Attorney-General, has instituted criminal proceedings, nothing in clause (6) shall prevent the withdrawal of those proceedings by or at the instance of that person or authority and with the leave of the court.

(8) Subject to clause (9), for the purposes of this article, any appeal from any judgment in any criminal proceedings before any court, or any question of law reserved for the purpose of any such proceedings to any other court, shall be deemed to be part of those proceedings.

(9) The power conferred on the Attorney-General by clause (4)(c) shall not be exercised in relation to any appeal by a person convicted in any criminal proceedings or to any question of law reserved at the instance of such a person.

(10) In the exercise of the powers vested in the Attorney-General by clause (4), the Attorney-General shall not be subject to the direction or control of any other person or authority.

(11) An Act may make provision with respect to the institution of proceedings by a person or authority, other than the Attorney-General, before a military court or a tribunal established by or under the Act for the trial of military offences committed by persons subject to military law, and unless the Act otherwise provides, the power under clause (4) shall not be exercisable by the Attorney-General in relation to any such person in respect of any such offence.

(12) The salary, allowances, pension or gratuity payable to the Attorney-General shall be a charge on the Consolidated Fund.

(13) Subject to article 165, the term and conditions on which a person has been appointed to the office of Attorney-General shall not be altered to the disadvantage of the person after the appointment.

## CHAPTER VI - LEGISLATURE

### PART I - NATIONAL ASSEMBLY

#### National Assembly

77. There shall be a National Assembly of Seychelles.

#### Composition of National Assembly

78. The National Assembly shall consist of -

(a) such number of members directly elected in accordance with -

(i) this Constitution; and

(ii) subject to this Constitution, and Act,

as is equal to the number of electoral areas;

(b) not more than 10 members elected on the basis of the scheme of proportional representation specified in Schedule 4.

#### General election and by-election

79. (1) A general election shall be held during the period starting at the beginning of the fifty-seventh month and ending at the end of the fifty-ninth month of a session of the National Assembly.

(2) Where a person ceases to be a directly elected member of the National Assembly under article 81, a by-election shall be held within 30 days of the person ceasing to be a member of the Assembly unless the cessation occurred within three months before the beginning of the period within which a general election is required to be held under clause (1).

(3) Subject to clause (4), a directly elected member of the National Assembly shall be directly elected by secret ballot by persons entitled to vote under this Constitution.

(4) Where immediately before the day appointed for the holding of an election there is only one candidate for election for an electoral area and that candidate has, since the day immediately following the day of the closing of the nominations for that area, been the sole candidate for the area, a ballot shall be held and -

(a) all the persons who were entitled to vote at the election in the electoral area shall be deemed to have cast their votes in favour of the candidate; and

(b) the Electoral Commission shall declare the candidate to be the directly elected member for the electoral area.

(5) Where on the day immediately following the day of closing of nominations for an electoral area more than one candidate stand nominated for that area and on the day immediately before the day of election only one candidate stands nominated by reason of the withdrawal of nomination of other candidates or no candidate stands nominated by reason of the withdrawal of nomination of all the candidates the election shall be postponed and a further period of not less than seven days shall be allowed for nomination of other candidates for that area.

(6) Where on the day immediately following the day of closing of nominations for an electoral area one or more candidate stand nominated for that area and one or more of them die before the day of election, the election shall be postponed and a further period of not less than seven days from the date of death of the candidate shall be allowed for nomination of other candidates for that area.

(7) The election postponed pursuant to clause (5) or (6) shall be held on such date as the Electoral Commission may decide but, in any case, not later than thirty days of the occurrence of the event specified in those clauses which occurred last and the candidates



nominated pursuant to those clauses shall, notwithstanding their withdrawal, be deemed to be the candidates for that election.

(8) A law may provide for any matter, not otherwise provided for in this Constitution, which is necessary or required to ensure a true, fair and effective election of members of the National Assembly.

#### Qualification for membership to the National Assembly

80. A person is qualified to be elected as a member of the National Assembly if -

(a) the person is qualified to vote at a Presidential or National Assembly election under this Constitution; and

(b) the person does not hold or act in any office the functions of which involve-

(i) any responsibility for, or in connection with, the conduct of the National Assembly election for which the person wishes to stand; or

(ii) any responsibility for the compilation or revision of an electoral register for that National Assembly election.

#### Vacation of seats

81. (1) A person ceases to be a member of the National Assembly and the seat occupied by that person in the Assembly shall become vacant-

(a) on the dissolution of the Assembly;

(b) if the person by notice in writing to the Speaker resigns;

(c) if the person ceases to be a citizen of Seychelles;

(d) if the person is absent without the permission, which shall not be unreasonably withheld, in writing of the Speaker -

(i) from Seychelles for a continuous period in excess of thirty days; or

(ii) during a session of the Assembly, for a continuous period in excess of ninety days during which time the Assembly has been summoned to meet and continues to meet;

(e) if any circumstances arise which, if the person were not a member, would, pursuant to article 80, cause that person to be disqualified for election as a member;

(f) subject to clause (2), if the person becomes party to a contract with the Government for or on account of any public service or if any firm in which the person is a partner or any company of which the person is a director or manager or in which the person has a controlling interest becomes a party to any such contract or if the person becomes a partner in a firm or a director or manager or the holder of a controlling interest in a company which is a party to such contract;

(g) if the person is elected President or becomes the Vice-President or is appointed a Minister;

(h) if, in the case of a proportionately elected member-

(i) the political party which nominated the person as a member nominates another person as member in place of the first-mentioned person and notifies the Speaker in writing of the new nomination;

(ii) the person ceases to be a member of the political party of which that person was a member at the time of the election; or

(iii) the political party which nominated the person as a member is dissolved or otherwise ceases to exist;

(i) if, in the case of a directly elected member who was nominated for election by a political party-

(i) the person notifies the Speaker in writing that the person has ceased to be a member of that political party; or

(ii) the political party which nominated the person for election notifies the Speaker in writing that the person has ceased to be a member of the political party and the Electoral Commission confirms in writing to the Speaker that the Commission has received a written petition requesting the holding of fresh election for the purpose of electing a new member to represent the electoral area which the member represents signed or marked to the satisfaction of the Commission by at least one third of the Commission by at least one third of the number of registered voters who are entitled to vote in the electoral area;

(j) if, in the case of a person who was directly elected as an independent member, the person notifies the Speaker in writing that he is a member of a political party; or

(k) on the death of the person.

(2) Where clause (1)(f) applies, if in the circumstances it appears to the National Assembly to be just to do so, the Assembly may exempt the member from vacating the seat, if the member, before becoming a party to the contract or before or as soon as is practicable after becoming interested in the contract as provided in clause (1)(f), has disclosed in writing to the Speaker the nature of the contract and the interest, or the interest in the firm or company referred to in clause (1)(f), of the member.

(3) A political party of which a proportionately elected member was a member at the time of election shall notify the Speaker in writing on the person ceasing to be a member of the party.

(4) Subject to this article and article 83, where a person who is a proportionately elected member of the National Assembly ceases to be so, the political party of which the person was a member at the time of election and which nominated the person as a member may, by notice in writing to the Speaker, replace the person who has ceased to be a member by another person including the person who has immediately before ceased to be a member.

(5) Where the seat of a directly elected member of the National Assembly becomes vacant under this article, the Speaker shall, as soon as is practicable within seven days after the vacancy occurs, notify the Electoral Commission of this fact.

(6) A certificate under the hand of the Speaker certifying that a person has ceased to be a member of the National Assembly shall be conclusive evidence of this fact and of the fact that the seat held by that person is vacant unless-

(a) the person makes an application under article 82 to the Constitutional Court within thirty days of the date of the certificate; and

(b) the Constitutional Court determines that the person is still a member of the National Assembly and that person still occupies that seat.

(7) Until the final determination of an application referred to in clause (6)(a) the person who made the application shall continue to be a member of the National Assembly in respect of the seat for which the person was elected.

Determination of question as to membership

82. (1) The Constitutional Court shall have jurisdiction to hear and determine whether -

(a) a person has been validly elected as a member of the National Assembly; or

(b) the seat of a member of a National Assembly has become vacant.

(2) An application under clause (1)(a) may, in the case of-

(a) a directly elected member, be made by any person entitled to vote at an election in the electoral area for which the member was returned, any person who was a candidate at the election in the electoral area or the Attorney-General; or

(b) a proportionately elected member, be made by any member or the Attorney-General.

(3) An application under clause (1)(b) may, in the case of -

(a) a directly elected member, be made by any member, any person entitled to vote at an election in the electoral area for which the member was returned or the Attorney-General;

(b) a proportionately elected member, be made by any member, or the political party of which the proportionately elected member was a member at the time of election and which nominated the person as a member or the Attorney-General.

Note: Omission of subs (4) is consistent with the last official Government revised edition print (1994)

(5) Where a person, other than the Attorney-General, makes an application under this article, the Attorney-General may intervene and may appear or be represented in the proceedings.

(6) An Act may provide for-

(a) the circumstances and manner in which and the imposition of conditions upon which an application may be made to the Constitutional Court for the determination of a question under clause (1); and

(b) the powers, practice and procedure of the Constitutional Court in relation to the application.

#### Speaker and Deputy Speaker

83. (1) There shall be a Speaker and a Deputy Speaker of the National Assembly, each of whom shall be elected by the National Assembly, in accordance with the Standing Orders, or, in the absence of Standing Orders, in accordance with the procedures approved by the Assembly, from among the members of the Assembly.

(2) The National Assembly shall not transact any business, other than the election of the Speaker, at any time when the office of Speaker is vacant.

(3) A person holding the office of Speaker or Deputy Speaker shall vacate that office -

(a) when the National Assembly first meets after the holding of a general election;

(b) where the person ceases to be a member of the National Assembly;

(c) where the National Assembly passes a resolution supported by the votes of not less than two-thirds of the number of members of the Assembly requiring the person to vacate the office of Speaker or Deputy Speaker, as the case may be.

(4) A person holding the office of Speaker or Deputy Speaker may, by notice in writing addressed to the National Assembly, resign from office and the office shall become vacant when the Clerk to the Assembly receives the notice.

(5) Where the office of Speaker or Deputy Speaker becomes vacant, the National Assembly shall, unless it is sooner dissolved, elect another member of the Assembly to fill the vacancy at its next sitting after the occurrence of the vacancy or as soon as is practicable thereafter.

(6) An Act may provide for the salary, allowances and gratuity of the Speaker and Deputy Speaker.

(7) The salary, allowances or gratuity payable to the Speaker and Deputy Speaker shall be a charge on the Consolidated Fund.

(8) The Speaker and Deputy Speaker shall, before assuming the functions of their office, take and subscribe the oath of allegiance and such other oath as may be prescribed by law.

#### Leader of the Opposition

84. (1) There shall be a Leader of the Opposition who shall be elected by the National Assembly from among its members in accordance with this article and the Standing Orders.

(2) A person is not eligible to be elected to the office of Leader of the Opposition if the person is a member of the political party which nominated the incumbent President for election, and only members of the National Assembly who are not members of that party may vote in the election.

(3) A person elected to the office of Leader of the Opposition shall vacate the office -

(a) if the person ceases to be a member of the National Assembly;

(b) if the person is elected to the office of Speaker or Deputy Speaker;

(c) if the person resigns by notice in writing addressed to the Speaker; or

(d) where the members of the National Assembly entitled to vote at an election to the office pass a resolution requiring the person to vacate the office.

(4) An Act may provide for the salary, allowances and gratuity of the Leader of the Opposition.

(5) The salary, allowances or gratuity payable to the Leader of the Opposition shall be not less than those payable to a Minister and shall be a charge on the Consolidated Fund.

(6) Subject to article 105(3), where a person is elected Leader of the Opposition and in addition to this article is entitled to receive under any other provision of the Constitution a salary, pension, gratuity or allowance, the person shall not, while holding the office of Leader of Opposition, be concurrently entitled to receive the salary, pension, gratuity or allowance under this article and under any other provision of the Constitution but may opt to receive the salary, pension, gratuity or allowance under either this article or any other provision of the Constitution.

## PART II - LEGISLATIVE POWER AND ITS EXERCISE

### Vesting of legislative power

85. The legislative power of Seychelles is vested in the National Assembly and shall be exercised subject to and in accordance with this Constitution.

### Exercise of legislative power

86. (1) The legislative power vested in the National Assembly shall be exercised by Bills passed by the Assembly and assented to or deemed to have been assented to by the President.

(1)(A) Unless it is otherwise provided in this Constitution, a Bill is passed by the Assembly if it is supported at all the stages at which it is a whole put to the vote of the Assembly by a majority of the members present and voting.

(2) Subject to article 87, where a Bill is presented to the President for assent, the President shall, within fourteen days of the presentation of the Bill, assent, or, in accordance with this Part, withhold assent, to the Bill.

(3) The President shall, as soon as practicable, cause a Bill which has been passed and assented or deemed to have been assented to in accordance with this Constitution to be published in the Gazette whereupon it shall become law.

(4) A Bill passed by the National Assembly and assented to or deemed to have been assented to by the President shall be styled an “Act” and the words of enactment shall be “Enacted by the President and the National Assembly”.

#### Referral of Bills to Constitutional Court by President

87. (1) Where the President is of the opinion that a Bill presented for assent infringes or may infringe this Constitution, the President shall not assent to the Bill and, as soon as is practicable within fourteen days of the presentation of the Bill -

(a) advise the Speaker accordingly; and

(b) refer the Bill to the Constitutional Court for a decision in this respect.

(2) Where the President refers a Bill to the Constitutional Court under clause (1), the President shall not, until the Court has made its decision on the Bill, be treated, for the purposes of article 88, as having withheld assent to the Bill.

(3) Where a Bill has been referred to the Constitutional Court under clause (1), the President shall not assent to it and the National Assembly shall not proceed under article 88(2) until the Court has pronounced its decision thereon.

(4) Where the Constitutional Court decides that a Bill referred to it under clause (1) does not infringe this Constitution, the Court shall forthwith inform the President and the Speaker in writing accordingly and the period under article 86(2) within which the President is required to assent to a Bill shall start to run from the date of the decision of the Court.

(5) Where the Constitutional Court decides that a Bill referred to it under clause (1) infringes this Constitution, the Court shall forthwith inform the President and the Speaker in writing accordingly and the President shall return the Bill to the Speaker.

#### Withholding of assent by President

88. (1) Where the President withholds, within the period provided in article 86(2), assent to a Bill, not being a Bill referred to in article 87(5), the President shall, in the case of a refusal, forthwith or, in any event, forthwith after the period of fourteen days referred to in article 86(2) -

(a) return the Bill to the Speaker; and

(b) inform the Speaker in writing of the reasons why the Bill has not been assented to.

(2) Where the President has returned the Bill to the Speaker under clause (1)(a), the National Assembly may, at any time after a period of three months from the date by which the President should have assented to the Bill under article 86(2), by a notice approved by the

votes of not less than two-thirds of the number of members of the Assembly resolve that the Bill should again be presented for the President's assent.

(3) Where a Bill is presented for the President's assent under clause (2), notwithstanding that the President withholds assent to the Bill, the President shall be deemed to have assented to the Bill at the expiration of the period of fourteen days referred to in article 86(2).

#### Subsidiary legislation

89. Articles 85 and 86 shall not operate to prevent an Act from conferring on a person or authority power to make subsidiary legislation.

#### Restriction on certain measures

90. Except on the recommendation of the President, signified by the Minister for the time being responsible for finance, the National Assembly shall not -

(a) proceed on a Bill, including an amendment to a Bill, which, in the opinion of the person presiding or the Attorney-General provides -

(i) for the imposition of taxation or the alteration of taxation otherwise than by reduction;

(ii) for the imposition of any charge on the Consolidated Fund or any other public fund of Seychelles or the alteration of any such charge otherwise than by reduction;

(iii) for the payment, issue or withdrawal from the Consolidated Fund or any other fund of the Government of Seychelles of any moneys not charged thereon or any increase in the amount of such payment, issue or withdrawal; or

(iv) for the composition or remission of any debt due to the Government of Seychelles; or

(b) proceed upon any motion, including an amendment to a motion, the effect of which in the opinion of the person presiding or the Attorney-General is that provision would be made for any matter in paragraph (a)(i) to (iv); or

(c) receive any petition, that, in the opinion of the person presiding, requests that that provision be made for any matter in paragraph (a)(i) to (iv).

### PART III - ALTERATION OF THE CONSTITUTION

#### Alteration of the Constitution

91. (1) The National Assembly shall not proceed on a Bill to alter Chapter I, Chapter III, this article, article 110 or article 111 unless -

(a) the proposed alteration contained in the Bill has been approved on a referendum by not less than sixty percent of the votes cast in the referendum; and

(b) the Speaker signifies that such approval has been so given.

(2) A Bill to alter this Constitution shall, in the long title state that it is a Bill to alter the Constitution, and shall not be passed by the National Assembly unless it is supported by the votes of not less than two-thirds of the number of members of the Assembly at any stage at which, pursuant to the Standing Orders, the Bill as a whole is put to the vote in the Assembly.

(3) In this article -

(a) a reference to this Constitution includes a reference to a law that amends or replaces any provision of this Constitution; and

(b) a reference to the alteration of this Constitution includes a reference to the amendment, modification or reenactment, with or without amendment or modification, of any provision of this Constitution, the suspension or repeal of any such provision and the addition of a new provision to this Constitution.

#### PART IV - PROCEDURES IN THE NATIONAL ASSEMBLY

President may address National assembly

92. (1) The President may, at any time, attend and address the National Assembly.

(2) The President may send a message to the National Assembly and the message shall be read, at the first convenient sitting of the Assembly after it is received by the Speaker, by the Vice-President.

Attendance of Ministers at meetings of the National Assembly

93. (1) The Vice-President or a Minister may attend meetings of the National Assembly-

(a) for the purpose of presenting a Bill and in connection with proceedings in the Assembly relating to the passing of a Bill.

(b) for the purpose of dealing with any matters arising in the Assembly, or explaining to the Assembly any matter, which falls within the Vice-President's or Minister's responsibility, or

(c) for the purpose of answering a written question from a member.

(2) The Vice-President, a Minister or, where a matter falls within the responsibility of the President, the Vice-President or a Minister designated by the President shall attend a meeting of the National Assembly when it is necessary for a purpose referred to in clause (1)(b) or (c).

Right to introduce Bills

94. (1) The right to introduce a Bill in the National Assembly may be exercised by the Vice-President or a Minister or, subject to clause (2), a member.

(2) A member may not, pursuant to clause (1), introduce a Bill which provides for any of the matters specified in article 90.



(3) The Speaker shall, after consultation with the President and the Leader of the Opposition, determine the order of priority for the presentation of bills to the National Assembly.

#### Quorum of the National Assembly

95. (1) Where at a meeting of the National Assembly a quorum is not present and a member who is present objects on that account to the transaction of business and after such interval as may be prescribed in the Standing Orders, the person presiding at the sitting ascertains that a quorum is still not present, the person presiding shall adjourn the meeting of the Assembly.

(2) For the purpose of this article, a quorum shall consist of one half of the number of members at the time.

#### Voting

96. (1) Subject to this Constitution, questions before a meeting of the National Assembly shall be decided in accordance with the majority of members present and voting.

(2) The person presiding at a meeting of the National Assembly shall not vote on any question to be decided by the Assembly but, in the event of an equality of votes on any question, shall have a casting vote.

#### Meetings of the Assembly open to the Republic

97. Subject to the Standing Orders meetings of the National Assembly shall be open to the public and may be broadcast.

#### President of meetings of the National Assembly

98. (1) Subject to clause (2), the Speaker or, in the absence of the Speaker, the Deputy Speaker or, in their absence, a member elected by the National Assembly, shall preside over the deliberations of the Assembly.

(2) The first meeting of a session of the Assembly shall, until the Speaker is elected, be presided over by the person who was the Speaker or, in his absence, the Deputy Speaker immediately before that meeting.

#### Oath to be taken by members

99. A member shall not take part in the proceedings of the National Assembly, other than the proceedings for the purposes of this article, until the member has taken and subscribed before the Assembly the oath of allegiance.

#### Validity of proceedings

100. The National Assembly may act, notwithstanding any vacancy in its membership, including any vacancy not filled when the Assembly first meets after an election, and the presence or participation of a person not entitled to be present at, or to participate in, the proceedings of the Assembly shall not invalidate the proceedings.

## Standing Orders

101. Subject to this Constitution, the National Assembly may make Standing Orders for the regulation and orderly conduct of its proceedings and the discharge of business at sittings of the Assembly and for related purposes.

## Privileges and immunities

102. (1) There shall be freedom of speech and debate in the National Assembly and a member shall not be subject to the jurisdiction of any court or to any proceedings whatsoever, other than in proceedings in the Assembly, when exercising those freedoms or performing the functions of a member in the Assembly.

(2) Where the National Assembly is in session an arrest shall not be effected against a member in a way which will interfere with the performance by the member of the functions of the member in the Assembly and, where proceedings are instituted against a member, the court or authority before which the proceedings are being conducted shall so conduct the proceedings as to allow the member to continue to perform the functions of the member in the Assembly.

(3) Where an arrest has been effected against a member, or any proceedings against a member begun, before the beginning of the session of the Assembly, the arrest or proceedings shall not be allowed to interfere with the performance by the member of the functions of the member in the Assembly.

(4) The protection afforded under clauses (2) and (3) shall, in the case of a criminal proceedings, end upon the court or authority before which the proceedings are being conducted passing a sentence on the member on the conviction of the member.

(5) A member or other person or authority is not liable to civil or criminal proceedings, arrest, imprisonment, fine, damages or compensation by reason of -

(a) an Act done under the authority or an order of the Assembly; or

(b) words spoken or used, or a document or writing made or produced under an order made under the authority of the Assembly.

(6) Where a person, other than a member of the National Assembly, is aggrieved by the exercise of the right under clause (1), that person may, in writing addressed to the Speaker, submit a reply to the Speaker and the Speaker shall circulate a copy of the reply to every member of the Assembly, and at the commencement of the proceedings of the immediately following sittings of the Assembly, read the reply in the Assembly.

## Service of process

103. A process issued by a court shall not be served or executed within the precincts of the National Assembly, as defined by or under an Act.

## Committees

104. (1) The National Assembly shall, as soon as is practicable after the beginning of each session of the Assembly, appoint from among its members standing committees and other committees necessary for the efficient discharge of its functions and, without prejudice to the foregoing, the National Assembly shall appoint the following standing committees -

(a) a Finance and Public Accounts Committee; and

(b) a Standing Order Committee.

(2) The composition of a standing or other committee shall, as far as is practicable, reflect the strength of the political parties and independent members in the Assembly but shall otherwise be regulated by the Standing Orders.

(3) For the purposes of effectively performing its functions a standing or other committee may summon any person the committee believes may assist the committee in the performance of its functions and the committee shall have the powers, rights and privileges of the Supreme Court for-

(a) enforcing the attendance of witnesses and examining them on oath, affirmation or otherwise;

(b) compelling the production of documents; and

(c) issuing a commission or respect to examine a witness abroad.

(4) A debate in the National Assembly may only be initiated in respect of a report or other matter which falls within the competence of a standing or other committee by a member of the standing or other committee.

## Salary of members

105. (1) An Act may provide for the salary, allowances and gratuity of members of the National Assembly.

(2) The salary, allowances or gratuity payable to members of the National Assembly shall be a charge on the Consolidated Fund.

(3) A member of the National Assembly elected to the office of Speaker, Deputy Speaker or the Leader of the Opposition shall not, while holding that office, be paid the salary, allowances or gratuity payable under clause (1).

## PART V - SESSIONS AND DISSOLUTION OF THE NATIONAL

### ASSEMBLY Session and dissolution of Assembly

106. (1) A session of the National Assembly shall begin on the first meeting of the Assembly summoned under article 107 and, unless sooner dissolved under clause (2)(b), article 110 or article 111, continue for a period of five years thereafter.

(2) The National Assembly shall stand dissolved -

(a) subject to clause (3), on the day next following the end of the period of five years referred to in clause (1);

(b) where a general election is held before the period of five years referred to in clause (1), on the day next following the declaration of the results of the election; or

(c) in accordance with article 110 or article 111.

(3) Where a period of public emergency subsists at the time when the National Assembly would stand dissolved under clause (2)(a), National Assembly may, by resolution approved by a majority of the members of the Assembly, extend the sessions of the Assembly-

(a) where there is a declaration of emergency, for not more than six months at a time but up to a maximum aggregate period of twelve months;

(b) where Seychelles is at war, for not more than twelve months at a time but up to a maximum aggregate period of forty-eight months,

and a period of extension shall not extend beyond the duration of the term of office of the President extended in the same circumstances under this Constitution.

#### First meeting of National Assembly

107. The President shall, by Proclamation published in the Gazette, summon the first meeting of the National Assembly in a session not later than four months after the end of the immediately preceding session of the Assembly.

#### Place and time of meetings

108. Subject to article 109, each succeeding meeting of the National Assembly after the first meeting of the Assembly shall be held at such place and commence at such time as the Speaker may determine or as may be prescribed by the Standing Orders.

#### President may summon meetings

109. The President may, at any time by Proclamation published in the Gazette, summon a meeting of the National Assembly.

#### Dissolution of Assembly by President

110. (1) The President may dissolve the National Assembly in accordance with this article.

(2) Subject to clause (5), the President may, not more than once during a term of office of the President, for any reason which the President considers it to be in the national interest so to do, after giving seven days notice to the Speaker, by Proclamation published in the Gazette, dissolve the National Assembly and the Assembly shall stand dissolved on the day next following the publication of the Proclamation.

(3) Subject to clause (5), where during a term of office of the President the President has once dissolved the National Assembly under clause (2) and the President is of the opinion that it is in the national interest to dissolve the Assembly once again, the President may, after giving to the Speaker -

(a) seven days' notice of the intention to dissolve the Assembly; and

(b) written notice of the President's intention to resign from office under article 52(5) on the publication of the Proclamation under this article,

by Proclamation, published in the Gazette, dissolve the National Assembly and the Assembly shall stand dissolved and the President shall cease to hold office on the day next following the publication of the Proclamation.

(4) Where -

(a) the National Assembly votes against any measure or proposal of the Government and on a referendum a majority of the votes cast in the referendum supports the measure or proposal and the Assembly, after the referendum, again votes against the measure or proposal,

(b) a proposal to alter Chapter I, III, article 91, this article or article 111 has been approved on a referendum held pursuant to article 91 and a Bill to give effect to the proposal is not supported as required by article 91(2) in the National Assembly,

the President may, after giving seven days' notice to the Speaker, by Proclamation published in the Gazette, dissolve the National Assembly within thirty days of the Assembly voting against the measure or proposal under paragraph (a) or the Assembly not supporting the Bill under paragraph (b), as the case may be and the Assembly shall stand dissolved on the day next following the publication of the Proclamation.

(5) The President shall not dissolve the National Assembly under clause (2) or clause (3) during any period of public emergency in terms of article 49 or, where proceedings for the removal of the President under article 53 or article 54 have commenced, during the pendency of the proceedings.

Dissolution of Assembly by Assembly

111. Where the National Assembly at a meeting summoned for this purpose resolves by the affirmative votes of not less than two-thirds of the number of members of the Assembly that the Assembly be dissolved, the National Assembly shall stand dissolved on the day next following the passing of the resolution.

## CHAPTER VII - ELECTORAL AREAS, FRANCHISE AND ELECTORAL COMMISSION

Electoral areas

112. (1) Subject to this article, Seychelles shall be divided into as many electoral areas, as may be prescribed, for the purposes of election of members to the National Assembly and each electoral area shall be represented by one member of the National Assembly.

(2) There shall be not less than nineteen electoral areas on Mahe and two electoral areas on Praslin, and the Inner Islands shall constitute one electoral area.

(3) In determining the number and boundaries of the electoral areas on Mahe and Praslin the Electoral Commission-

(a) shall have regard to -

(i) the boundaries of electoral areas which exist at the time of the determination by the Commission; and

(ii) the natural geographical features of Seychelles;

(b) shall ensure that, each electoral area on Mahe shall have, as nearly as is practicable, an equal number of inhabitants and each electoral area on Praslin shall have, as nearly as is practicable, an equal number of inhabitants.

#### Right to vote

113. A citizen of Seychelles who is registered as a voter in an electoral area shall be entitled to vote, in accordance with law, in the electoral area -

(a) at an election for the office of President;

(b) at an election of the members of the National Assembly; or

(c) in a referendum held under this Constitution,

unless any circumstances have arisen which, if the citizen were not so registered, would cause the citizen to be disqualified under an Act made under article 114(1) on ground (a) ground (b) of article 114(1).

#### Qualification for registration as a voter

114. (1) A person who is a citizen of Seychelles and has attained the age of eighteen years is entitled to be registered as a voter unless the person is disqualified from registration under an Act on the ground of-

(a) infirmity of mind;

(b) criminality; or

(c) residence outside Seychelles.

(2) An Act referred to in clause (1) may provide for different grounds of disqualification with regard to -

(a) an election for the office of President;

(b) an election of the members of the National Assembly; and

(c) a referendum held under this Constitution.

(3) A person is not entitled to be registered as a voter in more than one electoral area.

#### Electoral Commission

115. (1) There shall be an Electoral Commission which shall perform the functions conferred upon it by this Constitution and any other law.

(2) Subject to this Constitution, the Electoral Commission shall not, in the performance of its functions, be subject to the direction or control of any person or authority.

#### Members of the Commission

115A. (1) The Commission shall consist of a Chairperson and four Members all of whom shall be appointed by the President selected from seven candidates of proven integrity and high repute, proposed by the Constitutional Appointments Authority constituted under Article 139 of the Constitution.

#### Qualification of Member

115B. A person is qualified to be a Chairperson and Members of the Commission if the person is a citizen of Seychelles who -

(a) is qualified to be registered as a voter; and

(b) the person is not a candidate of an election under the Constitution or is not the President, Vice-President, Minister or a Member of the National Assembly and not an executive office bearer of a political party.

#### Tenure of Office

115C. (1) The Chairperson and the Members of the Commission shall be appointed for a term of seven years, and may, at the end of a term, be eligible for re-appointment.

(2) The Chairperson may by writing addressed to the President and a Member who is not the Chairperson, to the Chairperson, resign.

(3) A resignation under clause (2) shall have effect on the date it is last received by any person specified in that clause.

(4) The salary, allowances and gratuity payable to the Chairperson and Members of the Commission shall be prescribed by or under an Act and the salary, allowances or gratuity shall be a charge on the Consolidated Fund.

(5) Subject to article 166, the salary, allowances and gratuity payable to and the term and other conditions of appointment of the Chairperson and Members of the Commission shall not be altered to the disadvantage after the appointments.

(6) The Commission may regulate its own proceedings and may act notwithstanding one vacancy in its membership.

#### Functions of Electoral Commission

116. (1) The Electoral Commission -

(a) shall be responsible for the conduct and supervision of the registration of voters and of elections and referenda under this Constitution;

(b) shall keep under continuous review the number and boundaries of the electoral areas into which Mahe and Praslin are divided having regard to article 112(3);

(c) shall keep under continuous review the practices and working, including such matters as finance, broadcast and advertising, of political campaigns in respect of elections and referenda under this Constitution;

(d) shall have such other functions as may be prescribed by or under this Constitution or an Act.

(e) shall review existing legislation governing electoral matters and make recommendations to the Government.

(2) The Electoral Commission shall, within ninety days after each election or referendum under this Constitution, submit to the National Assembly and the President a report on the conduct of-

(a) the political campaign leading up to the election or referendum; and

(b) the election or referendum,

together with such recommendations as the Commission may consider necessary for the purposes of ensuring true, fair and effective elections and referenda.

(3) The Electoral Commission shall, not later than three years after the coming into force of this Constitution and thereafter three years after the Commission last submitted a report in terms of clause (1)(b), submit to the National Assembly and the President a report in terms of clause (1)(b) together with such recommendations regarding changes in the number or boundaries of the electoral areas on Mahe and Praslin which the Commission considers necessary in the circumstances.

(4) As soon as is practicable within thirty days after the submission of the report under clause (3) the President shall cause to be laid before the National Assembly the draft of an order by the President for giving effect to the recommendations contained in the report relating to changes in the number or boundaries of the electoral areas referred to in the report and the draft may make provision for any matter which appears to the President to be incidental to or consequential upon the other provisions of the draft.

(5) When the draft order laid before the National Assembly under clause (4) is approved by resolution of the National Assembly, the President shall make an order, which shall be



published in the Gazette, in terms of the draft and the order shall come into force on the next dissolution of the National Assembly after the order is so published.

(6) Where the draft order laid before the National Assembly under clause (4) is not approved by resolution of the National Assembly, the President shall refer the matter to the Electoral Commission for its reconsideration.

Control of funds in relation to election and referendum

117. An Act shall provide for the regulation and control by the Electoral Commission of -

- (a) election or referendum expenditures by a political party or person taking part in an election or referendum;
- (b) contributions to or in favour of a political party or person taking part in an election or referendum or a cause in relation to an election or referendum;
- (c) political broadcasts.

Registration of political parties and control of funds

118. An Act shall provide for the registration of political parties, qualifications for entitlement to be registered as a political party, conferment of corporate status on political parties, the maintenance of a register of political parties by the Electoral Commission, the submission of accounts and other prescribed particulars and information to the Commission by a registered political party, the provision of financial support from public funds to political parties, the control of financial and other contributions to political parties, the disposal of the assets of political parties on dissolution and the submission to the National Assembly by the Electoral Commission of an annual report in respect of the functions of the Commission under the Act.

## CHAPTER VIII - JUDICIARY

### PART I - GENERAL

Judicial power of Seychelles

119. (1) The judicial power of Seychelles shall be vested in the Judiciary which shall consist of -

- (a) the Court of Appeal of Seychelles;
- (b) the Supreme Court of Seychelles; and
- (c) such other subordinate courts or tribunals established pursuant to article 137.

(2) The Judiciary shall be independent and be subject only to this Constitution and the other laws of Seychelles.

(3) Subject to this Constitution, Justice of Appeal, Judges and Masters of the Supreme Court shall not be liable to any proceedings or suit for anything done or omitted to be done by them in the performance of their functions.

(4) An Act establishing a subordinate court or tribunal referred to in clause (1)(c) may grant to the person exercising judicial functions in the court or tribunal immunity from proceedings or suit to the extent provided in clause (3).

## PART II - COURT OF APPEAL

### Establishment and jurisdiction of Court of Appeal

120. (1) There shall be a Court of Appeal which shall, subject to this Constitution, have jurisdiction to hear and determine appeals from a judgement, direction, decision, declaration, decree, writ or order of the Supreme Court and such other appellate jurisdiction as may be conferred upon the Court of Appeal by this Constitution and by or under an Act.

(2) Except as this Constitution or an Act otherwise provides, there shall be a right of appeal to the Court of Appeal from a judgment, direction, decision, declaration, decree, writ or order of the Supreme Court.

(3) The Court of Appeal shall, when exercising its appellate jurisdiction, have all the authority, jurisdiction and power of the court from which the appeal is brought and such other authority, jurisdiction and power as may be conferred upon it by or under an Act.

(4) Subject to this Constitution and any other law, the authority, jurisdiction and power of the Court of Appeal may be exercised as provided in the Rules of the Court of Appeal.

(5) Proceedings in respect of a matter relating to the application, contravention, enforcement or interpretation of this Constitution shall take precedence over other matters before the Court of Appeal.

(6) Where in respect of any matter before it, the Court of Appeal finds that any law or provision of any law contravenes this Constitution, the Justice of Appeal presiding at the sitting of the Court shall send a copy of the finding to the President and the Speaker.

(7) The Court of Appeal shall sit, as occasion requires, to deal with matters before it as expeditiously as is practicable.

### Composition of Court of Appeal

121. The Court of Appeal shall consist of -

- (a) a President of the Court of Appeal and two or more other Justices of Appeal; and
- (b) the Judges who shall be ex-officio members of the

Court. Qualification of Justices of Appeal

122. A person is qualified for appointment as, or to discharge the functions of, the President of the Court of Appeal or a Justice of Appeal if, in the opinion of the Constitutional Appointments Authority, the person is suitably qualified in law and can effectively, competently and impartially discharge the functions of the office of Justice of Appeal under this Constitution.

#### Appointment of Justices of Appeal

123. The President shall, by instrument under the Public Seal, appoint the President of the Court of Appeal and other Justices of Appeal from candidates proposed by the Constitutional Appointments Authority.

#### Acting appointment of Justices of Appeal

124. (1) Where the office of President of the Court of Appeal is vacant or the President of the Court of Appeal is for any reason unable to perform the functions of the office of President of the Court of Appeal -

- (a) until a person has been appointed to and has assumed the functions of that office; or
- (b) until the person holding the office of President of the Court of Appeal has resumed the functions of that office,

as the case may be, the functions of the office of President of the Court of Appeal shall be performed by a Justice of Appeal appointed for the purpose by the President from Justices of Appeal proposed by the Constitutional Appointments Authority.

(2) Where -

- (a) the office of a Justice of Appeal is vacant;
- (b) a Justice of Appeal is for any reason unable to perform the functions of that office;
- (c) a Justice of Appeal is performing the functions of the President of the Court of Appeal under clause (1).

the President may appoint a person from candidates proposed by the Constitutional Appointments Authority to act as Justice of Appeal -

- (d) until a person has been appointed to and has assumed the functions of the office of Justice of Appeal;
- (e) until the person holding the office of Justice of Appeal has resumed the functions of that office; or
- (f) until the Justice of Appeal referred to in paragraph (c) ceases to perform the functions of the office of President of the Court of Appeal,

as the case may be.

## PART III - SUPREME COURT

### Establishment and jurisdiction of Supreme Court

125. (1) There shall be a Supreme Court which shall, in addition to the jurisdiction and powers conferred by this Constitution, have -

(a) original jurisdiction in matters relating to the application, contravention, enforcement or interpretation of this Constitution;

(b) original jurisdiction in civil and criminal matters;

(c) supervisory jurisdiction over subordinate courts, tribunals and adjudicating authority and, in this connection, shall have power to issue injunctions, directions, orders or writs including writs or orders in the nature of habeas corpus, certiorari, mandamus, prohibition and quo warranto as may be appropriate for the purpose of enforcing or securing the enforcement of its supervisory jurisdiction; and

(d) such other original, appellate and other jurisdiction as may be conferred on it by or under an Act.

(2) Proceedings in respect of matters relating to the application, contravention, enforcement or interpretation of this Constitution shall take precedence over other matters before the Supreme Court.

(3) The Supreme Court shall consist of the Chief Justice, the Puisne Judges and, subject to clause (5), the Masters of the Supreme Court.

(4) Subject to article 129, any other law and the Rules of the Supreme Court, a single Judge or a number of Judges sitting together may exercise the jurisdiction and powers of the Supreme Court.

(5) A Master of the Supreme Court may exercise such limited jurisdiction and powers of the Supreme Court as may be prescribed by or under an Act or by the rules of the Supreme Court in respect of interlocutory proceedings.

(6) The number of Puisne Judges and Masters of the Supreme Court who may be appointed shall be prescribed by an Act.

(7) For the purposes of clause (1)(c) “adjudicating authority” includes a body or authority established by law which performs a judicial or quasi-judicial function.

### Qualification of Judges and Masters

126. (1) A person is qualified for appointment as a Judge if -

(a) the person has been entitled to practice before a court of unlimited original jurisdiction for not less than seven years; and

(b) in the opinion of the Constitutional Appointments Authority the person has shown outstanding distinction in the practice of law and can effectively, competently and impartially discharge the functions of the office of a Judge under this Constitution.

(2) A person is qualified for appointment as a Master of the Supreme Court if -

(a) the person has been entitled to practise before a court of unlimited jurisdiction for not less than five years; and

(b) in the opinion of the Constitutional Appointments Authority the person has shown outstanding distinction in the practice of law and can effectively, competently and impartially discharge the functions of the office of a Master of the Supreme Court under this Constitution.

(3) For the purposes of clauses (1)(b) and (2)(b), any period during which a person has functioned as a public officer holding an office for which qualification as a barrister or attorney is required may be treated as a period of practice under the clauses.

#### Appointment of Judges and Masters

127. The President shall, by instrument under the Public Seal, appoint the Judges and Masters of the Supreme Court from candidates proposed by the Constitutional Appointments Authority.

#### Acting appointment of Judges

128. (1) Where the office of Chief Justice is vacant or the Chief Justice is for any reason unable to perform the functions of the office of Chief Justice -

(a) until a person has been appointed to and has assumed the functions of that office; or

(b) until the person holding that office has resumed the functions of that office,

as the case may be, the functions of the office shall be performed by a Judge appointed by the President from Judges proposed by the Constitutional Appointments Authority.

(2) Where -

(a) the office of Judge is vacant;

(b) a Judge is for any reason unable to perform the functions of the office of a Judge; or

(c) the Chief Justice advises the President that the state of business in the Supreme Court so requires,

the President may appoint a person from candidates proposed by the Constitutional Appointments Authority to act as a Judge -

(d) until a person has been appointed and has assumed the functions of that office;

- (e) until the person holding that office has assumed the functions of that office; or
  - (f) until the President, on the advice of the Chief Justice, revokes the appointment, as the case may be.
- (3) An appointment under clause (2)(c) may be made without reference to any numerical limit imposed under article 125(6).

## PART IV - CONSTITUTIONAL QUESTIONS

### Supreme Court as Constitutional Court

129. (1) The jurisdiction and powers of the Supreme Court in respect of matters relating to the application, contravention, enforcement or interpretation of the Constitution shall be exercised by not less than two Judges sitting together.
- (2) Where two or more Judges sit together for the purposes of clause (1), the most senior of the Judges shall preside.
- (3) Any reference to the Constitutional Court in this Constitution shall be a reference to the Court sitting under clause(1).

### Constitutional questions before Constitutional Court

130. (1) A person who alleges that any provisions of this Constitution, other than a provision of Chapter III, has been contravened and that the person's interest is being or is likely to be affected by the contravention may, subject to this article, apply to the Constitutional Court for redress.
- (2) The Constitutional Court may decline to entertain an application under clause (1) where the Court is satisfied that the applicant has obtained redress for the contravention under any law and where the applicant has obtained redress in the Constitutional Court for any matter for which an application may be made under clause (1), a court shall not entertain any application for redress for such matter except on appeal from a decision of such court.
- (3) Where the Constitutional Court on an Application under clause (1) is satisfied that adequate means of redress for the contravention alleged are or have been available to the person concerned in any other court under any other law, the Court may hear the application or transfer the application to the appropriate court for grant of redress in accordance with law.
- (4) Upon hearing an application under clause (1), the Constitutional Court may -
- (a) declare any act or omission which is the subject of the application to be a contravention of this Constitution;
  - (b) declare any law or the provision of any law which contravenes this Constitution to be void;

(c) grant any remedy available to the Supreme Court against any person or authority which is the subject of the application or which is a party to any proceedings before the Constitutional Court, as the Court considers appropriate.

(5) Where the Constitutional Court makes a declaration under clause 4(b), the Court shall, subject to any decision in appeal therefrom, send a copy of the declaration to the President and the Speaker.

(6) Where in the course of any proceedings in any court, other than the Court of Appeal or the Supreme Court sitting as the Constitutional Court, or tribunal, a question arises with regard to whether there has been or is likely to be a contravention of this Constitution, other than Chapter III, the court or tribunal shall, if it is satisfied that the question is not frivolous or vexatious or has not already been the subject of a decision of the Constitutional Court or the Court of Appeal, immediately adjourn the proceedings and refer the question for determination by the Constitutional Court.

(7) Where in an application under clause (1) or where a matter is referred to the Constitutional Court under clause (6), the person alleging the contravention or risk of contravention establishes a prima facie case, the burden of proving that there has not been a contravention or risk of contravention shall, where the allegation is against the State, be on the State.

(8) The Court in which the question referred to in clause (6) arose shall dispose of the case in accordance with the decision of the Constitutional Court, or if that decision is the subject of an appeal, in accordance with the decision of the Court of Appeal.

(9) Nothing in this article confers jurisdiction on the Constitutional Court to hear or determine a matter referred to it under article 51(3) or article 82(1) otherwise than upon an application made in accordance with article 51 or article 82.

## PART V - TERMS OF APPOINTMENT OF JUSTICES OF APPEAL AND JUDGES

### Tenure of office of Justices of Appeal and Judges

131. (1) Subject to article 134, a person holding office of Justice of Appeal or Judge shall vacate that office -

- (a) if the person is removed from office under article 134;
- (b) subject to clause (2), if the person resigns in writing addressed to the President and to the Constitutional Appointments Authority;
- (c) in the case of a person who is a citizen of Seychelles, on attaining the age of seventy years;
- (d) in the case of a person who is not a citizen of Seychelles, at the end of the term for which the person was appointed;
- (e) if the office is abolished with the consent of the person.

(2) A resignation under clause (1)(c) shall have effect on the date on which it is received by the President.

(3) Subject to clause (4), a person who is not a citizen of Seychelles may be appointed to the office of Justice of Appeal or Judge for only one term of office of not more than seven years.

(4) The President may, on the recommendation of the Constitutional Appointments Authority in exceptional circumstances, appoint a person who is not a citizen of Seychelles and who has already completed one term of office as a Justice of Appeal or Judge for a second term of office, whether consecutive or not, of not more than seven years.

#### Miscellaneous provisions with respect to tenure

132. (1) The office of Justice of Appeal or Judge shall not, without the consent of the Justice of Appeal or Judge, be abolished during the Justice's of Appeal or Judge's continuance in office.

(2) A person who has been appointed to the office of Justice of Appeal or Judge may continue in office notwithstanding any change, during the Justice's of Appeal or Judge's term of office, of the qualification for appointment to the office.

(3) A Justice of Appeal or Judge or a person acting as such pursuant to article 124 or article 128, whose appointment has terminated otherwise than by reason of being removed from office under article 134, may continue to sit as a Justice of Appeal or Judge, or to act as such, for the purpose of giving judgment or otherwise in relation to any proceedings commenced before the Justice of Appeal or Judge before the termination of the appointment.

#### Salary etc. of Justices of Appeal and Judges

133. (1) The salary, allowances and gratuity payable to a Justice of Appeal or Judge shall be prescribed by or under an Act and shall be a charge on the Consolidated Fund.

(2) Subject to article 134, the salary, allowances or gratuity payable to and the term and other conditions of service of a Justice of Appeal or Judge shall not be altered to the disadvantage of the Justice of Appeal or Judge after appointment.

#### Removal of Justice of Appeal or Judge from office

134. (1) A Justice of Appeal or Judge may be removed from office only -

(a) for inability to perform the functions of the office, whether arising from infirmity of body or mind or from any other cause, or for misbehaviour; and

(b) in accordance with clauses (2) and (3).

(2) Where the Constitutional Appointments Authority considers that the question of removing a Justice of Appeal or Judge from office under clause (1) ought to be investigated -

(a) the Authority shall appoint a tribunal consisting of a President and at least two other members, all selected from among persons who hold or have held office as a Judge of a court



having unlimited original jurisdiction or a court having jurisdiction in appeals from such a court or from among persons who are eminent jurists of proven integrity; and

(b) the tribunal shall inquire into the matter, report on the facts thereof to the Authority and recommend to the President whether or not the Justice of Appeal or Judge ought to be removed from office.

(3) Where, under clause (2), the tribunal recommends that a Justice of Appeal or Judge ought to be removed from office, the President shall remove the Justice of Appeal or Judge from office.

(4) Where under this article the question of removing a Justice of Appeal or Judges has been referred to a tribunal, the President may suspend the Justice of Appeal or Judge from performing the functions of a Justice of Appeal or Judge, but the suspension-

(a) may, on the advice of the Constitutional Appointments Authority, be revoked at any time by the President;

(b) shall cease to have effect if the tribunal recommends to the President that the Justice of Appeal or Judge ought not to be removed from office.

## PART VI - MISCELLANEOUS

### Oaths to be taken by Justices of Appeal, Judges and Masters of Supreme Court

135. A Justice of Appeal, Judge or Master of the Supreme Court, shall, before entering office, take and subscribe the oath of allegiance and such oath for the due performance of the functions of the office as may be prescribed by or under an Act.

### Rules of Court

136. (1) The President of the Court of Appeal may make Rules of the Court of Appeal. (2) The Chief Justice may make Rules of Court of the Supreme Court.

### Other courts

137. Acts may -

(a) provide for the establishment of courts or tribunals which are subordinate to the Court of Appeal and Supreme Court, in this article referred to as “subordinate courts and tribunals”;

(b) provide for the appointment to and removal from office of members of the subordinate courts and tribunals;

(c) define or provide for the definition of the jurisdiction and powers of the subordinate courts and tribunals;

(d) define or provide for the definition of the relationship among the subordinate courts or tribunals and the relationship between the subordinate courts or tribunals and the Supreme Court and the Courts of Appeal;

(e) provide for the making of rules in respect of the subordinate courts and tribunals. Seal of Court

138. The Supreme Court shall have, and use as occasion requires, a seal bearing on it the device of the Public Seal of Seychelles surrounded by the words “Seal of the Supreme Court of Seychelles”.

## CHAPTER IX - CONSTITUTIONAL APPOINTMENTS AUTHORITY

### Establishment of Constitutional Appointments Authority

139. (1) There shall be a Constitutional Appointments Authority which shall perform the functions conferred upon it by this Constitution and any other law.

(2) Subject to this Constitution, the Constitutional Appointments Authority shall not, in the performance of its functions, be subject to the direction or control of any person or authority.

### Composition of Constitutional Appointments Authority

140. (1) The Constitutional Appointments Authority shall consist of three members appointed as follows-

(a) the President and the Leader of the Opposition shall each appoint one member;

(b) subject to clause (3), the two members appointed under paragraph (a) shall, within twenty-one days of their appointment, by agreement, appoint the third member who shall also be the Chairman of the Authority.

(2) The President or the Leader of the Opposition shall within seven days after the person whom the President or Leader of the Opposition has appointed under clause (1)(a) ceased to be a member of the Constitutional Appointments Authority, appoint another person as member of the Authority.

(3) Where the two members of the Constitutional Appointments Authority appointed under clause (1)(a) or clause 4(a) or (b) fail to appoint or are unable to agree on the appointment of the third member and Chairman of the Authority, the two members shall, within fourteen days after the end of the period specified in clause (1)(b), propose a list of not less than two and not more than three candidates for the office of member and Chairman of the Authority to the President and the President shall within seven days after receiving the list of candidates, appoint one of the candidates proposed as member and Chairman of the Authority.

(4) Where -

(a) the President or the Leader of the Opposition fails to appoint a member of the Constitutional Appointments Authority within the prescribed time, the Speaker shall appoint the member;

(b) the President and the Leader of the Opposition fail to appoint a member of the Constitutional Appointments Authority within the prescribed time, the appointment shall be made by the National Assembly;

(c) the two members of the Constitutional Appointments Authority appointed under clause 1(a) or subclause (a) or (b) of this clause fail to propose a list of candidates for the office of member and Chairman of the Authority to the President within the time prescribed in clause (3), the National Assembly shall propose the list of candidates to the President who shall within 7 days after receiving the list appoint one of the candidates as member and Chairman of the Authority;

(d) the President fails to appoint the third member and Chairman of the Authority within the time prescribed in clause (3) or subclause (c) of this clause, the National Assembly shall appoint the third member and Chairman;

(e) the third member and Chairman of the Constitutional Appointments Authority cease to hold office other than by expiration of the period of office, clauses (1)(b) and (3) and this clause shall apply to the appointment of the third member and Chairman as if the period specified in clause (1)(b) begins on the date the member and Chairman ceases to hold office.

#### Qualification for membership

141. A person is qualified to be a member of the Constitutional Appointments Authority if the person is a citizen of Seychelles who -

(a) has held judicial office in a court of unlimited original jurisdiction; or

(b) is of proven integrity and impartiality who has served with distinction in a high office in the Government of Seychelles or under this Constitution or in a profession or vocation.

#### Tenure of office etc.

142. (1) A person shall be appointed a member of the Constitutional Appointments Authority for a term of seven years and subject to any law, may, at the end of a term, be reappointed for further terms of office.

(2) A person holding office as member of the Constitutional Appointments Authority may, by writing addressed to the President and Leader of Opposition, and, in the case of a member who is not the Chairman, to the Chairman, resign.

(3) A resignation under clause (2) shall have effect on the date it is last received by any person specified in that clause.

(4) The salary, allowances and gratuity payable to a member of the Constitutional Appointments Authority shall be prescribed by or under an Act and the salary, allowances or gratuity shall be a charge on the Consolidated Fund.

(5) Subject to article 166, the salary, allowances and gratuity payable to and the term and other conditions of appointment of a member of the Constitutional Appointments Authority shall not be altered to the disadvantage of the member after the appointment.

(6) The Constitutional Appointments Authority may regulate its own proceedings and may act notwithstanding one vacancy in its membership.

## CHAPTER X - OMBUDSMAN

### Ombudsman

143. (1) There shall be an Ombudsman who shall be appointed by the President from candidates proposed by the Constitutional Appointments Authority.

(2) A person is qualified for appointment as Ombudsman if -

(a) the person is a citizen of Seychelles;

(b) the person is of proven integrity and impartiality;

(c) the Constitutional Appointments Authority is of the opinion that the person possesses demonstrated competence and experience and can effectively discharge the functions of the office of Ombudsman; and

(d) the person is not a member of the National Assembly or Judiciary or a Minister or the Vice-President or the President or a candidate in an election under this Constitution or has been designated as a candidate's Vice-President at an election for President.

(3) Subject to this Constitution, the Ombudsman shall not, in the performance of the office of Ombudsman, be subject to the direction or control of any person or authority.

(4) The person holding office as Ombudsman shall not hold any other public office of emolument or engage in any occupation for reward outside the functions of the office of Ombudsman which might compromise the integrity, impartiality and independence of that office.

(5) Schedule 5 shall have effect with regard to the Ombudsman.

(6) An Act may provide for any matter, not otherwise provided for under this article, necessary or expedient for the purpose of ensuring the independence, impartiality and effectiveness of the office of Ombudsman.

### Tenure of office of Ombudsman

144. (1) A person shall be appointed to the office of Ombudsman for a term of seven years, and is eligible for reappointment at the end of the term.

(2) A person holding the office of Ombudsman shall vacate the office on death, if the person, by writing addressed to the President, resigns or if the person is removed from office or at the end of a term of office.

(3) Where a person holding office as Ombudsman resigns, the resignation has effect on the date it is received by the President.

(4) The salary, allowances and gratuity payable to the Ombudsman shall be prescribed by or under an Act and the salary, allowances or gratuity so payable shall be a charge on the Consolidated Fund.

(5) Subject to article 165, the salary, allowances or gratuity payable to and the term of office and other conditions of service of the Ombudsman shall not be altered to the disadvantage of the Ombudsman after appointment.

## CHAPTER XI - PUBLIC SERVICE APPEAL BOARD

### Establishment of the Public Service Appeal Board

145. (1) There shall be a Public Service Appeal Board which shall perform the functions conferred upon it by this Constitution and any other law.

(2) Subject to this Constitution, the Public Service Appeal Board shall not, in the performance of its functions, be subject to the direction or control of any person or authority.

### Functions of the Public Service Appeal Board

146. (1) The Public Service Appeal Board shall hear complaints by persons aggrieved by -

- (a) an appointment made to an office;
- (b) a promotion to an office;
- (c) disciplinary proceedings taken in respect of an officer;
- (d) the termination of appointment of a person who was holding an office;
- (e) any decision relating to the qualification of a person who has applied for an office or is serving in an office,

in the public service.

(2) Clause (1) shall not apply to an office the appointment to which falls within the competence of the Constitutional Appointments Authority or an office referred to in article 62(3) or any other law.

(3) The Public Service Appeal Board may refuse to consider a complaint where it is of the opinion that -

- (a) it is frivolous, vexatious or trivial or made in bad faith; or
- (b) the making of the complaint has, without reasonable cause, been delayed for more than six months, or the complaint is the subject of proceedings before the court.

(4) Where after considering a complaint the Public Service Appeal Board is of the opinion that the Complainant has been aggrieved as alleged in the complaint, the Board shall order the public authority concerned to take such appropriate action as is specified in the order within the time specified in the order and where the public authority fails to comply with the order the Board shall make a report to the National Assembly.

(5) The Public Service Appeal Board shall, in addition to any report it may make under clause (4), make, before the 31<sup>st</sup> January of each year, a report to the National Assembly in respect of the performance of its functions during the immediately preceding year.

(6) A complaint made under this article shall not affect the right of the complainant or other person to take legal or other proceedings under any other law.

(7) For the purposes of this article-

“body” means a body of persons whether corporate or incorporate;

“public service” means service under a public authority;

“public authority” means a Ministry, department, or division of the Government.

#### Investigative power

147. (1) The Public Service Appeal Board shall, for the purposes of performing its functions under this Chapter, have the power to compel the attendance of witnesses, examine witnesses on oath or otherwise, call for and examine any relevant record and inspect any premises.

(2) Paragraph 4 of Schedule 5 shall apply to an investigation by the Public Service Appeal Board as it applies to an investigation by the Ombudsman.

(3) The Public Service Appeal Board may regulate its own proceedings and may act notwithstanding one vacancy in its membership.

(4) An Act may provide for any matter, not otherwise provided for in this Chapter, in relation to the Public Service Appeal Board.

#### Composition of Public Service Appeal Board

148. (1) The Public Service Appeal Board shall consist of three members appointed as follows -

(a) the President and the Leader of the Opposition shall each appoint one member;

(b) subject to clause (3), the two members appointed under paragraph (a) shall, within twenty-one days of their appointment, by agreement, appoint the third member who shall also be the Chairman of the Board.

(2) The President or the Leader of the Opposition shall within seven days after the person whom the President or Leader of Opposition has appointed under clause (1)(a) ceased to be a member of the Public Service Appeal Board, appoint another person as member of the Board.

(3) Where the two members of the Public Service Appeal Board appointed under clause (1)(a) or clause 4(a) or (b) fail to appoint or are unable to agree on the appointment of the third member and Chairman of the Board, the two members shall, within fourteen days after the end of the period specified in clause (1)(b), propose a list of not less than two and not more than three candidates for the office of member and Chairman of the Board to the President and the President shall within seven days after receiving the list of candidates, appoint one of the candidates proposed as member and Chairman of the Board.

(4) Where -

(a) the President or the Leader of the Opposition fails to appoint a member of the Public Service Appeal Board within the prescribed time, the Speaker shall appoint the member;

(b) the President and the Leader of the Opposition fail to appoint a member of the Public Service Appeal Board within the prescribed time, the appointment shall be made by the National Assembly;

(c) the two members of the Public Service Board appointed under clause (1)(a) or subclause (a) or (b) of this clause fail to propose a list of candidates for the office of member and Chairman of the Board to the President within the time prescribed in clause (3), the National Assembly shall propose the list of candidates to the President who shall within 7 days after receiving the list appoint one of the candidates as member and chairman of the Board;

(d) the President fail to appoint the third member and Chairman of the Public Service Appeal Board within the prescribed in clause (3), the National Assembly shall appoint the third member and chairman;

(e) the third member and Chairman of the Public Service Appeal Board ceases to hold office other than by expiration of the period of office, clauses (1)(b) and (3) and this clause shall apply to the appointment of the third member and Chairman as if the period specified in clause (1)(b) begins on the date the member and Chairman ceases to hold office.

#### Qualification for membership

149. A person is qualified to be a member of the Public Service Appeal Board if the person is a citizen of Seychelles who -

(a) is of proven integrity and impartiality who has served with distinction in a high office in the Government of Seychelles or under this Constitution or in a profession or vocation; and

(b) is not a member of the National Assembly or a Minister or the President or a candidate to an election under this Constitution.

Tenure of office etc.

150. (1) A person shall be appointed a member of the Public Service Appeal Board for a term of seven years and subject to any law, may, at the end of a term, be reappointed for further terms of office.

(2) A person holding office as a member of the Public Service Appeal Board may, by writing addressed to the President and Leader of Opposition, and, in the case of a member who is not the Chairman, to the Chairman, resign.

(3) A resignation under clause (2) shall have effect on the date it is last received by any person specified in that clause.

(4) The salary, allowances and gratuity payable to a member of the Public Service Appeal Board shall be prescribed by or under an Act and the salary, allowances or gratuity so payable shall be a charge on the Consolidated Fund.

(5) Subject to article 166, the salary, allowances and gratuity payable to and the term and other conditions of appointment of a member of the Public Service Appeal Board shall not be altered to the disadvantage of the member after the appointment.

(6) The Public Service Appeal Board may regulate its own proceedings and may act notwithstanding one vacancy in its membership.

## CHAPTER XII - FINANCE

### Consolidated Fund

151. There shall be a Consolidated Fund into which shall be paid all revenues or other moneys raised or received for the purposes or on behalf of the Republic, not being revenues or other moneys that are payable by or under an Act for some specific purpose or into some other fund established under an Act for a specific purpose.

### Withdrawal from Consolidated Fund

152. (1) No moneys shall be withdrawn from the Consolidated Fund except -

(a) to meet expenditure that is charged on the Fund by this Constitution or by an Act; or

(b) where the issue of those moneys has been authorised -

(i) by an Appropriation Act;

(ii) by a supplementary estimate approved pursuant to article 154(7) by resolution of the National Assembly passed in that behalf of; or

(iii) under article 155.

(2) No moneys shall be withdrawn from any public fund, other than the Consolidated Fund, unless the issue of those moneys has been authorised by or under an Act.

### Public debt



153. The public debt of Seychelles shall be a charge on the Consolidated Fund and other public funds established by or under this Constitution.

#### Appropriation Act and statement of account

154. (1) The Minister shall, not later than the thirtieth day after the beginning of each financial year, lay before the National Assembly the estimates of revenue and expenditure of the Government for the financial year.

(2) The Minister shall, before presenting the estimates under clause (1), obtain the approval of the Cabinet in respect of the estimates.

(3) The estimates referred to in clause (1) shall include -

(a) a statement of the public debt at the beginning of the financial year showing -

(i) bilateral, multilateral, institutional and commercial debts;

(ii) whether the debt in each case referred to in subparagraph (i) is foreign or domestic;

(iii) in the case of a domestic debt, the type and aggregate amount of the debt instrument issued;

(b) a statement of the expected debt at the end of the financial year;

(c) a profile of the debt repayment and servicing requirement for the next ten subsequent financial years;

(d) a statement of the outstanding guarantees given by the Government and the Central Bank of Seychelles;

(e) a statement of official reserves, clearly identifying the reserves held at the beginning of the financial year by the Central Bank, the Government and the banking sector in aggregate, the expected holdings by the Central Bank, Government and banking sector at the end of the financial year and the extent to which the official year and the extent to which the official reserves are expected to be drawn down or increased during the financial year;

(f) a statement of the fiscal outcome and effect showing a full abstract of the Consolidated Fund for the immediately preceding financial year.

(4) The estimates of expenditure referred to in clause (1) shall show separately -

(a) the estimates of expenditure required to meet expenditures charged on the Consolidated Fund; and

(b) the sums required to meet other expenditures,

during the financial year.

(5) The heads of expenditures referred to in clause (4)(b) shall be included in a Bill, to be known as the Appropriation Bill, which shall be introduced in the National Assembly to provide for appropriation from the Consolidated Fund of the sums of money necessary to meet the expenditures.

(6) Where, in respect of any financial year, it is found -

(a) that the amount appropriated by the Appropriation Act for any purpose is insufficient or that a need has arisen for expenditure for a purpose for which no amount has been appropriated by that Act; or

(b) that any moneys have been expended for any purpose in excess of the amount appropriated for that purpose by that Act or for a purpose for which no amount has been appropriated by that Act,

a supplementary estimate, showing the sum of money required or spent, shall be laid before the National Assembly.

(7) Where, in respect of any financial year, a supplementary estimate laid before the National Assembly in accordance with clause (6) has been approved by resolution by the National Assembly, a supplementary Appropriation Bill shall be introduced in the Assembly in the financial year next following the year to which the estimate relates, providing for the appropriation of the same so approved for the purposes specified in that estimate.

(8) The Minister shall, after approval by the Cabinet and within ninety-one days after the end of each financial year, provide to the National Assembly in respect of that year -

(a) full details of all accounts maintained in respect of the Consolidated Fund showing amount actually received and spent in that year;

(b) statements of fiscal outcome and effect showing separately actual components of fiscal outcome, position and effect, and, in the case of fiscal effect, separate disclosure shall be made of actual additional borrowings, movements in cash balances, of the Central Bank of Seychelles, and other bank and non-bank borrowings;

(c) a statement of actual outstanding debt at the end of the financial year showing separately bilateral, multilateral, institutional, foreign and domestic debt, type and aggregate amounts of debt instruments outstanding and in the case of new or restructured debt or debt in default, a separate disclosure giving full details thereof;

(d) statements of outstanding guarantees given by Government and the Central Bank of Seychelles showing separately guarantees that have been renewed, new guarantees given and guarantees that have been called up and, in the case of new guarantees given or that have been called up, details of such guarantees together with a statement of guarantees that have expired during the financial year;

(e) a statement of actual official reserves identifying those held by the Central Bank of Seychelles, and there shall be shown separately the extent to which those reserves are borrowed or encumbered in any way;

(f) as far as is practicable, a statement of assets and liabilities of the Government at the end of the financial year; and

(g) such other statements as the Minister may think

fit. (9) For the purposes of this Chapter,

“financial year” means any period of twelve months beginning on 1<sup>st</sup> January in any year or any other date as may be prescribed by or under an Act;

“Minister” means the Minister responsible for finance and includes the Vice-President where the Vice-President is responsible for the Ministry or department of finance.

#### Authorisation of expenditure in advance of appropriation

155. Where the Appropriation Act in respect of any financial year has not come into operation by the beginning of the financial year, the National Assembly by resolution may authorise the withdrawal of moneys from the Consolidated Fund for the purpose of meeting expenditure necessary to carry on the service of the Government until the expiration of four months from the beginning of the financial year or the coming into operation of that Appropriation Act, whichever is the earlier.

#### Contingencies Fund and other funds

156. (1) Provision may be made in an Act for the establishment of a Contingencies Fund and for authorizing the Minister, if the Minister is satisfied that there is an urgent and unforeseen need for expenditure for which no other provision exists, to make advances from that Fund to meet that need.

(2) Where any advance is made from the Contingencies Fund, a supplementary estimate shall, as soon as is practicable, be laid before the National Assembly for the purpose of authorizing the replacement of the amount so advanced.

(3) An Act may provide for the establishment of other funds for any purpose specified in the Act.

#### Imposition of taxation

157. (1) Subject to this article, no taxation shall be imposed or altered except by or under an Act.

(2) An Act may make provision under which the President or a Minister may by order provide that on or after the publication of a Bill, being a Bill approved by the President, that it is proposed to introduce in the National Assembly providing for the imposition or alteration of taxation, such provisions of the Bill as may be specified on the order shall, until the Bill becomes law, have the force of law for such period and subject to such conditions as may be prescribed by an Act.

(3) An order made under clause (2) shall, unless sooner revoked, cease to have effect -

- (a) if the Bill to which it relates is not passed within such period from the date of its first reading in the National Assembly as may be prescribed by an Act;
- (b) if, after the introduction of the Bill to which it relates, the National Assembly is dissolved; or
- (c) at the expiration of a period of four months from the date the order came into operation, or such longer period from that date as may be specified in any resolution passed by the National Assembly, after the Bill to which it relates has been introduced.

#### Auditor-General

158. (1) There shall be an Auditor-General who shall be appointed by the President from candidates proposed by the Constitutional Appointments Authority.

(2) A person shall not be appointed Auditor-General unless the person has not less than seven years experience as an auditor or qualified accountant.

(3) The accounts of the Cabinet office, the National Assembly, all government departments and offices, all court and those related to moneys withdrawn from the Consolidated Fund, all the accounts of any statutory corporation or such other body as may be specified by or under an Act shall be audited and reported on by the Auditor-General to the National Assembly and for that purpose the Auditor-General or any person authorised or appointed in that behalf by the Auditor-General shall have access to all books, records, returns, information and other documents relating or relevant to those accounts.

(4) The public accounts of Seychelles and of all other persons or bodies referred to in clause (3) shall be kept in such form as the Auditor-General shall approve.

(5) The Auditor-General shall, within twelve months of the end of the immediately preceding financial year, submit the report referred to in clause (3) to the National Assembly and shall in that report draw attention to irregularities in the accounts audited and to any other matter which in the opinion of the Auditor-General ought to be brought to the notice of the Assembly.

(6) The Finance and Public Accounts Committee of the National Assembly shall consider the report of the Auditor General and, for that purpose, may summon before the Committee any person who, in the opinion of the Committee, may assist the Committee in its consideration of the report.

(7) The Auditor-General shall, in the performance of the functions of the office of Auditor-General, not be subject to the direction or control of any other person or authority, but the President or the National Assembly may request the Auditor General in the public interest, to audit at any particular time, the accounts of any persons or bodies referred to in clause (3).

(8) The Auditor-General shall be appointed for a term of seven years but is eligible for reappointment at the end of a term of office.

(9) The salary, allowances, gratuity or pension payable to the Auditor-General shall be provided for by or under an Act and shall be a charge on the Consolidated Fund.

(10) The Act referred to in clause (9) may provide for other conditions of service of the Auditor-General.

(11) Subject to article 165, the term and other conditions of service of the Auditor-General shall not be altered to the disadvantage of the Auditor-General after appointment.

## CHAPTER XIII - THE POLICE FORCE

### Establishment of Police Force

159. (1) There shall be a Police Force of Seychelles.

(2) Subject to this Constitution and any other law, the Police Force shall be organised and administered in such manner as may be provided for by or under an Act.

### Commissioner of Police

160. (1) The Police Force shall be commanded by the Commissioner of Police who shall be appointed by the President subject to approval by the National Assembly.

(2) Nothing in this article shall be construed as precluding the assignment to a Ministry or Department of Government of responsibility for the organisation, maintenance and administration of the Police Force, but the Commissioner of Police shall be responsible for determining the use, and controlling the operations, of the Force in accordance with law.

### Functions of Police Force

161. The functions of the Police are -

(a) to maintain law and order in and preserve the internal security of Seychelles and any other area over which the Republic has proclaimed its jurisdiction;

(b) to prevent and detect crime in Seychelles and over any other area over which the Republic has proclaimed its jurisdiction; and

(c) to perform such other functions as may be prescribed by an

## Act. CHAPTER XIV - DEFENCE FORCES

### Establishment of Defence Forces

162. (1) There shall be the Defence Forces of Seychelles.

(2) The President shall be the Commander-in Chief of the Defence Forces.

(3) Subject to this Constitution, the Defence Forces shall be organised and administered in such manner as may be provided for by or under an Act and the Act may, in particular, provide for charges of indiscipline and other offences among members of the Defence Forces to be investigated, prosecuted and punished.

## Functions of Defence Forces

163. (1) The functions of the Defence Forces are -

- (a) to defend Seychelles and any other area over which the Republic has proclaimed its jurisdiction;
- (b) to assist in the fulfillment by the Republic of its international obligations;
- (c) during a period of emergency, to provide assistance to civil authorities -
  - (i) in a civil disaster; or
  - (ii) in the restoration and maintenance of public order and security on being called out by the President,in Seychelles or in any other area over which the Republic has proclaimed its jurisdiction; and
- (d) to perform as directed by the President functions and services of a civil nature so as to participate to the maximum extent in the task of national development and improvement, in accordance with or under an Act.

(2) In this article “period of emergency” means a period of public emergency in terms of article 49.

## CHAPTER XV - MISCELLANEOUS

### Referendum

164. (1) An Act shall provide for the holding of a referendum for the purposes of this Constitution or any other purpose or any circumstance prescribed by the Act.

(2) An Act referred to in clause (1) may provide for all matters necessary for the purpose of ensuring an effective and fair referendum.

### Removal of certain officers

165. (1) This article applies to the Attorney-General, the Auditor-General, the Electoral members of the Commission and the Ombudsman.

(2) Any officer to whom this article applies may be removed from office only -

- (a) for inability to perform the functions of the office, whether arising from infirmity of body or mind or from any other cause, or for misbehaviour; and
- (b) in accordance with clauses (3) and (4).

(3) Where the Constitutional Appointments Authority considers that the question of removing any officer to whom this article applies ought to be investigated -

(a) the Authority shall appoint a tribunal consisting of a President and not less than two other members all selected from among persons who hold or have held office as a Judge of a court having unlimited original jurisdiction or a court having jurisdiction in appeals from such a court or are eminent jurists of proven integrity; and

(b) the tribunal shall inquire into the matter, report on the facts thereof and recommend to the President whether or not the officer ought to be removed from office.

(4) Where under clause (3), a tribunal recommends that an officer to whom this article applies ought to be removed from office, the President shall remove the officer from office.

(5) Where under this article the question of removing an officer to whom the article applies has been referred to a tribunal, the President may suspend the officer from performing the functions of the office but the suspension shall cease to have effect if the tribunal recommends to the President that the officer ought not to be removed from office.

#### Removal of Commissioners

166. (1) A member of the Constitutional Appointments Authority or a member of the Public Service Appeal Board, in this article referred to as a “Commissioner”, may be removed from office only -

(a) for inability to perform the functions of the office, whether arising from infirmity of body or mind or from any other cause or for misbehaviour; and

(b) in accordance with clauses (2) and (3).

(2) A Commissioner shall be removed from office by the President where the question of the removal of the Commissioner from office has been referred to a tribunal appointed under clause (3) and the tribunal has recommended to the President that the Commissioner ought to be removed from office.

(3) Where a resolution passed by the votes of the majority of the members of the National Assembly that the question of removing a Commissioner ought to be investigated -

(a) the Speaker shall appoint a tribunal consisting of a President and not less than two other members all selected from persons who have held office as a Judge of a court having unlimited original jurisdiction or a court having jurisdiction in appeals from such a court or are eminent jurists of proven integrity; and

(b) the tribunal shall inquire into the matter and report on the facts thereof and recommend to the President whether the Commissioner ought to be removed from office.

(4) Where under this article the question of removing a Commissioner has been referred to a tribunal, the President may suspend the Commissioner from performing the functions of the office but the suspension shall cease to have effect if the tribunal recommends to the President that the Commissioner ought not to be removed from office.

## Local Administration

167. (1) A law may, for the purpose of facilitating the administrative functions of the State in respect of its social and economic undertakings contained in Chapter III, provide for the division of Seychelles into such number of units which shall bear such name as the law may specify.

(2) A law referred to in clause (1) may provide for the composition and the functions of the units and for all other matters necessary to give effect to the provisions of that clause.

## Independent State-owned broadcasting media

168. (1) The State shall ensure that all broadcasting media which it owns or controls or which receive a contribution from the public fund are so constituted and managed that they may operate independently of the State and of the political or other influence independently of the State and of the political or other influence of other bodies, persons or political parties.

(2) For the purposes of clause (1), the broadcasting media referred to in that clause shall, subject to this Constitution and any other law, afford opportunities and facilities for the presentation of divergent views.

## Oath of allegiance

169. Schedule 6 shall have effect with regard to the oath of allegiance and the Presidential oath under this Constitution and a law may provide for any other oath required under this Constitution.

## CHAPTER XVI - TRANSITIONAL PROVISIONS

### Schedule 7

170. The transitional provisions specified in Schedule 7 shall have effect notwithstanding anything to the contrary in this Constitution or in the Constitution of Seychelles (Preparation and Promulgation) Act, 1992.

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## SCHEDULE 1

(article 2(1)(a) and Schedule 2)

### PART I - ISLANDS OF THE SEYCHELLES ARCHIPELAGO

#### **Granitic Islands**

Mahé

Praslin

La Digue



Ste. Anne

Ile au Cerf

Ile Longue

Ile Moyenne

Ile Ronde

Grand Rocher

Ile Cachee

Ile Sèche

Ile Anonyme

Ile Hodoul

Ile aux Rats

Ile aux Souris

Ile Thérèse

Conception

L'Islette

Chauve Souris (Mahé)

Ile aux Vaches Marines

L'Ilot

Cousin

Cousine

Curieuse

Ile Ronde (Praslin)

Chauve-Souris (Praslin)

Ile aux Fous

St. Pierre (Praslin)

Ile Aride

Zave

Félicité

Marianne

Grande Soeur

Petite Soeur

Ile aux Cocos

Ile La Fouche

Silhouette

Ile du Nord

Mamelles

Ile aux Récifs

Frégate

L'Ilot (Frégate)

### **Coralline Islands**

Ile aux Vaches (Bird Island)

Ile Denis

Ile Plate

Coëtivy

### **Amirantes Group:**

Rémire

D'Arros

Desroches

Etoile

Boudeuse

Marie-Louise

Desnoeufs

**African Banks:**

Bancs Africains

Ile duSud

**St. Joseph's Atoll:**

St. Joseph

Ile aux Fouquets

Ressource

Petit Carcassaye

Grand Carcassaye

Benjamin

Bancs Ferrari

Chiens

Pélicans

Vars

Ile Paul

Banc de Sable

Banc aux Cocos

Ile aux Poules

**Poivre Atoll:**

Poivre

Florentin

Ile du Sud

**Alphonse and St, Francois Atolls:**

Alphonse

Bijoutier St

Francois

**Farquhar**

**Group:**

**Farquhar Atoll:**

Ile du Nord Ile du

Sud Manahas

Nord Manahas

Milieu Manahas

Sud

Ile aux Goëlettes

Lapins

Ile du Milieu

Déposés Banc de

Sable

**Providence**

**Atoll:**

Providence

Bancs

Providence St.

Pierre **Aldabra**

**Group: Aldabra**

**Atoll:** Grande

Terre Picard

Polymnie

Malabar

Ile Michel

Ile Esprit

Ile aux Moustiques

Ilot Parc

Ilot Emile

Ilot Yangué

Ilot Magnan

Ile Lanier

Champignon des Os

Euphrate

Grand Mentor

Grand Ilot

Gros Ilot Gionnet

Gros Ilot Sésame

Heron Rock

Hide Island

Ile aux Aigrettes

Ile aux Cèdres

Iles Chalands

Ile Fangame

Ile Héron

Ile Michel

Ile Suacco

Ile Sylvestre

Ile Verte

Ilot Déder

Ilot du Sud

Ilot du Milieu

Ilot du Nord

Ilot Dubois

Ilot Macoa

Ilot Marquoix

Ilots Niçois

Ilot Salade

Middle Row Island

Noddy Rock

North Row Island

Petit Mentor

Petit Mentor Endans

Petits Ilots

Pink Rock

Table Ronde

**Cosmoledo Atoll:**

Menai

Ile du Nord

Ile Nord-Est

Ile du Trou

Goëlettes

Grand Polyte

Petit Polyte

Grand Ile (Wizard)

Pagode

Ile du Sud-Ouest

Ile aux Moustiques

Ile Baleine

Ile aux Chauve-Souris

Ile aux Macaques

Ile aux Rats

Ile du Nord-ouest

Ile Observation

Ile Sud-Est

Ilot la Croix

Astove

Assomption

## PART II - INNER AND OUTER ISLANDS

### INNER ISLANDS

La Digue

Félicité

Marianne

Grande Soeur

Petite Soeur

Ile aux Cocos

Ile la Fouche

Silhouette

Ile du Nord



Mamelles

Ile du Nord

Mamelles

Ile aux Récifs

Frégate

L'Ilot (Frégate)

Ile aux Vaches (Bird Island)

Ile Denis

OUTER ISLANDS

Ile Plate

Coëtivy

**Amirantes Group:**

Rémire

D'Arros

Desroches

Etoile

Boudeuse

Marie-Louise

Desnoeufs

**African Banks:**

Bancs Africains

Ile du Sud

**St. Joseph's Atoll:**

St. Joseph

Ile aux Fouquets

Ressource

Petit Carcassaye

Grand Carcassaye

Benjamin

Bancs Ferrari

Chiens

Pélicans

Vars

Ile Paul

Banc de Sable

Bancs aux Cocos

Ile aux Poules

**Poivre Atoll:**

Poivre

Florentin

Ile du Sud

**Alphonse and St. Francois Atolls:**

Alphonse

Bijoutier

St François

**Farquhar Group:**

**Farquhar Atoll:**

Ile du Nord

Ile du Sud

Manahas Nord

Manahas Milieu

Manahas Sud

Ile aux Goëlettes

Lapins

Ile aux Milieu

Déposés Bancs

de Sable

**Providence**

**Atoll:** Providence

Bancs Providence

St. Pierre

**Aldabra Group:**

**Aldabra Atoll:**

Grande Terre

Picard

Polymnie

Malabar Ile

Michel Ile

Esprit Ile aux

Moutiques

Ilot Parc Ilot

Emile Ilot

Yangue Ilot

Magnan

Ile Lanier

Champignon des Os

Euphrate

Grand Mentor

Grand Ilot

Gros Ilot Gionnet

Gros Ilot Sésame

Heron Rock

Hide Island

Ile aux Aigrettes

Ile aux Cèdres

Iles Chalands

Ile Fangame

Ile Héron

Ile Michel

Ile Suacco

Ile Sylvestre

Ile Verte

Ilot Dèder

Ilot du Sud

Ilot du Milieu

Ilot du Nord

Ilot Dubois

Ilot Macoa

Ilot Marquoix

Ilots Nicois

Ilot Salade

Middle Row Island

Noddy Rock

North Row Island

Petit Mentor

Petit Mentor Endans

Petits Illots

Pink Rock

Table Ronde

**Cosmoledo Atoll:**

Menai

Ile du Nord

Ile Nord-Est

Ile du Trou

Goëlettes

Grand Polyte

Petit Polyte

Grand Ile (Wizard)

Pagode

Ile du Sud-Ouest

Ile aux Moustiques

Ile Baleine

Ile aux Chauve-Soufs

Ile aux Macaques

Ile aux Rats

Ile du Nord-

Ouest Ile

Observation Ile

Sud-Est Ilot la

Croix Astove

Assomption

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## SCHEDULE 2 – PRINCIPLES OF INTERPRETATION

(article 6)

### Interpretation

1. (1) In this Constitution, unless the context otherwise requires -

“Act” means a law made pursuant to article 86;

“Consolidated Fund” means the fund by that name established by article 151;

“court” means a court of competent jurisdiction established by or under the authority of this Constitution;

“designated Minister” means the Minister designated under article 75;

“directly elected member” means a member of the National Assembly such as is referred to in article 78(a);

“Electoral Commission” or “Commission” means the Electoral Commission established under article 115;

“financial year” means the period of twelve months beginning on the first day of January in any year, or on such other day as may be prescribed by an Act;

“functions” includes powers and duties;

“the Gazette” means such publication as may for the time being be appointed by the President to be the publication in which Government notices are published by authority, and includes any statements thereto in which Government notices are published;

“Independence Day” means the 29th day of June, 1976;

“the Inner and Outer Islands” means the islands described as such in Part II of Schedule I;

“Judge” means the Chief Justice or a Puisne Judge;

“Justice of Appeal” means a Justice of the Court of Appeal established by article 120;

“law” includes any instrument that has the force of law and any unwritten rule of law;

“member” means a member of the National Assembly;

“National Assembly”, “Assembly” means the National Assembly established by this Constitution;

“oath” includes an affirmation;

“oath of allegiance” means the oath of allegiance prescribed in this Constitution;

“person” includes any company or association or body of persons whether corporate or unincorporated;;

“political party” means a party registered as such in the manner prescribed by or under an Act;

“prescribed” means prescribed by law;

“proportionately elected member” means a member such as is referred to in article 78(b);

“public authority” means a Ministry, department, division or agency of the Government or a statutory corporation or a limited liability company which is directly or ultimately under the control of the Government or any other body which is carrying out a governmental function or service or a body or person specified by an Act;

“public office” means an office of emolument in the public service;

“public officer” means, subject to paragraph 4, a person holding or acting in a public office;

“the public service” means, subject to paragraph 4, the service of the Government of Seychelles in a Civil capacity;

“Speaker” means the Speaker of the National Assembly;

“Standing Orders” means the rules of practice and procedure of the National Assembly made under article 101;

“subordinate court” means any court other than-

(a) the Court of Appeal; or

(b) the Supreme Court.

(2) Unless the context otherwise requires, where an expression is defined in this Schedule or otherwise in this Constitution then, for that purpose, all grammatical variations and cognate and related expressions shall be understood in the same sense.

#### Number

2. In this Constitution, unless the context otherwise requires, words in the singular shall include the plural and words in the plural shall include the singular.

#### Functions of President, etc.

3. In this Constitution, unless the context otherwise requires -

(a) references to the functions of the office of the President shall be construed as references to the powers and duties of the President in the exercise of the executive power of the Republic and to any other powers or duties conferred or imposed on the President by or under this Constitution or any other law; and

(b) a reference to the holder of an office by the term designating the office shall be construed as including a reference to any person acting in that office or, to the extent of the authority of the holder of the office, otherwise performing the functions of that office.

#### Persons in receipt of pension

4. (1) For the purposes of this Constitution, a person shall not be considered as holding office in the public service by reason only of the fact that the person is in receipt of a pension or other like allowance in respect of service under the Republic or any former Government of Seychelles.

(2) If it is provided in any law that an office is not to be regarded as a public office for the purposes of this Constitution, a person shall not be regarded as holding, or acting in, a public office for those purposes by reason only that the person holds, or is acting in, that office.

#### Provision where no time is prescribed

5. Where no time is prescribed or allowed within which an act is required or permitted by this Constitution to be done, the act shall or may be done, as the case may be, with all convenient speed and as often as the occasion requires.

#### Attainment of age

6. For the purpose of this Constitution, a person attains a certain age at the first moment of the relevant anniversary of the birth of that person.

#### Exercise and performance of powers and duties

7. (1) Where this Constitution confers a power or imposes a duty, the power may be exercised, or the duty shall be performed, as the case may be, from time to time as occasion requires.



(2) Where this Constitution confers a power or imposes a duty on the holder of an office as such, the power may be exercised, or the duty shall be performed, as the case may be, by the holder (whether substantive or other) for the time being of the office.

(3) Subject to subparagraph (5), where this Constitution confers a power to make an appointment, the power includes power to remove or suspend a person so appointed and to appoint another person temporarily in the place of a person so removed or suspended or, where the appointee is for any reason unable or unavailable to perform the duties for which the person was appointed, to appoint another person temporarily in the place of the appointee.

(4) Where this Constitution confers a power to make any statutory instrument, pass any resolution or give any direction, the power includes powers exercisable in the same manner and subject to the same conditions (if any) to amend or revoke the instrument, resolution or direction.

(5) The power provided for in subparagraph (3) -

(a) shall be subject to this Constitution; and

(b) shall be exercisable subject to any conditions to which the exercise of the original power or appointment was subject.

#### General principles of interpretation

8. For the purposes of interpretation -

(a) the provisions of this Constitution shall be given their fair and liberal meaning;

(b) this Constitution shall be read as a whole; and

(c) this Constitution shall be treated as speaking from time to time. Repeal, etc.

9. (1) The alteration of any provision of this Constitution shall not -

(a) revive anything that was not in force or existing immediately before the alteration took effect;

(b) affect the previous operation of the altered provision or anything duly done or suffered under it;

(c) affect any right, privilege, obligation or liability acquired, accrued or incurred under the altered provision;

(d) affect any penalty, forfeiture or punishment incurred in respect of any offence committed against the altered provision; or

(e) affect any investigation, legal proceedings or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment, and any such investigation,

legal proceedings or remedy may be instituted, continued or enforced, and the penalty, forfeiture or punishment may be imposed, as if the altered provision had continued in force.

(2) In subparagraph (1), the reference to the “alteration of any provision of this Constitution” shall be deemed to include a reference to any alteration of the Constitution such as is referred to in article 91(3)(b).

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## SCHEDULE 3 – ELECTION OF PRESIDENT

(article 51)

### Method of election

1. Subject to paragraph 6, the President shall be directly elected by secret ballot by persons entitled to vote under and in accordance with this Constitution.

### Nomination

2. (1) A person shall not be a candidate in an election for President unless -

(a) the person submits to the Electoral Commission on or before the day appointed as nomination day in relation to the election the name of the other person the candidate designates as the candidate’s Vice-President together with a written consent accepting to be so designated signed by the other person and attested to the satisfaction of the Electoral Commission by a notary in Seychelles and the form provided for this purpose by the Electoral Commission completed and signed by that person and endorsed to the satisfaction of the Electoral Commission by such number, as may be prescribed under an Act, of other persons who are entitled to vote at the election under and in accordance with this Constitution; and

(b) the person deposits with the Electoral Commission, or gives security to the satisfaction of the Electoral Commission for the payment of such sum as may be prescribed under an Act as the amount to be deposited by a person who is a candidate to the election for the office of President.

(2) Where a person receives less than 5% of the votes cast at the election for the office of President in respect of which the person is standing as a candidate, the person shall forfeit to the Republic the sum deposited or in respect of which security was given under subparagraph (1)(b).

### Withdrawal of candidature

3. (1) Subject to article 52A(4)(b), a person nominated as candidate for election to the office of President may withdraw the nomination at any time before the day appointed for the election by notice in writing to the Electoral Commission.

(2) A person who, within such period as may be provided by law, withdraws as candidate under subparagraph (1) shall be refunded the deposit or returned the security for the deposit referred to in paragraph 2(1)(b).

#### Time of Presidential election

4. An election to the office of President shall be held so as to begin -

(a) where the President is in office after the beginning of the period of four months ending on the date when the President's term of office expires by the effluxion of time, during the first three months of that period; and

(b) in any other case, during the period of three months beginning with the date when the office became vacant or a Proclamation under article 52A was made.

#### Minimum percentage of votes for election of President

5. Subject to paragraphs 6 and 7, a person shall not be elected to the office of President unless he has received more than fifty percent of the votes in the election and the necessary number of ballots may, subject to the election being discontinued and recommenced in accordance with an Act, be held in accordance with the direction of the Electoral Commission to achieve that result.

#### Sole Presidential candidate

6. Where immediately prior to the day appointed for holding an election to the office of President, there is only one candidate for election and that candidate has, since the day immediately following the day of the closing of nominations, been the sole candidate, no ballot shall be held and that candidate shall be declared by the Electoral Commission to be elected to the office of President.

#### Withdrawal or death of candidates

7. (1) Where on the day immediately following the day of closing of nominations for the election of president more than one candidate stand nominated for election and on the day of election only one candidate stands nominated by reason of the withdrawal of nominations of other candidates or no candidates stands nominated by reason of the withdrawal of nomination of all the candidates, the election shall be postponed and a further period of not less than seven days shall be allowed for nomination of other candidates.

(2) Where on the day immediately following the day of closing of nominations for the election of President one or more candidates stand nominated for election and one or more of them die at any time before the close of the poll, the election shall be postponed and a further period of not less than seven days from the date of death of the candidate shall be allowed for nomination of other candidates.

(3) The election postponed pursuant to subparagraph (1) or (2) shall be held on such date as the Electoral Commission may decide but, in any case, not later than thirty days of the event specified in those subparagraphs which occurred last and the candidates nominated pursuant

to those subparagraphs shall, notwithstanding their withdrawal, be deemed to be the candidates for that election.

(4) Where at any time between the close of the poll at an election and the declaration of the result of the election a candidate at the election dies the Electoral Commission shall proceed with the count and declare the result of the election notwithstanding the death of the candidate.

#### Second or subsequent ballot

8. (1) Where in an election to the office of President three or more candidates take part in any ballot and no candidate receives more than fifty percent of the votes cast, then, if the result of the ballot is that -

(a) all the candidates receive the same number of votes;

(b) two or more candidates receive, equally, the highest number of votes;

(c) one candidate receives the highest number of votes and another candidate receives the second highest number of votes; or

(d) one candidate receives the highest number of votes and two or more candidates receive, equally, the second highest number of votes,

only the candidates referred to in subparagraph (a), subparagraph (b), subparagraph (c) or subparagraph (d), as the case may be, shall take part in the subsequent ballot and the other candidates, if any, shall be eliminated.

(2) Any subsequent ballots referred to in subparagraph (1) shall be held not less than seven days and not more than fourteen days after the immediately preceding ballot.

#### Certificate of election

9. An instrument which -

(a) is executed under the hand of the Electoral Commissioner; and

(b) states that the person named in the instrument was duly elected to the office of

President, shall be evidence that the person was so elected.

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#### SCHEDULE 4 - LEGISLATURE - PROPORTIONATELY ELECTED MEMBERS

#### Interpretation

1. In this Schedule-

“general election” means a general election under article 79(1);

“political party” means a political party which has nominated a candidate in a general election.

#### Nominated by political parties

2. A political party which has nominated one or more candidates in a general election and has polled in respect of the candidates in aggregate 10% or more of the votes cast at the election may nominate a proportionally elected members for each 10% of the votes polled.

#### Electoral Commission to determine entitlement to nominate members

3. For the purposes of this Schedule, the Electoral Commission shall determine-

(a) whether a political party may nominate any proportionately elected member of the National Assembly; and

(b) if so, the number of proportionately elected

members. Procedure for nomination

4. A political party which may nominate a proportionately elected member of the National Assembly shall, within seven days after the general election, signify in writing to the Electoral Commission the name of the member and the Electoral Commission shall as soon as is practicable after receiving all the names of the proportionately elected members under this Schedule publish the names in the Gazette.

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## SCHEDULE 5 - OMBUDSMAN

(article 143)

### Functions of Ombudsman

1. (1) Subject to this Schedule, the Ombudsman may -

(a) investigate an action taken by a public authority or the President, Vice-President, Minister, officer or member of the public authority, being action taken in the exercise of the administrative functions of the public authority in the circumstances specified in subparagraph (2);

(b) investigate an allegation of fraud or corruption in connection with the exercise by a person of a function of a public authority.

(c) assist an individual complainant in respect of legal proceedings in relation to a contravention of the provisions of the Charter;

(d) with leave of the Court hearing proceedings relating to a contravention of the provisions of the Charter, become a party to the proceedings;

(e) initiate proceedings relating to the constitutionality of a law or of the provisions of a law.

(2) The Ombudsman shall investigate an action under subparagraph (1)(a) -

(a) where the Ombudsman receives a complaint from a person or body alleging that the complainant has suffered a violation of the complainant's fundamental rights or freedoms under the Charter, or an injustice, in consequence of a fault in the administration of a public authority or has been treated harshly or oppressively by the authority or the President, Vice-President or a Minister, officer or member of the authority in the exercise of the administrative functions of the authority;

(b) where the President, Vice-President or a Minister or member of the National Assembly requests the Ombudsman to investigate the action on the ground that the person or body specified in the request -

(i) has or may have suffered a violation of the person's or body's fundamental rights or freedoms under the Charter, or an injustice, in consequence of a fault in the administration of a public authority or of a fault of the President or Vice-President or a Minister, officer or member of the authority in the exercise of the administrative functions of the authority;

(ii) has been treated harshly or oppressively by the authority or the President or Vice-President or a Minister, officer or member of the authority in the exercise of the administrative functions of the authority,

or on the ground that the practices or patterns of conduct of a public authority or the President or Vice-President or a Minister, officer or member of the authority in the exercise of the administrative functions of the authority appear to result in injustices or harsh, oppressive or unfair administration; or

(c) where the Ombudsman considers that it is necessary to investigate the action on the grounds specified in subsubparagraph (b),

and an allegation under subparagraph (1)(b).

(3) The Ombudsman shall not investigate or may discontinue an investigation of a complaint relating to an action referred to in subparagraph (1)(a) or an allegation under subparagraph (1)(b) where it appears to the Ombudsman that -

(a) the complaint or allegation is frivolous, vexatious or trivial or not made in good faith;

(b) the making of the complaint or allegation has, without reasonable cause, been delayed for more than twelve months;

(c) in the case of a complaint relating to subparagraph (1)(a), the complainant does not have sufficient interest in the subject matter of the complaint;

(d) in the case of a complaint relating to subparagraph (1)(a), the complaint has or had, by way of remedy under this Constitution or any other law, a right of appeal, objection or review on merits and the complainant has not exhausted the remedy, unless the Ombudsman believes

that in the particular circumstances it is or was not reasonable to expect the complainant to exhaust or to have exhausted the remedy.

(4) In this Schedule -

“action” includes a failure to act, an advice or a reconunendation;

“body” means a body of persons whether corporate or incorporate;

“investigation” means an investigation in terms of this Schedule;

“public authority” means a Ministry, a department division or agency of the Government or a statutory corporation or a limited liability company which is directly or ultimately under the control of Government or any other body which is carrying out a government function or service or a person or body specified by an Act.

(5) A limited liability company of which the Government holds not more than forty-nine per centum of its issued share capital shall not, for the purposes of subparagraph (4), be treated to be a limited liability company which is under the direct or ultimate control of the Government.

Excluded matters

2. The Ombudsman shall not investigate an action referred to in paragraph 1(1)(a) -

(a) in respect of a subject matter which the President or Vice-President or the relevant Minister certifies may affect the relation or dealing between the Governrunent of Seychelles and any other Government or international organization, the security of the Republic or the investigation of crime;

(b) concerning the performance of a judicial function or a Justice of Appeal, Judge or person performing a judicial function;

(c) taken with respect to orders or directions to a disciplinary force or a member of the force; or

(d) unless the person aggrieved is resident in Seychelles or the action was taken in respect of the person aggrieved while the person was present in Seychelles or in respect of rights or obligations that arose or accrued in Seychelles.

Investigative power of Ombudsman

3. Subject to this Schedule, the Ombudsman has the same power as a Judge of the Supreme Court in respect of the attendance of a person before the Ombudsman, the examination of any person in relation to an investigation, the production of a document or record relevant to an investigation and the inspection of premises relevant to an investigation.

Privileged information

4. (1) Subject to this paragraph, a person shall not refuse to answer any question or withhold any document, information, record or thing or refuse to make available to the Ombudsman any document, information, record or thing or refuse access to the Ombudsman to any premises relating to an investigation on the ground that the answering of the question or disclosure of the document, information, record or thing or making available of any document, information, record or thing or the granting of access to any premises would be injurious to the public interest, contrary to a law or in breach of a privilege or an obligation, whether contractual or otherwise.

(2) Where a certificate certifying that the answering of a question, the disclosure of document, information, record or information or thing or the granting of access to any premises would be contrary to public interest is issued by -

(a) the President -

(i) because it might prejudice the security of the Republic or international relations between the Government of Seychelles and any other Government or international organisation; or

(ii) because it involves the disclosure of the proceedings of the Cabinet;

(b) the Attorney-General because it might prejudice the investigation or detection of crime,

the Ombudsman shall not require a person to answer the question, disclose the document, information, record or thing, make available the document, information, record or thing or grant access to premises, as the case may be.

#### Investigation

5. (1) The Ombudsman shall, when carrying out an investigation, act fairly and judicially and shall in particular, afford any public authority or person alleged to have taken or authorised an action or responsible for the administration of the public authority which is the subject of an investigation an opportunity to be heard.

(2) Subject to subparagraph (1), the Ombudsman shall determine the procedures to be followed when conducting an investigation.

#### Report

6. (1) Subject to subparagraph (7), where after an investigation the Ombudsman is of the opinion that -

(a) the action which was the subject of the investigation -

(i) was contrary to law;

(ii) was unreasonable, unjust, oppressive or discriminatory;

(iii) was based on a mistake of facts or a wrongful assessment of facts;

(iv) was based partly on a mistake of law and facts;



- (v) was based on an improper exercise of a discretionary power or an exercise of a discretionary power based on irrelevant considerations;
  - (vi) was an improper refusal to exercise a discretionary power;
  - (vii) was based on an exercise or improper use of authority or power;
  - (viii) was in accordance with law but the law is unreasonable, unjust, oppressive or discriminatory;
  - (ix) was otherwise, in all circumstances, wrong;
  - (x) should be cancelled, varied or given further consideration; or
- (b) reasons for the action which was the subject of the investigation should have been given;
  - (c) there was unreasonable delay before the decision or action which was the subject of the investigation was taken;
  - (d) there was an omission which needs to be rectified;
  - (e) the law or practice on which the action which is the subject of the investigation is based should be reconsidered;
  - (f) the practice or pattern of conduct of a public authority or the President, Vice-President a Minister, officer or member of the public authority which is the subject of the investigation is contrary to law or unreasonable, unjust, harsh, oppressive or discriminatory; or
  - (g) the allegation of fraud or corruption is well founded,

the Ombudsman shall report the opinion and reasons together with any recommendation or remedy the Ombudsman considers fit to make to the President, Vice-President, Minister, officer, member or chief executive officer of the public authority, as the case may be.

(2) The Ombudsman shall, where the report is not required to be sent to the President, Vice-President or Minister, send a copy of the report to the President and where relevant to the Vice-President and any relevant Minister.

(3) The Ombudsman may specify in the report referred to in subparagraph (1) a time limit within which it is reasonable for the report to be acted upon.

(4) Where a report submitted under subparagraph (1) is not, in the opinion of the Ombudsman, adequately acted upon -

- (a) within the time specified in the report; or
- (b) if no time has been specified, within such reasonable time as the Ombudsman is of the opinion is reasonable,

the Ombudsman may submit the report and recommendation together with such further observations the Ombudsman thinks fit to make to the President and the National Assembly.

(5) The Ombudsman shall attaché to every report submitted to the President, Vice-President and the National Assembly under subparagraph (4) a copy of any comments made thereon by or on behalf of the chief executive officer of the public authority concerned or the President, Vice-President, Minister, officer or member of the public authority, as the case may be.

(6) The Ombudsman shall not later than the thirty-first January in each year make a general report to the National Assembly with a copy to the President on the exercise of the functions of the Ombudsman under this Constitution during the previous year.

(7) The Ombudsman shall, in every case where a complaint is received by the Ombudsman, inform the complainant of the result of the complaint.

Miscellaneous provisions relating to Ombudsman

7. (1) For the purposes of the law of defamation, absolute privilege is attached to the publication of any matter by the Ombudsman or any other person acting under the authority of the Ombudsman.

(2) The Ombudsman or any other person acting under the authority of the Ombudsman shall not be liable for anything done or omitted to be done in good faith in the performance or purported performance of the functions of the Ombudsman.

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SCHEDULE 6 - OATHS

(article 169)

OATH OF ALLEGIANCE

I.....do swear/solemnly and sincerely declare and affirm/that I will be faithful and bear true allegiance to the Constitution of Seychelles and that I will preserve, protect and defend the Constitution of Seychelles.

**SO HELP ME GOD**

PRESIDENTIAL OATH

I.....do swear/solemnly and sincerely declare and affirm/that I will faithful and diligently perform my duties and discharge my functions in the office of President of Seychelles, that I will be faithful to the Republic of Seychelles, that I will uphold the Constitution and the laws of Seychelles and that I will dedicate my abilities to the service and welfare of the people of Seychelles without fear or favour, affection or ill will.

**SO HELP ME GOD**

VICE-PRESIDENTIAL OATH

I..... do swear/solemnly and sincerely declare and affirm/that I will faithful and diligently perform my duties and discharge my functions in the office of Vice-President, that I will be faithful to the Republic of Seychelles, that I will uphold the Constitution and the laws of Seychelles and that I will dedicate my abilities to the service and welfare of the people of Seychelles without fear or favour, affection or ill will.

## **SO HELP ME GOD**

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### SCHEDULE 7 - TRANSITIONAL

(article 170)

#### PART I - EXISTING OFFICERS AND OFFICES

##### **Interpretation**

1. In this Schedule, unless the context otherwise requires -

“Constitution Act” means the Constitution of the Republic of Seychelles (Preparation and Promulgation) Act, 1992;

“Director of Elections” means the person holding office as Chairman of the Constitutional Commission immediately before the date of coming into force of this Constitution;

“existing Constitution” means the Constitution contained in the Schedule to the Constitution of the Republic of Seychelles Decree, 1979;

“existing law” means a law having effect as part of the laws of Seychelles immediately before the date of coming into force of this Constitution;

“first Assembly election” means the first general election to elect members of the National Assembly under this Constitution;

“first Presidential election” means the election of the first President of Seychelles under this Constitution;

“the Regulations” means regulations made under paragraph

##### **9(2). Existing laws**

2. (1) Except where it is otherwise inconsistent with this Constitution and subject to subparagraph (2), an existing law shall continue in force on and after the date of coming into force of this Constitution.

(2) The Termination of Pregnancy Act, 1981 shall, unless sooner repealed, cease to have effect twelve months after the date of coming into force of this Constitution.

(3) Where any matter that falls to be prescribed or otherwise provided for under or for the purposes of this Constitution by or under a written law is prescribed or provided for by or under an existing law, the prescription or provision has, as from the date of coming into force of this Constitution, effect as if it has been prescribed or provided for under or for the purposes of this Constitution by or under a written law enacted pursuant to this Constitution.

(4) The President may, by order made at any time before 31<sup>st</sup> December, 1995, make such amendments to any existing law as may appear to the President to be necessary or expedient for bringing that law into conformity with this Constitution or otherwise for giving effect or enabling effect to be given to this Constitution.

(5) The State shall, within twelve months of the coming to force of this Constitution, bring the Seychelles Broadcasting Corporation Act, 1992 into conformity with article 168.

(6) An existing law which prescribes any matter required to be prescribed under article 3 or any law enacted for this purpose shall reflect national unity and the spirit of the Preamble of this Constitution.

### **Legal proceedings**

3. (1) Any court or tribunal existing immediately before the date of coming into force of this Constitution shall be deemed to be the corresponding court or tribunal established under this Constitution.

(2) Proceedings that, immediately before the date of coming into force of this Constitution, are pending before any court or tribunal, may be continued and concluded on and after the date of coming into force of this Constitution before the corresponding court or tribunal established by or under this Constitution or any written law made thereunder.

(3) A decision given before the date of coming into force of this Constitution shall, for the purpose of an appeal from the decision or of its execution, have effect on and after the date of coming into force of this Constitution as if it were a decision of the corresponding court or tribunal established by or under this Constitution.

### **Executive Authority**

4. (1) With effect from the date of coming into force of this Constitution up to immediately before the assumption of office of President under this Constitution the person who performed the functions of the office of President under the existing Constitution shall, so far as is consistent with this Constitution perform the functions of the office of President under this Constitution as if the person had been elected under or in accordance with this Constitution and had taken the oath of allegiance and any other necessary oath under this Constitution.

(2) With effect from the date of the coming into force of this Constitution up to immediately before the assumption of office of a Minister under this Constitution the person who performed the functions corresponding to that of the Minister under the existing Constitution shall, so far as is consistent with this Constitution, perform the functions of that office as if the person had been appointed under or in accordance with this Constitution and had taken the oath of allegiance and any other necessary oath under this Constitution.

### **Legislature**

5. With effect from the date of the coming into force of this Constitution up to immediately before the election under or in accordance with this Constitution of the members of the National Assembly, the persons elected or nominated as members of the People's Assembly under the existing Constitution shall, so far as is consistent with this Constitution, continue to perform the functions of their office as if they had been elected under or in accordance with this Constitution and had taken the oath of allegiance and any other necessary oath under this Constitution.

### **Existing Officers**

6. (1) Subject to this paragraph and so far as it is not inconsistent with this Constitution, a person who immediately before the date of the coming into force of this Constitution was performing the functions of -

(a) an office established by or under the existing Constitution, not being an office referred to in paragraph 4 or paragraph 5, and this Constitution establishes a similar or equivalent office;

(b) any other office, not being an office referred to in paragraph 4 or paragraph 5, established by or under any written law or in the services of the Government,

shall continue to perform the functions of the office, after the date of coming into force of this Constitution, under this Constitution, existing law continue under paragraph 2 or the Government, as the case may be, and shall be deemed to have taken the oath of allegiance or any other necessary oath under this Constitution or existing law continue under paragraph 2.

(2) A person who, under the existing Constitution or an existing law, would have been required to vacate the person's office at the expiration of a specified period or on the attainment of a special age shall vacate the office at the expiration of the specified period or upon attainment of the specified age.

### **Authorisation of expenditure in advance of appropriation**

7. Where the Appropriation Act in respect of the financial year commencing on the first day of January immediately following the date of coming into force of this Constitution has not come into operation, the President may authorise the withdrawal of moneys from the Consolidated Fund for the purposes of meeting expenditure necessary to carry on the services of the Government until the expiration of four months from the beginning of the financial year or the coming into operation of the Appropriation Act for that financial year, whichever is the earlier.

## **PART II -FIRST ELECTIONS AND FIRST SITTINGS OF THE NATIONAL ASSEMBLY**

### **Date for holding Presidential and Assembly elections**

8. (1) The Director of Elections shall, by notice in the Gazette, appoint the date or dates which shall be or, as the case may be, the first of which shall be, not later than five weeks after the date of coming into force of this Constitution, on which the first Presidential election and the first Assembly election shall be held.

(2) Subject to subparagraph (3), the Director of Elections may appoint different dates for the holding of the first Presidential election and the first Assembly election, and for the holding of the first Presidential election and the first Assembly election in different electoral areas.

(3) The first Presidential election and the first Assembly election shall be held simultaneously and, to this end, the two elections shall begin on the same day.

### **Matters to be prescribed**

9. (1) For the purposes of the first Presidential election and first Assembly election, any matter, other than a matter provided for in this Schedule, which may be prescribed or provided for by or under an Act may be prescribed or provided for by or under an Act may be prescribed or provided for by the Regulations.

(2) Subject to this Schedule, the Director of Elections may make regulations with respect to the holding and conduct the first Presidential election and the first Assembly election.

### **First Presidential and first Assembly election**

10. (1) For the purposes of the first Presidential election and the first Assembly election -

(a) paragraphs 6 and 7 of Schedule 1 of the Constitution Act shall apply with respect to the qualification for registration as a voter, and the qualification to vote, at the elections;

(b) Seychelles shall consist of twenty-two electoral areas made up of nineteen electoral areas on Mahe, two electoral areas on Praslin and the islands of La Digue, Félicité, Marianne, Grande Soeur, Petite Soeur, Ile aux Cocos, Ile la Fouche, Silhouette, Mamelles, Ile du Nord, Frégate, Denis, Ile aux Vaches (Bird Island) and L'Ilot (Frégate) shall constitute one electoral area;

(c) the boundaries of the electoral areas on Mahé and Praslin shall be those of the electoral areas which existed on Mahé and Praslin immediately prior to the coming into force of this Constitution;

(d) a person who at the time of the amendment of the registers of voters under subparagraph (f) is residing on an Outer Island, as listed in Part II of Schedule 1 of this Constitution, shall be treated as residing in the electoral area in which the person resided prior to residing on the Outer Island;

(e) a person who at the time of the election is residing on an Outer Island, as listed in Part II of Schedule 1 of this Constitution, shall vote in the electoral area in which the person is registered;

(f) each register of voters prepared under Schedule 4 of the Constitution Act shall, subject to any amendment for the purposes subparagraph (a) or subparagraph (b) or for any other purpose made thereto pursuant to this Part and the Regulations, be the register of voters.

(2) Schedule 3 of this Constitution shall, subject to such modifications, adaptations, qualifications and exceptions as may be necessary, apply for the purposes of the first Presidential election.

(3) There shall be twenty-two directly elected members, being one elected member for each electoral area, and eleven proportionately elected members of the first National Assembly.

(4) Schedule 4 of this Constitution shall, subject to such modifications, adaptations, qualifications and exceptions as may be necessary apply for the purpose of nominating the eleven proportionately elected members of the first National Assembly.

### **Director of Elections**

11. (1) The Director of Elections shall supervise and shall have general responsibility for the conduct of the first Presidential election and the first Assembly election.

(2) The Director of Elections shall, for the purpose of conducting the first Presidential election and the first Assembly election, appoint a Chief Registration Officer and Chief Electoral Officer and such number of Registration Officers, Electoral Officers, Assistant Registration Officers and Assistant Electoral Officers as the Director thinks fit.

(3) A person appointed pursuant to subparagraph (2) shall have such powers, and shall comply with such requirements, as may be prescribed in the Regulations.

(4) In the exercise of the functions of the Director of Elections under this paragraph or the Regulations, the Director of Elections shall not be subject to the direction or control of any person or authority.

(5) The Director of Elections shall discharge the functions of the Electoral Commission in respect of the matters which may be prescribed by an Act made under article 118 and may, for this purpose make regulations in respect thereof for the purposes of the first Presidential election and first Assembly election.

### **First meeting of the first National Assembly**

12. The first meeting of the first session of the National Assembly after the first National Assembly election shall, until the Speaker is elected, be presided over by the eldest member of the Assembly present at the meeting.

### **Standing Orders**

13. The Standing Orders of the People's Assembly established by the existing Constitution shall, until it is otherwise provided pursuant to article 101 of this Constitution, be the Standing Orders of the National Assembly, but shall be construed with such modifications, adaptations, qualifications and exceptions as may be necessary to bring those Standing Orders into conformity with this Constitution.

## **PART III - COMPENSATION FOR PAST LAND ACQUISITIONS**

### **Past Land Acquisition**

14. (1) The State undertakes to continue to consider all applications made during the period of twelve months from the date of coming into force of this Constitution by a person whose land was compulsorily acquired under the Lands Acquisition Act, 1977 during the

period starting June, 1977 and ending on the date of coming into force of this Constitution and to negotiate in good faith with the person with a view to -

- (a) where on the date of the receipt of the application the land has not been developed or there is no Government plan to develop it, transferring back the land to the person;
- (b) where there is a Government plan to develop the land and the person from whom the land was acquired satisfies the Government that the person will implement the plan or a similar plan, transferring the land back to the person;
- (c) where the land cannot be transferred back under subparagraphs (a) or subparagraph (b) -
  - (i) as full compensation for the land acquired, transferring to the person another parcel of land of corresponding value to the land acquired;
  - (ii) paying the person full monetary compensation for the land acquired; or
  - (iii) as full compensation for the land acquired, devising a scheme of compensation combining items (i) and (ii) up to the value of the land acquired.
- (2) For the purposes of subparagraph (1), the value of the land acquired shall be the market value of the land at the time of coming into force of this Constitution or such other value as may be agreed to between the Government and the person whose land has been acquired.
- (3) No interest on compensation paid under this paragraph shall be due in respect of the land acquired but Government may, in special circumstances, pay such interest as it thinks just in the circumstances.
- (4) Where the person eligible to make an application or to receive compensation under this paragraph is dead, the application may be made or the compensation may be paid to the legal representative of that person.

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#### PART IV

On the coming into operation of the Constitution of the Republic of Seychelles (Fourth Amendment) Act, 1996 -

- (a) the Minister who immediately before the coming into operation of this Act was the Minister designated first in the order of preference shall become, subject to subsection (2) hold office as and perform the function of Vice-President in accordance with the Constitution;
- (b) The Minister who immediately before the coming into operation of this Act was the Minister designated second in the order of preference shall become, subject to subsection (2) hold office as and perform the function of designated Minister in accordance with the Constitution.



(2) On the resignation of the President -

(a) the person who becomes Vice-President as a result of the operation of subsection (1) shall not assume the office of President under article 55(1);

(b) the functions of the President shall be discharged by the incumbent President until the election of the President but the incumbent President shall not have power to revoke the appointment of a Minister or invoke article 110.

(3) Until the enactment of the Act under article 66A (12) the person who becomes Vice-President as a result of the operation of this section shall continue to receive the salary, allowance and gratuity the person was receiving as Minister designated first in the order of preference immediately before becoming Vice-President.

(4) The period which the person who becomes Vice-President under subsection (1)(a) serves as Vice-President pursuant to that subsection shall not be counted for the purposes of article 66A(7).

Note: The omission of a subsection (1) is consistent with the last official revised edition (1994).

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Note [to 1994 Revised Edition]:

The Constitution of the Republic of Seychelles (Fourth Amendment) Act, 1996 (Act 14 of 1996) came into operation on 14<sup>th</sup> August, 1996 other than sections 3(i) and (w) of that Act.

Section 3(i) and (w) of that Act shall come into operation on the day next following the dissolution of the National Assembly elected in 1993.

Under the transitional provision (section 4) of the Republic of Seychelles (Fourth Amendment) Act, 1996 (Act 14 of 1996) the Minister who was the Minister designated first in the order of preference on the 14<sup>th</sup> August, 1996 has become Vice-President and the Minister who was the Minister designated second in the order of preference on the 14<sup>th</sup> August, 1996 has become the designated Minister.

Act 14 of 1996 further provides that if the incumbent President resigns, the incumbent President shall continue to discharge the functions of President until the holding of the Presidential election but the incumbent will not be able to revoke the appointment of a Minister or invoke article 110: the Vice-President above-referred does not assume the office of President as Vice-President would ordinarily do under article 55(1).

The salary, allowance and gratuity for the Vice-President continue to be those which the Vice-President received at the time he was Minister designated first in the order of preference.

The period which the Vice-President serves as Vice-President by virtue of the transitional provision of Act 14 of 1996 is not counted for the purposes of article 66A(7).



LAWS OF SEYCHELLES

CONSTITUTION OF THE REPUBLIC OF SEYCHELLES

CHAPTER 42

SUBSIDIARY LEGISLATION: THE SEYCHELLES COURT OF APPEAL RULES

[7th March, 2005]

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S I. 7 7 o f 1 9 9 1

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2 0 0 9 S I. 4 9 o f

2 0 1 3 C i t a t i o n a n d

c o m m e n c e m e n t

1. These Rules may be cited as the Seychelles Court of Appeal Rules, 2005 and shall come into operation three months after their publication in the Gazette.

Interpretation

2. (1) These Rules, unless inconsistent with the context-

“advocate” means a barrister or attorney admitted to practise in the Supreme Court and includes any person having under these Rules the right of audience on behalf of another person in the Court;

“appeal” includes revision, review, reference, case stated and point of law reserved;

“Attorney General” means the Attorney General of Seychelles appointed under section 76 of the Constitution;

“Chief of Justice” means the Chief Justice of the Supreme Court of Seychelles and includes a Judge designated to perform or exercise the functions of Chief Justice;

“Court” means the Seychelles Court of Appeal;

“Court day” means any day other than a Saturday, Sunday or public holiday;

“he” includes “she” unless the context otherwise indicates;

“Judge” means a Justice of Appeal acting as such;

“President” means the President of the Seychelles Court of Appeal appointed as such in terms of Article 123 of the Constitution;

“Registrar” means the Registrar of the Court and includes a Deputy Registrar;

“Registrar of the Supreme Court” includes an Assistant Registrar of that

Court; “Rules” means these Rules or any amendment thereof;

“Supreme Court” means the Supreme Court of Seychelles;

(2) Any reference to a party to an appeal shall include the advocate acting for him in the appeal, but an advocate shall not be deemed to be so acting merely by reason of having acted for the party in the proceeding from which the appeal is brought.

(3) In the Computation of

time-“days” means court days;

“month” means a calendar month;

“week” means seven days inclusive of Saturdays, Sundays and Public Holidays except that if the last day of the computation falls on a Sunday or Public Holiday, that last day shall be deemed to be the day following the Sunday or Public Holiday in question.

(4) In computing the number of days, the first day as well as the last day shall be

excluded. Practice and Procedure of the Court, and cases not provided for

3. (1) The procedure and practice of the Court shall be as prescribed in these Rules, but the Court may direct a departure from these Rules at any time when this is required in the interest of justice.

(2) In any matter for which provision is not made by these Rules or other legislation, the President may on application or informally give directions as to the procedure to be adopted.

Selection of Judges

4. In respect of any appeal, the Court shall consist of those Judges, not being less than three, whom the President shall select to sit for the purposes of hearing that appeal.

#### Power of a single Judge

5. Save for an application for special leave to appeal to the Court, the President or a single Judge designated by the President may alone exercise any power vested in the Court not involving the merits of the appeal.

#### Locus of appeals, and notice of sittings

6. (1) The Court shall sit at any place in Seychelles as the President may direct.

(2) The sittings of the Court and the matters to be disposed of at such sittings shall be notified in such manner as the President may direct.

#### Registry

7. The Registry shall be situated at any place in Seychelles as the President may

direct. SI 49 of 2013

#### Registrar

8. Any advocate of the Supreme Court may with the concurrence of the Chief Justice be appointed by name or office by the President to be the Registrar or a Deputy Registrar of the Court.

#### Process of the Court and service

9. (1) All summonses, warrants, orders, rules, notices and mandatory processes whatsoever of the Court may be signed by a Judge or by the Registrar and shall be sealed with the seal of the Court. Every order of the Court shall be dated as the date on which the judgment was given or order made.

(2) Process of the Court may be served in such manner as the Court may direct. Service shall ordinarily be personal, but where a party to any proceeding has given an address of service, such service may be effected by delivery at that address. The Court may order substituted service of any process and may order that service be deemed to have been effected at any time and in any manner.

(3) Subject as aforesaid and unless the Court shall otherwise direct, service of any process shall be effected in such manner as would be appropriate if it were a process of the Supreme Court.

(4) Where any person out of the jurisdiction is a necessary or proper party to a proceeding, the Court may allow service out of the jurisdiction of any document required to be served upon such party or that notice of such document be served in lieu thereof.

(5) Proof of service may be given when necessary by affidavit, unless in any case the Court shall require proof by oral evidence.

(6) If the person to be served is in prison, service may be effected by transmitting the document to the officer in charge of the prison for delivery to the prisoner, and service on the prisoner may be proved by a letter purporting to be signed by the officer in charge of the prison and certifying that the document was delivered to the prisoner on a specified date.

(7) Where by these Rules a party is required to serve any document on another party within a limited time, and by virtue of this Rule or any other written law or order of Court such document is required to be served by or through a process server or other officer of any Court, the party shall be deemed to have served the document in due time if within the time limited for service he files the same in the Registry together with any necessary copies and a requisition for service and pays all fees and charges payable in respect thereof:

Provided that, if the party is required to assist the officer by identifying the person to be served or otherwise, he shall do so with all due diligence and in default of so doing shall be deemed to have failed to serve the other party in due time.

#### Form of proceedings

10. (1) All proceedings in the Court shall be on foolscap paper; or unless the nature of the document renders it impracticable, and shall be clear and easily legible and may be printed, mimeographed, typewritten, written or reproduced in photostat, or in any combination of those media. Only one side of the paper shall be used and a margin of not less than one inch shall be left on the left hand side of each sheet to permit of binding in book form.

(2) Whatever medium of reproduction may be adopted, the taxing master shall on taxation allow only those costs which would in his opinion have been incurred by using the most economical method permitted.

#### Powers of the President or the Court

11. (1) The President or the Court may-

(a) memo motu or on application, extend or reduce any time period prescribed in these Rules and may condone non-compliance with these Rules;

(b) give such directions in matters of practice, procedure and the disposal of any appeal, application or interlocutory matter as the President or the Court may consider just and expedient.

(2) Any power or authority vesting in the President in terms of these Rules, save the power to make Rules of Court, may be exercised by a Judge or Judges designated by the President for that purpose.

#### Adjournment

12. The Court shall have power to adjourn any proceedings before it from time to time.

## Amendment

13. (1) The Court shall have power to allow amendment of any proceedings in the Court and of any proceedings in the Supreme Court preparatory or incidental to, or consequential upon, proceedings in the Court.

(2) The Court may of its own motion or on application correct any slip or accidental error arising in its proceedings, so as to give effect to the manifest intention of the Court, notwithstanding that the proceedings have terminated and the Court is otherwise functus officio in respect thereof.

## Right of audience

14. (1) In all proceedings in the Court, a party may appear in person or by any advocate who is entitled for the time being to practise before the Supreme Court.

(2) A person not resident in Seychelles may appear by lawfully authorised attorney.

(3) The President or the Chief Justice may by licence under his hand and on payment of the prescribed fee grant right of audience in respect of any one appeal, including any cross-appeal heard therewith, or in respect of any two or more appeals to be heard together under order of consolidation, to any person who, in his opinion is suitably legally qualified to assist the Court in the appeal.

(4) A corporation may appear by advocate or by a director or other officer or the secretary thereof.

(5) A person under disability may appear by advocate or by his guardian or curator in person as the case may be.

(6) The Attorney-General shall have the right of audience and shall take precedence over all other advocates. Other legal officers of the State shall have the right of audience in all causes and matters within the scope of their official duties.

## Notice dispensed with

15. It shall not be necessary to serve notice of hearing on any person who has signified that he does not intend to appear at the hearing, but the Court may in its discretion permit any such person to appear at the hearing in person or by advocate.

## Application to the Supreme Court first

16. Whenever an application may be made to the Court or to the Supreme Court, it should normally be made in the first instance to the Supreme Court.

## Application for special leave to appeal

17. (1) In every matter where special leave to appeal to the Court is required by law in a criminal matter, an application therefore shall be made by way of a notice of motion supported by affidavits.

(2) The notice of motion together with supporting affidavits and all relevant documents including the judgment of the Supreme Court appealed against shall be delivered within fourteen days of the date of judgment or order of the Supreme Court. A copy of such notice of motion shall be served upon the Attorney General or the respondent as the case may be.

(3) Four copies of the notice of motion and all documents together with the original shall be filed with the Registrar.

(4) Within fourteen days of the service of the notice of motion upon him/her, answering affidavits may be delivered on behalf of the Attorney General or the respondent as the case may be.

(5) The applicant may file replying affidavits within seven days of the service upon him/her of such affidavits of the Attorney General or the respondent as the case may be.

(6) Every application, answer and reply.

(a) shall-

(i) be clear, succinct and to the point;

(ii) furnish fairly all such information as may be necessary to enable the Court to decide the application;

(iii) deal with the merits of the appeal only in so far as in necessary for the purpose of explaining and supporting the particular grounds upon which special leave to appeal is sought or apposed;

(iv) be properly and separately paginated; and

(b) shall not-

(i) be accompanied by the record, or

(ii) traverse extraneous matters.

(7) The times fixed within the Rule may be extended on good cause shown by the President or a Judge duly designated by the President or by the Court.

(8) Where an application for special leave to appeal in a civil matter is required by law, the provisions of sub-rules (1) to (7) inclusively shall mutatis mutandis apply.

(9) If the Court grants special leave to appeal, it may fix the time within which the record may be prepared and, in a civil matter, it may order the appellant to give security to the satisfaction of the Registrar for the costs of the other parties.

(10) The decision of the Registrar on the form and the amount of security in the event of a dispute shall be final.

(11) A notice of motion shall be substantially in the form A in the First Schedule hereto.  
Notice of appeal



18. (1) Every appeal shall be brought by notice in writing (hereinafter called “the notice of appeal”) which shall be lodged with the Registrar of the Supreme Court within thirty days after the date of the decision appealed against.

(2) Every notice of appeal shall set forth the grounds of the appeal and shall state whether the appeal is against conviction only or sentence only or both conviction and sentence or against some decision of the court below other than conviction or sentence.

(3) Such grounds of appeal shall set forth in separate numbered paragraphs the findings of fact and conclusions of law to which the appellant is objecting and shall also state the particular respect in which the variation of the judgment or order is sought.

(4) Every notice of appeal shall contain a full and sufficient address at which notices or documents connected with the appeal may be served upon the appellant or his advocate, and shall be signed by the appellant or his advocate.

(5) The Registrar of the Supreme Court shall forthwith transmit one copy of the notice of appeal to the Registrar who shall enter the appeal in the register of the Court and inform the Registrar of the Supreme Court of the serial number assigned thereto. The Registrar of the Supreme Court shall also forthwith transmit one copy of the notice of appeal to the Attorney General.

(6) Where more person than one have been jointly tried and any two or more of them desire to appeal, they may at their option file separate or joint notices of appeal. Every notice of appeal shall be deemed to constitute one appeal, but where more appeals than one are brought from convictions at the same trial they shall, unless the Court otherwise orders, be deemed to have been consolidated and shall proceed as one appeal.

(7) No ground of appeal which is vague or general in terms shall be entertained, save the general ground that the verdict is unsafe or that the decision is unreasonable or cannot be supported by the evidence.

(8) The appellant shall not without leave of the Court be permitted, on the hearing of that appeal, to rely on any grounds of appeal other than those set forth in the notice of appeal:

Provided that nothing in this sub-rule shall restrict the power of the Court to make such order as the justice of the case may require.

(9) Notwithstanding the foregoing provisions, the Court in deciding the appeal shall not be confined to the ground set forth by the appellant:

Provided that the Court shall not, if it allows the appeal rest its decision on any ground not set forth by the appellant unless the respondent has had sufficient opportunity of contesting the case on that ground.

(10) A notice of appeal shall be substantially in the form B in the First Schedule in criminal appeals and in the form C in the civil appeals:

Provided that, notwithstanding that the provision contained in sub-rules (2) or (3) or (6) of this rule have not been strictly complied with, the Court may, in the interest of justice and for good and sufficient cause shown, entertain an appeal if satisfied that the intending appellant has exhibited a clear intention to appeal to the Court against the decision of the Court below.

#### Cross-appeal

19. (1) Every respondent who wishes to cross-appeal shall deliver a notice of his/her cross-appeal within fourteen days after receiving the appellant's notice of appeal.

(2) The notice of cross-appeal shall comply with the provisions of sub-rules (2), (3), (6), (7), (8), (9) and (10) herein and shall be substantially in the form D in the First Schedule hereto.

#### Appeal not to operate as a stay of execution

20. (1) An appeal shall not operate as a stay of execution or of proceedings under the decision appealed from:

Provided that the Supreme Court or the Court may on application supported by affidavits, and served on the respondent, stay execution on any judgment, order, conviction, or sentence pending appeal on such terms, including such security for the payment of any money or the due performance or non-performance or any act or the suffering of any punishment ordered by or in such judgment, order, conviction, or sentence, as the Supreme Court or the Court may deem reasonable.

(2) No intermediate act or proceeding shall be invalidated except in so far as the Supreme Court or the Court may direct.

#### Setting down appeal for hearing

21. (1) Three months after service of the record, the Registrar shall, after consultation with the President, set down the appeal for hearing and shall take necessary steps to ensure that the parties concerned are informed in writing of the date on which the appeal shall be heard.

(2) A registered letter forwarded to a party's last known address shall be deemed to be sufficient notice of the date of hearing.

(3) If the applicant or appellant fails to appear on the date thus notified, the appeal shall be dismissed for lack of prosecution, unless the Court otherwise directs.

#### Withdrawal of appeal

22. (1) An appellant may at any time after filing the notice of appeal and before the appeal is called for hearing serve on the parties to the appeal and file a notice with the Registrar to the effect that he does not intend further to prosecute the said appeal.

(2) If all the parties to the appeal consent to the withdrawal of the appeal without an order of the Court, the appellant may file with the Registrar the document or documents signifying such consent and signed by the parties or by their advocates, and the appeal shall thereupon be deemed to have been withdrawn and shall be struck out of the list of appeals by the

Registrar who shall thereupon inform the Registrar of the Supreme Court accordingly. In such event any sum lodged in the Registry of the Supreme Court as security for the costs of the appeal shall be paid out to the appellant.

- (3) If any stay of execution has been granted, the sentence or order of the trial court thus stayed shall forthwith be enforced upon the withdrawal of any appeal unless the parties agree otherwise in writing.
- (4) If all the parties do not consent to the withdrawal of the appeal as aforesaid, the appeal shall remain on the list and shall come on for the hearing of any issue as to costs or other remaining outstanding issue between the parties, and for the making of an order as to the disposal of any sums lodged in Court as security for the costs of the appeal.
- (5) If an appellant is alleged to be unsound mind, his appeal shall not be withdrawn without leave of the Court.
- (6) In withdrawing an appeal, the appellant or respondent in cross-appeal shall tender costs unless the other party has agreed to waive them in writing.

#### Record

23. (1) The preparation of the record of appeal shall be undertaken by the Registrar of the Supreme Court as soon as possible after the notice of appeal has been lodged and upon payment of the prescribed charges. Such record shall be subject to the supervision of the Supreme Court.

(2) The parties may submit any disputed question arising in connection with the record to the decision of the Supreme Court and that Court shall give such directions thereon as the justice of the case may require.

- (3) (a) The copies of the record shall be clearly typed on A4 standard paper in double-spacing in black ink, on one side of the paper only.
- (b) Legible documents that were types or printed in the original, including all process in the court a quo forming part of the record on appeal, and documents such as types or printed contracts and cheques (whether handwritten, typed or printed) and the like shall not be retyped but a clear photocopy shall be provided instead.
- (c) The pages shall be numbered clearly and consecutively, and every tenth line on each page shall be numbered and the pagination used in the court a quo shall be retained where possible.
- (d) (i) At the top of each page containing evidence, the name of the witness and, at the top of each page containing exhibits, the number of the exhibit shall appear.
- (ii) All references in the appeal record to page numbers of exhibits in the original record shall be transposed to reflect the page numbers of such exhibits in the appeal record.
- (e) The record shall be divided into separate conveniently-sized volumes of approximately 100 pages each.

(f) The record shall be securely bound in book form disclosing-

- (i) the case number;
- (ii) the names of the parties;
- (iii) the volume number and the numbers of the pages contained in that volume;
- (iv) the total number of volumes in the record;
- (v) the court appealed from; and
- (vi) the names and addresses of all parties for service.

(g) (i) The volume number and the numbers of the pages contained in a volume shall also appear on the upper third of the spine of the volume.

(ii) Each volume shall be so bound that upon being cases open it will lie open without any manual or other restraint and upon being opened and thereafter repeatedly closed the binding shall not fail.

(h) In all cases tried by a jury the most complete available note of any charge or summing-up of the Judge of the trial court shall be included in and form part of the record of proceedings.

(i) If the record consists of more than one volume, each of the following documents shall be contained in a separate volume:-

- (a) the judgment and order appealed against;
- (b) the judgment and order giving leave to appeal; and
- (c) the notice of appeal.

(j) The record, in the first or in a separate volume, shall contain a correct and complete index of the evidence, documents and exhibits in the case, the nature of the documents and exhibits being briefly stated therein.

(k) The documents omitted to be copied shall be enumerated in a list to be placed after the index.

(l) Where part or parts only of any lengthy document are directly relevant to the subject matter of the appeal, it shall be permissible to omit to copy such parts of the document as are neither directly relevant to the subject matter of the appeal nor necessary for the proper understanding of the part or parts that are so relevant.

(m) If the Registrar of the Supreme Court or any party objects to the inclusion of a document on the ground that it is unnecessary or irrelevant and the other party nevertheless insists upon its being included, the document shall be included and the record shall, with a view to the subsequent adjustment of the costs of and incidental to the inclusion of such document,

indicate in the index of papers or otherwise such fact including the party by whom the inclusion of the document was objected to.

- (n) On the completion of the preparation of the record of appeal, the Registrar of the Supreme Court shall certify the correctness of each copy thereof. He shall then cause to be served, upon payment of the prescribed charges by the appellant, a copy of the certified record on each party who has been served with the notice of appeal and has filed notice of address for service:

Provided that if more respondents than one are represented by one advocate it shall be sufficient to serve one copy on him.

- (o) The Registrar of the Supreme Court shall transmit four certified copies of the record to the Registrar.

Heads of argument

24. (1) Unless the President otherwise directs-

- (a) The appellant shall lodge with the Registrar five copies of the appellant's main heads of argument within two months from the date of service of the record. Two copies of such main heads of argument shall be served one each respondent.
- (b) The respondent shall lodge with the Registrar five copies of the respondent's main heads of argument within one month from the receipt of the appellant's heads of argument. Two copies of such main heads of argument shall be served on the appellant.

- (2) (a) The heads of argument shall be set out in separate paragraphs for each head, stating when evidence is to be referred to, the page and lines where such evidence appears in the record.

- (b) The heads of argument shall be clear, succinct and shall not contain unnecessary elaboration.
  - (c) The heads of argument shall not contain lengthy quotations from the record or authorities.
  - (d) Reference to authorities and the record shall not be general but to specific pages and paragraphs.
  - (e) (i) The appellant's heads of argument shall be accompanied by a written chronology of events relevant to the appeal and duly cross referenced but without argument;
  - (ii) if the respondent disputes the correctness of the chronology of events in a material respect, the respondent's heads of argument shall be accompanied by the respondent's version of the chronology of events.
  - (f) The heads or argument shall be accompanied by a list of authorities to be cited in support of the argument and shall indicate the authorities to which particular reference will be made during argument.

- (g) The heads of argument shall define the form of order sought from the Court.
- (h) All heads of argument shall be accompanied by five copies of the front page and relevant portions of all statutory provisions, regulations, rules and unreported decisions to which reference is made.
- (i) Where at the date fixed for hearing of the appeal the appellant has not lodged heads of argument in terms of this Rule, the appeal shall be deemed to be abandoned and shall accordingly be struck out unless the Court otherwise directs on good cause shown.
- (j) Where at the date fixed for hearing of the appeal the respondent has not lodged heads of argument in terms of this Rule, the respondent shall not be entitled to be heard unless the Court otherwise directs on good cause shown.
- (k) Nothing in this Rule shall be deemed to limit the discretion of the Court to hear an appeal or application notwithstanding that heads of argument have not been filed.

#### Interlocutory matters

25. (1) In this Rule, an interlocutory matter means any matter relevant to a pending appeal the decision of which will not involve the decision of the appeal.

(2) An interlocutory matter, other than an application for special leave to appeal, may be brought before the President or a single Judge designated by the President:

Provided that the President or the Judge before whom the matter is brought may in his discretion hear or refuse to hear or transfer the application to the full Court.

(3) Interlocutory matters shall be brought by way of notice of motion which shall be substantially in the Form A in the First Schedule hereto and shall be supported by affidavits.

(4) The opposing party may deliver answering affidavits within fourteen days of the service of the notice of motion.

(5) The applicant may file replying affidavits within seven days of the service of the answering affidavits.

#### Extension of time

26. The times fixed within these Rules may, on good cause shown, be extended by the President or a Judge designated by the President or may be extended by the Court.

#### Security for costs

27. (1) Within fourteen days after filing the notice of appeal, or, in a case where leave to appeal is necessary within fourteen days after being granted leave or special leave to appeal, the appellant shall provide good and sufficient security to the satisfaction and within the discretion of the Registrar for the payment of all such costs of the appeal as may become payable by him.

(2) A person may provide security in any manner that the Registrar may approve in his case and such security may, with the approval of the Registrar, consist in whole or in part of a deposit of money.

(3) If the security approved by the Registrar is not furnished or given within the time limit mentioned in sub-rule (1) of this Rule, the notice of appeal shall be deemed to have been withdrawn, and the appellant shall pay to the respondent the costs of the abortive appeal:

Provided that nothing in this sub-rule shall be deemed to limit or respect the power of the Court to extend time.

Poor persons (in forma pauperis)

28. (1) Any party who is a natural person and who is of the opinion that he is a poor or indigent may apply to the Court for leave to prosecute or defend an appeal in forma pauperis.

(2) A party shall be deemed to be a poor person or indigent if he can satisfy the Court that, except for household goods, wearing apparel and tools of trade, he is not possessed of property or financial means to the amount of Rs.10,000 and that he has failed to obtain legal aid.

(3) No such application shall be made unless the opposite party has been asked and has failed or refused to consent to the applicant proceeding in forma pauperis within one month thereafter.

(4) Upon being satisfied that the applicant, is a poor person or indigent, the Court may-

(a) assign an advocate to such applicant;

(b) direct payment to such advocate of such remuneration as may be appropriate out of the general revenues and may direct that the amount of such remuneration shall be a first charge on any money or property recovered by the party on or in consequence of the appeal, and that such amount or part thereof which may be recovered shall be refunded to the general revenues;

(c) direct that no Court fees, or any specified amount less than the prescribed Court fees, be paid in respect of an appeal;

(d) direct that no security for costs be lodged, or that any specified sum less than would have been otherwise prescribed be lodged in Court as security for costs;

(e) direct that the record of appeal be prepared by the Registrar of the Supreme Court without payment therefor, or on payment of any specified sum less than the prescribed charges therefore.

Consolidation of appeals

29. Where the Court is of the opinion that it would be for its convenience and that of all parties concerned that two or more appeals should be consolidated, it may, of its own motion

or on the application of any party, direct the appeals to be consolidated and treated as one appeal.

#### Hearing of appeal

30. (1) At the hearing of an appeal, the appellant or his advocate shall first address the Court:

Provided that the Court in its discretion may call upon the respondent or his advocate to address it first.

(2) If the appellant is represented by more than one advocate, all of them shall be entitled to address the Court but not on the same aspect or aspects of the appeal.

(3) After the close of the appellant's address, the respondent or his advocate shall be entitled to address the Court:

Provided that if the respondent is represented by more than one advocate, all of them shall be entitled to address the Court but not on the same aspect or aspects of the appeal.

(4) The appellant shall be entitled to reply on a point of law after the respondent or his advocate has concluded his address:

Provided that if the appellant is represented by more than one advocate, one only shall be entitled to reply.

(5) After the arguments have been concluded, the Court may give judgment immediately or may reserve judgment until a later date.

(6) (a) The judgment shall be delivered by the President or the Senior Judge presiding:

Provided that the President or Senior Judge presiding, as the case may be, may request the scribe or any other member of the Court hearing the appeal to deliver such judgment.

(b) Such judgment may be pronounced notwithstanding the absence of the Judges who composed the Court or any of them.

#### Power of the Court on appeal

31. (1) Appeals to the Court shall be by way of re-hearing and the Court shall have all the powers of the Supreme Court together with full discretionary power to receive further evidence by oral examination in Court, by affidavit or by deposition taken before an examiner or commissioner.

(2) Upon appeals from a judgment, decree or order, after trial or hearing of any cause or matter upon the merits, such further evidence, save as to matters which have occurred after the day of the decision from which the appeal is brought, shall be admitted on special grounds only and not without leave of the Court.



(3) The Court may draw inferences of fact, and give any judgment, and make any order which the Supreme Court ought to have given or made, and make such further or other orders as the case requires.

(4) The aforesaid powers may be exercised notwithstanding that the notice of appeal relates only to part of the decision, and such powers may also be exercised in favour of all or any of the respondents or parties, who have not appealed from or complained of the decision.

(5) In its judgment, the Court may confirm, reverse or vary the decision of the trial court with or without an order as to costs, or may order a re-trial or may remit the matter with the opinion of the Court thereon to the trial court, or may make such other order in the matter as to it may seem just, and may by such order exercise any power which the trial court might have exercised:

Provided that the Court may, notwithstanding that it is of opinion that the point or points raised in the appeal might be decided in favour of the appellant, dismiss the appeal if it considers that no substantial miscarriage of justice has occurred.

#### Formal order of the Court

32. (1) Every judgment of the Court shall be embodied in a formal order prepared by the Registrar after consultation with the parties to the appeal.

(2) If the parties do not agree upon the form of the order, the draft thereof shall be settled by the President or by such Judge as the President may designate and the parties shall be entitled to be heard thereon if they so desire.

(3) The Registrar shall send a sealed or certified copy of the order to the Registrar of the Supreme Court.

#### Fees of the Court

33. The fees set out in the Second Schedule hereto shall be payable in respect of applications and appeals in relation to the Court and in respect of applications and appeals in relation to the Court and in respect of applications and proceedings in the Supreme Court preparatory or incidental to, or consequential upon and appeal to the Court.

#### Taxation of costs

34. (1) The costs incurred in any appeal or application shall, unless assessed by the Court, be taxed by the Registrar in accordance with the rules and scales set out in the Third Schedule hereto.

(2) In exercising his function under this Rule, the Registrar shall be called the taxing master.

#### Repeal of Rules

35. The Seychelles Court of Appeal Rules 1978 as amended from time to time are hereby repealed and superseded by these Rules:

Provided that any proceedings already commenced under the repealed Rules may continue thereunder, save in so far as the Rules herein contained may be applicable thereto without injustice or increased costs to any of the parties.

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FIRST SCHEDULE

FORM A

(RULES 17 and 25)

In the Seychelles Court of Appeal

In the matter between

.....Appellant

and

..... Respondent

C

ase No..... of 20.....

NOTICE OF MOTION

Take notice that on ..... day of.....20 ... at ..... o'clock or so soon thereafter as the matter may conveniently be heard Mr/Mrs/Miss.....Advocate for the above named Applicant will move the Court for an order in the following terms:-

(set out)

Take further notice that the accompanying affidavit of ..... is annexed in support of the application.

If you intend to oppose this application, you are required to file your answering affidavit in support of your opposition, after prior service upon the Applicant, with the Registrar within fourteen days of the service of the notice of motion upon you.

Dated this..... day of .....20.....

Advocate for the Applicant

Address for service

To: ..... (Respondent)

Address for service

And to: The Registrar

Seychelles Court of Appeal

\_\_\_\_\_

FORM B

(RULE 18)

In the Seychelles Court of Appeal

..... Appellant

and

.....Respondent

Case No ..... of 20.....

NOTICE OF APPEAL

Take Notice that .....hereby appeals to the Seychelles Court of Appeal against the decision of Mr Justice ..... given at the Supreme Court on the ..... day of .....20 .. upon the grounds set out in paragraph 2 and will at the hearing of the appeal seek the relief set out in paragraph 3.

The appeal is against conviction only/sentence only/both conviction and sentence.

2. Grounds of Appeal

¶

¶

¶ etc.

3. Relief sought from the Seychelles Court of Appeal

The appellant desires/does not desire + - to attend the hearing

Dated this.....day of ..... 20 .....

.....

Advocate for the Appellant

Address for service

To: The Respondent

Address

And to: The Registrar

Seychelles Court of Appeal

And to: The Registrar of the Supreme Court

FORM C

(RULE 18)

In the Seychelles Court of Appeal

In the matter between

.....Appellant

and

..... Respondent

C

ivil Side No ..... of 20.....

NOTICE OF APPEAL

Take Notice that..... being dissatisfied with the decision of Mr Justice ..... given at the Supreme Court/Constitutional Court on the ..... day of ..... 20 .....hereby appeals to the Seychelles Court of Appeal against the whole of the decision (or against such part of the decision as the case may be) that ..... (setting out details) upon the grounds set out in paragraph 2 and will at the hearing of the appeal seek the relief set out in paragraph 3.

And the Appellant further states that the names and addresses of the persons directly affected by the appeal are those set out in paragraph 4.

(1) 2. Grounds of Appeal

Ø

Ø etc.

3. Relief sought form the Seychelles Court of Appeal.

4. Persons directly affected by the appeal:

Name ..... Address .....

Ø

Ø

Ø etc.

Dated at .....this..... day of .....20 .....

.....

Advocate for the Respondent

Address

To: The Respondent

Address

And to: The Registrar

Seychelles Court of Appeal

And to: The Registrar of the Supreme Court/Constitutional Court

\_\_\_\_\_

FORM D

(RULE 19)

In the Seychelles Court of Appeal

In the matter between

..... Appellant

and

.....Respondent

NOTICE OF CROSS-APPEAL

Take Notice that, on the hearing of this appeal..... the above named respondent, will contend that the decision herein ought to be varied/affirmed to the extent and in the manner and on the grounds hereinafter set out, namely:

(set out)

Dated this day..... day of..... 20.....

.....

(Advocate for the) Respondent

The address for service of the respondent above named is .....

Filed the..... day of ..... 20 ..... at.....

.....

Advocate for the Respondent

Address

To: The Advocate for the Respondent

And to: The Registrar

Seychelles Court of Appeal

And to: The Registrar of the Supreme Court/Constitutional Court

\_\_\_\_\_

SECOND SCHEDULE - FEES

(RULE 33)

The fees and percentages set out in this Schedule shall be taken and paid in respect of all civil causes, matters and proceedings in the court, and in respect of applications and proceedings in the Supreme Court, preparatory or incidental to, or consequential upon, a civil appeal to the Court-

1. Upon filing Notice of Appeal	R500.00
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2. Upon filing Notice of address for service	R100.00
3. Upon filing Notice of Cross-Appeal	R550.00
4. Upon filing Notice of Motion	R300.00
5. Upon filing an Affidavit	R100.00
6. Upon sealing an Order	R100.00
7 Upon a reference from the Registrar to the President or a Judge designated by the President	R100.00
8. Upon filing a bill of costs for taxation	R50.00
9. Upon the certificate or allocator of the result of taxation of a bill of costs. Where the costs of any matter are assessed by the Court and ordered to be paid, the appropriate fee under this item shall be payable.	2% of the amount allowed subject to a minimum of R70.00
10. Upon taking an Affidavit	R100.00
11. Upon marking an exhibit to an Affidavit	R50.00
12, Preparing, settling and certifying record	R1000.00
13. Copy of any document or record when prepared by the Court	R10.00 per page or part thereof
14. Service of any process or proceeding required to be served by the Court	R100.00



and, if more than one mile from the Court, in addition,	R50.00
(a) within two miles of the Court	
(b) more than two miles, for every extra mile each way	R10.00
Provided that, for service in Praslin or La Digue, a fixed fee will be payable as follows:-	
Praslin	R300.00
La Digue	R375.00
15. Upon a bond, for every party executing the same	R100.00

### THIRD SCHEDULE - TAXATION

(RULE 33)

#### **Taxation of costs**

1. Unless assessed by the Court, costs incurred in proceedings in the Court and in proceedings in the Supreme Court preparatory or incidental to, or consequential upon, proceedings in the Court shall be taxed by the Registrar (hereinafter referred to as the taxing master) in accordance with the rules and scales hereinafter set out:

Provided that as regards proceedings in the Supreme Court for which no provision is made in these rules or scales, the rules and scales applicable to the Supreme Court shall be followed:

Provided further that where the Court directs taxation of costs as between attorney and client or where a party requests such costs to be taxed, the Registrar shall tax such costs under and in accordance with the direction of the Court.

#### **Order for costs**

2. No costs shall be payable as between party and party or out of any fund unless so ordered by the Court. If costs are ordered to be paid without further direction, they shall be taxed as between party and party.

### **Notice of taxation to be given by taxing master**

3. Whenever an advocate shall have lodged a bill for taxation with the necessary papers and vouchers, the taxing master shall thereupon issue a notice fixing the time at which the taxation shall be proceeded with.

### **Reference to President or Judge**

4. The taxing master or any party may within twenty days of the allocatur refer any matter in dispute arising out of the taxation of a bill for the opinion of the President or a Judge designated by the President.

### **Bills not to be altered after being lodged**

5. No addition or alteration shall be made in costs after a bill has been lodged for taxation except by consent of the parties or by permission or direction of the taxing master or the President or a Judge designated by the President.

### **Default of advocate to attend taxation**

6. Any advocate who shall without reasonable excuse after due notice fail to appear on the date fixed for taxation or on any date to which such taxation is adjourned or who shall in any way delay or impede the taxation, or put any other party to any unnecessary or improper expenses relative to such taxation shall, unless the taxing master otherwise directs, forfeit the fees on which he would otherwise be entitled for drawing his bill of costs and for attending the taxation and shall in addition be liable to pay for any unnecessary or improper expense to which he has put any other party.

### **Discretion of taxing master**

7. On every taxation the taxing master shall allow all such costs, charges and expenses as shall appear to him to have been necessary or proper for the attainment of justice or for defending the rights of any party, but save as against the party who incurred the same, no costs shall be allowed which appear to the taxing master to have been incurred or increased through overpayment, extravagance overcaution, negligence, or mistake or by payment of special charges or expenses to witnesses or other persons, or by other unusual expenses.

### **Excessive claims**

8. If more than one-quarter of the amount of costs claimed is disallowed on taxation, the costs of preparing, filing and serving the bill and of attending taxation shall be disallowed.

### **Costs of more than one advocate**

9. Costs of more than one advocate shall not be allowed unless the Court shall so

direct. **Costs improperly incurred by advocate**

10. If in any case it shall appear to the Court or the President, a Judge designated by the President that costs have been improperly or without reasonable cause incurred or that by

reasons of any undue delay in proceeding under any judgement or order, of any misconduct or default of the advocate, any costs properly incurred have nevertheless proved fruitless to the person incurring the same, the Court or the President or Judge designated by the President may call on the advocate by whom such costs have been so incurred to show cause why such costs should not be disallowed as between the advocate and his client, and also (if the circumstances of the case shall require) why the advocate should not repay to his client any costs which his client may have been ordered to pay to any other person and thereupon may make such order as the justice of the case may require.

The court or the President or a Judge designated by the President may if they or he thinks fit refer the matter to the taxing master for enquiry and report, and may direct the advocate in the first place to show cause before the taxing officer.

### **Party not appearing**

11. Notice of taxation need not be given to any party who did not appear in person or by advocate at the hearing of the appeal or matter in question.

### **Party entitled to costs refusing to lodge bill for taxation**

12. When any party entitled to costs refuses or neglects to bring in his costs for taxation or to procure the same to be taxed and thereby prejudices any other party, the taxing master shall be at liberty to certify the costs of the other parties and certify such refusal or neglect, or may allow such party refusing or neglecting a nominal sum or other sum for such costs, so as to prevent any other party being prejudiced by such refusal or neglect.

### **Manner of preparing bills for taxation**

13. Bills of costs shall be entitled and filed in the proceedings and shall be prepared in five columns:

The first or left-hand column for dates showing year, month, days;

The second for the serial number of the items;

The third for the particulars of the services charged for;

The fourth for the professional charges;

The fifth for the taxing master's deductions;

Disbursements shall be shown separately at the foot of the bill.

Every bill of costs which shall be lodged for taxation shall be endorsed with the name and address of the advocate by whom it is lodged, and also the name and address of the advocate (if any) for whom he is agent and shall include at the end thereof a form of certificate or allocatur for signature by the Registrar certifying the result of the taxation.

### **Vouchers to be produced on taxation**

14. Vouchers for all disbursements charged in a bill of costs, together with documents or drafts or copies thereof shall be produced on taxation if so required by the taxing officer.

All drafts and other documents the preparation of which is charged for per folio shall have the folios thereof consecutively numbered in the margin of the same, and the number of the folios shall be endorsed thereon in figures. The length of all documents not vouched by attested copies or other satisfactory evidence shall be certified by the advocate, and if such certificate be erroneous the taxing master may disallow the costs of the document so erroneously certified or any part thereof

#### **Costs where advocate is employed by two or more parties**

15. Where the same advocate is employed for two or more parties and separate proceedings are had by or for any two or more such parties, the taxing master shall consider in the taxation of such advocate's bill of costs, either as between party and party, or as between attorney and client, whether such separate proceedings were necessary or proper, and if he is of opinion that any part of the costs occasioned thereby have been unnecessarily or improperly incurred, the same shall be disallowed.

#### **Appearance of party not interested**

16. Where any party appears upon any application or proceeding in court or in chambers, in which he is not interested or upon which, according to the practice of the Court, he ought not to attend, he shall not be allowed any costs of such appearance unless the court shall otherwise order.

#### **Time and adjournment**

17. The taxing master shall have power to limit or extend the time for any proceeding before him, and to adjourn the same from time to time.

#### **Witnesses**

18. Expenses of parties attending Court as such shall not be allowed but an allowance may be made for attendance of any necessary witnesses and/or including parties of such amount as would be allowed to such persons for attendance in the Supreme Court.

#### **Meaning of "folio"**

19. The expression "folio" where used in this Schedule shall mean 100 words, a single figure or a group of figures up to seven being counted as one word.

#### **Overriding discretion**

20. Notwithstanding anything in this Schedule contained, if the taxing master or the President or a Judge designated by the President is of opinion that, having regard to all the circumstances, the amount of a bill of costs after taxation is excessive, the taxing master any time before signing his allocatur, or the President or a Judge designated by the President on reference to him, may make such deduction from the total sum allowed or to be allowed as will in his opinion render the total sum reasonable. The President or a Judge designated by

the President may similarly cancel or reduce any deduction made by the taxing master under this rule.

SCALE A

(Civil causes and Matters)

<b>Instructions</b>	
1. Instruction to file Notice of Appeal	R400.00
2. Instructions to act for a Respondent	R400.00
3. In any case where a Notice of Appeal has been filed, but no appeal is subsequently lodged, the Respondent shall be entitled to an inclusive sum for costs (exclusive of disbursements and of the costs of any application made to the Supreme Court or the Court)	R1000.00
4. Instructions to file any application	R400.00
5. Instructions to appear for the Respondent to any application	R400.00
<b>Drawing</b>	
6. Notice of Appeal	R1000.00
7. Notice of Motion and relative motion paper	R500.00
8. Affidavit	R100.00
9. Notice of address for service	R100.00
10. Notice of Cross-Appeal	R500.00
11. Bill of costs, per folio	R30.00

12. Proof of witness per folio	R50.00
13. Order, per folio	R100.00
14. Any other necessary document to be filed or used in Court, per folio	R60.00
<b>Attendances</b>	
15. On the Registrar	R100.00
16. On a President or a Judge in chambers	R400.00
17. In court, on the hearing of any application or appeal, for the first half hour of the hearing,	R1000.00
And for each subsequent half hour, but subject to a maximum for the first day, of	R500.00
And for each subsequent day, of	R3000.00
18. In Court to hear judgment	R300.00

## SCALE B

(Second Appeals in Criminal Cases)

This scale shall apply only for taxation of costs ordered to be taxed and paid as between party and party of an appeal to the Court from a decision of the Supreme Court given in its appellate jurisdiction in a criminal cause or matter.

1. A fee for instructions, to include all work done in and about the appeal other than that chargeable under the subsequent item at the discretion of the taxing officer, which unless for special reasons to be recorded, shall not be less than Rs. 200 or exceed Rs. 1,500.
2. A fee for each necessary attendance in Court or chambers, as allowed under item 16 to 19 inclusive of Scale A, but in every case at one half of the amount shown for such item in that scale.

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## Subsidiary Legislation: Article 101: National Assembly Standing Orders

### PART I - GENERAL

#### Citation

1. These Orders may be cited as the National Assembly Standing

Orders. Procedure in cases not provided for in these Orders

2. In case of any doubt and for any question of procedure not provided for in these Orders, the Speaker shall decide the point of order or practice, having regard to the Constitution, the practice of the Assembly, and the practices of other Commonwealth Parliaments, in so far as they may be applicable to the National Assembly of Seychelles.

#### Interpretation

3. In these Orders -

"Assembly" means the National Assembly referred to in the Constitution;

"Chairperson" means the person presiding over a Committee of the Assembly,

"Clerk" means the Clerk to the Assembly;

"Constitution" means the Constitution of the Republic of Seychelles;

"Leader of Government Business" means the Member so designated, in terms of section 3A (3) of the National Assembly Members' Emoluments Act, by the President;

"Leader of the Opposition" means the Member referred to in Article 84 of the Constitution;

"Member of public" means any person other than the Speaker, the Deputy Speaker, a Member, or an Officer of the Assembly;

"Meeting" means a period during which one or more sittings take place, commencing when the Assembly first sits after being summoned for the first time or after an adjournment of more than a month, and ending when the Assembly is adjourned for more than a month, or upon a motion in terms of Order 17, or at the conclusion of a session;

"Member" means Member of the Assembly;

"Minister" means a Member of the Cabinet for the time being responsible for the matter in question, and in the case of a matter falling within the portfolio responsibility of the President or that of a Minister who for any reason, is unable to attend the Assembly, means the President or such other Minister as the President may nominate for the purpose,

“officer” means the Clerk or any other officer or person acting within the precincts of the Assembly under the orders of the Speaker and includes a Police Officer on duty within the precincts of the Assembly;

"precincts of the Assembly" means the Chamber in which the Assembly or a Committee thereof sits for the transaction of business, together with the offices, rooms, lobbies, galleries, courtyard, gardens and other places provided for the use of accommodation of Members or officers and any passage connecting such places, and any other places immediately contiguous thereto as may be from time to time be designated by the Speaker;

“Sitting” means a period during which the Assembly is sitting continuously without adjournment and includes any period during which the Assembly is in committee;

“Session” means the period of time as defined by Article 106 (1) of the Constitution;

"The Speaker and the Deputy Speaker" means the Speaker and the Deputy Speaker of the Assembly in terms of the Constitution;

## PART II - PRESIDING OFFICER, MEMBERS AND CLERK OF THE ASSEMBLY

### Election of the Speaker and the Deputy Speaker

4. (1) The Assembly shall:

- (a) at the first sitting of the first meeting of a session; and
- (b) if the Office of the Speaker becomes vacant at any time before the next dissolution of the Assembly, at its next sitting after the occurrence of the vacancy,

elect from among its Members, a Speaker.

(2) The procedure for the election of a Speaker shall be as follows:-

- (a) a Member, addressing the Clerk, may propose as Speaker a Member then present, and move that the Member "do take the Chair of this Assembly as Speaker";
- (b) the proposal under sub-paragraph (a) shall require to be seconded, but no debate shall be allowed;
- (c) if only one Member be so proposed and seconded, the Member shall be called by the Assembly to the Chair, without question put;
- (d) if more than one Member be so proposed and seconded, the Assembly shall proceed to election by ballot;
- (e) for the purpose of a ballot, the Clerk shall give to each Member present a ballot paper bearing the names of the candidates and a Member shall vote by placing a cross opposite the name of the candidate of the choice of the Member.



(f) ballot papers shall be folded so as to conceal the vote and shall not be marked in any way by which the Member voting could be identified;

(g) the Clerk or an officer deputed by the Clerk shall collect the ballot papers and the counting of the votes shall be done by the Clerk at the table of the Assembly in the presence of two oldest Members one from each of the two main parties represented in the Assembly, and the result of the ballot shall be declared by the Clerk;

(h) where more than two candidates have been proposed and at the first ballot no candidate obtains more votes than the aggregate votes obtained by the other candidates, the candidate who has obtained the smallest number of votes shall be excluded from the election and balloting shall continue; the candidate obtaining the smallest number of votes at each ballot shall each time be excluded until one candidate obtains more votes than the remaining candidate or the aggregate votes of the remaining candidates, as the case may be;

(i) where at any ballot among three or more candidates two or more obtain the smallest number of votes, determination as to who among these candidates are to be excluded from the next subsequent ballot shall be by lot;

(j) where at any ballot between two candidates the votes are equal, further ballots shall be held until one candidate obtains more votes than the other.

(3) The Assembly shall:-

(a) at the first sitting of the first meeting of a session; and

(b) if the office of the Deputy Speaker becomes vacant at any time before the next dissolution of the Assembly, at its next sitting after the occurrence of the vacancy,

elect from among its Members, a Deputy Speaker.

(4) The procedure for the election of a Deputy Speaker shall be the same as for the election of the Speaker.

Office of Speaker and Deputy Speaker becoming vacant

5. The office of Speaker or Deputy Speaker shall become vacant-

(a) where the person holding the office of Speaker or Deputy Speaker ceases to be a Member of the National Assembly in accordance with the provisions of Article 81 of the Constitution;

(b) where the Assembly passes a resolution supported by the votes of not less than two-thirds of the number of Members of the Assembly requiring the person to vacate the office of Speaker or Deputy Speaker, as the case may be;

(c) where, by notice in writing to the Assembly, the Speaker or Deputy Speaker resigns office, and the Clerk receives the notice;

(d) where the person holding the office of Speaker or Deputy Speaker is appointed Leader of Government Business or is elected Leader of the Opposition.

## Officer Presiding

6. The Speaker or in the absence of the Speaker the Deputy Speaker or, in their absence a Member, not being the Leader of Government Business or the Leader of the Opposition, elected by the National Assembly in the manner prescribed by paragraph (2) of the Standing Order 4, shall preside over the deliberations of the Assembly and he or she shall exercise the same authority as the Speaker:

Provided that the words “Speaker” in the motion prescribed by subparagraph (a) of paragraph (2) of Standing Order 4 shall be replaced by the words “Speaker for today’s sitting only.”

## Chairperson of Committees of the Whole Assembly

7. The Speaker or, in the absence of the Speaker, the Deputy Speaker or in their absence, a Member, not being the Leader of Government Business or the Leader of the Opposition, elected as in Standing Order 4 shall act as Chairperson of the Committee of the whole Assembly:

Provided that the word “Speaker” in the motion prescribed by subparagraph (a) of paragraph 2 of Standing Order 4 shall be replaced by the word “Chairperson”.

## Authority of Presiding Officers during proceedings

8. (1) The Speaker or, in the absence of the Speaker, the Deputy Speaker shall preside at any sitting of the Assembly.

(2) The Speaker or the Deputy Speaker shall preserve order and decorum in the Assembly and shall decide points of order and practice.

(3) In deciding a point of order or practice, the Speaker or the Deputy Speaker shall state reasons for their decision and shall cite any rule of procedure or other applicable authority.

(4) The Speaker or the Deputy Speaker may invite Members to cite relevant rules or procedure or authorities in support of points of order raised by them.

(5) The decision of the Speaker or the Deputy Speaker on a point of order shall be

final. Leave of absence

9. (1) Every Member shall attend the sittings of the Assembly unless leave of absence has been given to the Member by the Speaker. The Speaker shall not unreasonably withhold such leave.

(2) Except with the permission of the Speaker, if a Member has absented himself or herself from Seychelles for a continuous period in excess of 30 days or, during a session of the Assembly, for a continuous period in excess of 90 days during which time the Assembly has been summoned to meet and continues to meet, such Member shall cease to be a Member in virtue of the provisions of Article 81 of the Constitution.

- (3) Leave of absence may be given by the Speaker to any Member who shows sufficient cause justifying his or her absence or who is away on official or parliamentary duties.
- (4) Application for leave of absence shall be in writing unless the Speaker otherwise permits.
- (5) In exceptional cases, any Member may inform the Speaker of the Member's absence and the circumstances leading to such absence, and seek the Speaker's retrospective leave of absence.

#### Quorum

10. (1) The quorum of the Assembly and of a Committee of the whole Assembly shall consist of one half of the number of Members at the time.

(2) If at any time the attention of the Speaker is called by a Member to the absence of a quorum, the Speaker shall count the Assembly. If on the first count a quorum does not appear to be present, the Speaker shall call for a division of the Assembly, and if no quorum be present after the lapse of three minutes, the Speaker or the Chairperson shall announce to the Assembly or Committee, as the case may be, that there is not a quorum present and shall proceed as follows

(a) the Speaker shall adjourn the Assembly without question put until such time on the same day or such other day as he may decide;

(b) if the Assembly is in Committee, the Assembly shall resume, and the Speaker shall adjourn the Assembly as provided in paragraph (a):

Provided that if attention is drawn to the absence of a quorum at the commencement of business, the Speaker or the Chairperson, as the case may be, shall before taking the action described in paragraphs (a) and (b) suspend the sitting for such period of time as the Speaker or the Chairperson may decide.

#### Language

11. The proceedings and debates of the Assembly will be in Creole, but a Minister or a Member may address the Assembly in English or French.

#### Duties of the Clerk of the Assembly

12. (1) The Clerk or any officer deputed by the Clerk shall keep the Record of proceedings of the Assembly and of Committees of the whole Assembly which shall constitute the progress of the Assembly; and shall circulate a copy of the Record to Members before the beginning of the next sitting or as soon as possible after the conclusion of each sitting.

(2) The Record of proceedings shall record the names of Members attending and all decisions of the Assembly or Committees of the whole Assembly, as the case may be.

(3) When decisions are taken in the Assembly or in a Committee of the whole Assembly, the Record of proceedings shall state the number of Members voting for and against the question.

(4) The Clerk shall be responsible, under the direction of the Speaker, for preparing an Order Paper for each sitting of the Assembly or Committee of the whole Assembly showing the business to be placed before the Assembly or Committee at the sitting, together with such other information as the Speaker may direct that it should contain.

(5) The Clerk shall, not less than three clear days before the commencement of any sitting of the Assembly, send to each Member of the Assembly a copy of the Order Paper stating the business to be transacted at the sitting.

(6) The Clerk shall be responsible for the custody of the journals and records, including all papers presented to or laid before the Assembly; and the journals and records shall at all reasonable time be open to inspection by Members and other persons under such arrangements as may be sanctioned by the Speaker.

(7) The Clerk shall be responsible, under the direction of the Speaker, for the production of an official report of speeches made in the Assembly and in Committees of the whole Assembly and for making copies available to Members.

(8) The Clerk or any officer deputed by the Clerk shall serve as the secretary to any Committee appointed by the Assembly and shall record the proceedings in the Minutes.

#### Procedure for the removal of Speaker or Deputy Speaker

13. (1) A motion for a resolution for the removal of the Speaker or the Deputy Speaker from office shall be moved in the following manner-

(a) seven days' notice signed by not less than one half of all Members of the Assembly in the case of the Speaker, and one third in the case of the Deputy Speaker, shall be given to the Clerk;

(b) the Clerk shall, within twenty four hours of receipt of the notice, forward it to the Speaker or the Deputy Speaker, as the case may be;

(c) the motion shall be tabled in the Assembly and shall be listed for debate within fourteen days after receipt of the notice by the Speaker or the Deputy Speaker;

(d) in debating the motion under paragraph (c) the Assembly shall constitute itself into a Committee, which shall report its findings to the Assembly for adoption;

(e) the Speaker or the Deputy is entitled to be heard during the debate.

(2) The Speaker or the Deputy Speaker, as the case may be, in respect of whom proceedings for removal have commenced, shall not continue to preside over any proceedings of the Assembly.

(3) If the Assembly passes the motion for the removal of the Speaker or the Deputy Speaker by not less than two-thirds of the number of Members of the Assembly, the Speaker or Deputy Speaker shall cease to hold office.

#### Procedure for vote of censure against the Vice-President and Ministers

14. (1) A Member who is desirous of moving a motion of censure against the Vice-President or a Minister shall notify the Clerk in writing of his or her intention, citing the grounds for the proposed censure motion and giving detailed particulars supporting such grounds.

(2) The Clerk shall, after being satisfied that the notice of motion has been signed by not less than one third of the number of the Members of the Assembly, transmit the notice to the Speaker who shall send a copy thereof to the President.

(3) Seven days after the notice has been received, the Speaker shall cause the motion to be placed on the Order Paper.

(4) On the motion being called, the Member who gave notice under paragraph (1) of this Order shall formally move the motion and lay all supporting documents on the Table and each document so laid shall be endorsed by the Clerk. A copy of each such document shall be forwarded to the President for onward transmission to the Vice-President or Minister concerned, as the case may be.

(5) After the mover has concluded his or her speech and laid all documents in support of the motion, debate thereon shall be postponed and the Speaker shall cause a Committee to be appointed comprising 7 Members to which the motion and the supporting documents shall be referred. Thereupon the Committee shall scrutinise and identify prima facie evidence to the allegations in the motion.

(6) In the exercise of its duties under paragraph (5), the Committee—

(a) may call any person to the Committee for the purpose of examining the person;

(b) may receive supplementary information from any Member of the Assembly or any person called to the Committee;

(c) shall allow the Vice-President or the Minister who is the subject of the motion to defend himself or herself against any allegations made against him or her.

(7) On completion of the proceedings, the Chairperson of the Committee shall report the findings of the Committee to the Assembly.

(8) On receipt of the Committee's report, and notwithstanding the findings of the Committee, the Speaker shall cause the motion to be debated within fourteen days of the receipt of the notice of the motion.

(9) If the Assembly passes the motion of censure by not less than two thirds of the number of Members of the Assembly, the Speaker shall inform the President of the result of the vote within twenty four hours.

### PART III - SESSIONS, MEETINGS AND SITTINGS

#### Summoning of sessions

15. (1) The first meeting of a Session of the Assembly shall be held at such place, and shall begin at such time as the President may, by Proclamation published in the Gazette, appoint.

(2) Subject to paragraph (1) the President may, at any time by Proclamation published in the Gazette, summon a meeting of the National Assembly.

(3) At the dissolution of the Assembly all proceedings then pending shall terminate and lapse.

#### Commencement of meetings

16. A meeting of the Assembly, other than the first meeting of a session shall, subject to the Constitution, begin on such date as the Speaker may appoint.

#### Conclusion of meetings

17. (1) Meetings shall be concluded by the adjournment of the Assembly for the conclusion of the meeting.

(2) A motion to determine the day for the conclusion of a meeting shall be moved in the following terms: "That on the adjournment of the Assembly on (this or a later day) the present meeting of the Assembly shall be concluded and the Assembly shall then stand adjourned (until a named day or sine die)".

(3) No amendment to the motion set out in paragraph (2) shall be accepted other than to substitute another day for any day referred to in the motion.

(4) Any business not disposed of by the Assembly on the adjournment at the conclusion of a meeting shall be stood over to the next meeting.

#### Sittings

18. (1) The Assembly may sit on any day.

(2) The Assembly shall sit on such days as are decided by the Speaker.

#### Times of sittings

19. (1) Subject to Order 15(1), a sitting of a meeting of the Assembly shall begin at 9.00am.

(2) Subject to this Order and Order 21 (6), at 5.00 p.m. proceedings on any business under consideration shall be interrupted, any motion which has been moved for the adjournment of the Assembly shall lapse, and if the Assembly is in committee, the Speaker shall resume presiding over the Assembly;

Provided that if the Speaker or the Chairper, as the case may be, is of opinion that the proceedings on which the Assembly is engaged could be concluded by a deferment of the moment of interruption, the Speaker or Chairperson may defer interrupting the business.

(3) If a division is in progress at 5.00 p.m. or a question is being put from the Chair and a division results immediately thereon, the business shall not be interrupted until the result of the division has been declared.

(4) Except as provided in order 21(6), no further business shall be entered upon after the interruption of business under paragraph (2) of this Order.

(5) Any matter under discussion at 5.00 p.m. and any business not entered upon at that time shall stand over to the next sitting or, if it is the last sitting of a meeting, to the next meeting.

(6) The Speaker in the Assembly, or the Chairperson in a committee of the whole Assembly, may at any time suspend a sitting and will usually do so from 12.00 p.m. until 2.00 p.m.

#### PART IV - MOTIONS FOR THE ADJOURNMENT OF THE ASSEMBLY

##### Adjournment of the Assembly

20. (1) When for any reason it is not desired to formulate a motion in express terms for the purpose of debating a matter or matters, a motion that the Assembly do now adjourn may be moved for the purpose of such a debate.

(2) A motion under this Order may be moved by any Member after the Member has so notified the Speaker.

(3) The Speaker may decline to put the motion to the Assembly if the Speaker considers it an abuse of the Orders of the Assembly.

(4) A motion for the adjournment under this Order may not be moved until motions are entered upon under Order 24(2) and then only between two items of business.

(5) If a motion for the adjournment made under this Order is agreed to, the Assembly shall stand adjourned and any business not entered upon shall stand over in accordance with Order 17(4), but if the motion is not passed or is withdrawn, the Assembly shall proceed to the next item of business.

(6) At the conclusion of the business under Order 24(2), the Speaker shall either adjourn the Assembly without question put, or, if notice has been given of a matter to be raised upon a motion for the adjournment of the Assembly under this Order, the Speaker shall call upon a Member to move "That this Assembly do now adjourn".

(7) On any motion moved under paragraph (6) a Member who has given notice in writing and obtained the leave of the Speaker may raise any matter of administration for which the Government is responsible.

(8) Upon the conclusion of any debate arising under a motion under paragraph (6), the Speaker shall put the question "That this Assembly do now adjourn":

Provided that, if that question has not been put at the expiration of one hour after the motion has been moved, the Speaker shall adjourn the Assembly without question being put.

##### Adjournment on specific and important matters

21. (1) Immediately before motions are to be entered upon under Order 24(2), a Member may ask leave to move the adjournment of the Assembly for the purpose of discussing a specific and important matter that should have urgent consideration.

(2) A Member asking leave to move an adjournment of the Assembly under this Order shall, before the commencement of the sitting, hand to the Speaker a written notification of the matter which the Member wishes to discuss.

(3) Such a motion by a Member may not be made unless:-

(a) the Speaker is satisfied that the matter is specific and important and should have urgent consideration, and

(b) the leave of the Assembly is given; or

(c) if it is not given, at least one half of the Members present support the request.

(4) If the Speaker is satisfied that the motion may properly be made, and the leave of the Assembly on that behalf is granted, the motion shall stand over until such hour as the Speaker may appoint on the same day or the next day when proceedings shall be interrupted after three hours and any proceedings on which the Assembly is engaged shall stand postponed until the motion for the adjournment is disposed of.

(5) If a motion for the adjournment made under this Order is agreed to, the Assembly shall stand adjourned and any business not entered upon shall stand over in accordance with Order 17(4), but if the motion is not passed or is withdrawn, the Assembly shall proceed to the next item of business.

(6) Any proceeding postponed under this Order shall not be interrupted at five o'clock and may be resumed and proceeded with at or after that hour for a period of not more than three hours.

(7) Not more than one such motion for the adjournment shall be made at the same sitting; and not more than one matter shall be discussed on that motion.

## PART V – MOTIONS FOR ADJOURNMENT OF DEBATES

### Adjournment of debate or proceedings in Committee

22. (1) A Member who wishes to postpone to some future occasion further debate on a question which has been proposed from the Chair may claim to move to “That the debate be now adjourned”, or, in Committee of the whole Assembly, “That the Chairperson do report progress and ask leave to sit again.”

(2) The debate on the motion shall be confined to the matter of the motion.

(3) If the Speaker or Chairperson shall be of the opinion that the motion is an abuse of the proceedings of the Assembly or Committee, as the case may be, the Speaker or Chairperson may decline to propose it.



(4) When such a motion has been negatived, the debate on the question before the Assembly or the Committee shall be continued and no further motion shall be moved during the same debate.

(5) Such a motion shall be made only by a Member who, having been called by the Speaker, is for the time being holding the floor and Members who have already contributed to the debate under such consideration are not allowed to move such a motion.

(6) It shall not be in order to move an amendment to a motion under the provisions of this Order.

#### Closure of Debate

23. (1) After a question has been proposed, a Member may claim to move "That the question be now put", and, unless it shall appear to the Speaker that such a motion is an abuse of these Standing Orders or an infringement of the rights of a minority, the question "That the question be now put" be put forthwith and decided without amendment or debate.

(2) When a motion "That the question be now put" has been carried, and the question consequent thereon has been decided, a Member may claim that such other question be put as may be requisite to bring to a decision any question also proposed and, provided that the assent of the Speaker is not withheld, such questions shall be put forthwith and decided without amendment or debate.

#### PART VI - ORDER OF BUSINESS

##### Order of Business

24. (1) At the first sitting of the first meeting of the Assembly in a new session:-

(a) the Clerk shall read the Proclamation by the President summoning the Assembly to the meeting;

(b) the Speaker shall cause the Oath of Allegiance to be made and subscribed by all Members;

(c) the Speaker shall announce to the Assembly whether the President intends to address the Assembly on that day and if so at what time;

(d) if the President intends to address the Assembly the sitting shall stand suspended until the time appointed for the President to do so;

(e) at the conclusion of the President's address the sitting shall stand suspended or adjourned as the Speaker may direct until such time or to such day as may be specified by the Speaker.

(2) The business for a sitting shall be transacted in the following order:

(a) National Anthem;

(b) Moment of Reflection,

- (c) Administration of Oath of Allegiance,
- (d) Communications from the President
- (e) Communications from the Chair,
- (f) Presentation of papers,
- (g) Questions of which notice has been given,
- (h) Questions without notice,
- (i) Statements by Ministers,
- (j) Personal explanations,
- (k) Matters of Privilege,
- (l) Motions for the adjournment of the Assembly under Order 21,
- (m) Any motion, Bill, or other business which, in the opinion of the Speaker, should precede the remaining business of the day,
- (n) Motions of which notice has been given,
- (o) Bills,

## PART VII - OATH AND COMMUNICATIONS

### National Anthem

25. A sitting of the National Assembly shall begin with the National Anthem. Oath of Allegiance

26. The Oath of Allegiance shall be administered by the Clerk to Members in prescribed form and no Member shall sit, speak or vote until the Member has taken the Oath of allegiance.

### Message from the President

27. (1) A message from the President shall be read, at the first convenient sitting of the Assembly after it is received by the Speaker, by the President or a Minister designated by the President.

(2) The Message from the President on the State of the Nation shall be read at the first annual sitting of the Assembly after it is received by the Speaker, by the President or a Minister designated by the President.

(3) Notwithstanding the provisions of Order 24, the Message from the President on the State of the Nation shall be followed by a response from the Leader of the Opposition and by a general debate without question put.

## PART VIII - PAPERS

### Presentation of Papers

28. (1) Papers may be presented to the Assembly during a sitting by the Clerk laying them on the Table.

(2) A record of every paper presented to the Assembly shall be entered in the Record of proceedings of the Assembly.

(3) Copies of all subsidiary legislation made under the authority of any law and published in the Gazette since the last meeting of the Assembly shall be laid on the Table by the Clerk.

(4) Any person shall be entitled at all convenient times on application to the Clerk to read and, if they so desire, to take extracts from or copies of all papers laid upon the Table.

### Debates on Papers

29. (1) Subject to any written law, at any time after the presentation of any paper under Order 28, a Member may give notice of a motion that the Assembly resolve itself into a committee of the whole Assembly to consider the paper and debate upon that motion shall be confined to the general principles set forth in the paper.

(2) If a motion under paragraph (1) is agreed to, the Assembly shall resolve itself into the Committee and debate in committee may extend to all the details of the paper which shall be discussed paragraph by paragraph unless otherwise decided by the Chairperson having regard to the Assembly but no question shall be put on, nor any amendment proposed to, any part of the paper; and at the conclusion of the debate no question shall be put save that the Member who moved the motion do report to the Assembly that the Committee has considered the paper.

(3) As soon as the Member has reported that the Committee has considered the paper, a motion may be made forthwith, or on a later day after notice, that the Assembly agrees with the proposals contained in the paper.

## PART IX – QUESTIONS TO MINISTEERS AND MEMBERS

### Scope of Questions

30. (1) Questions may be put to a Minister relating to any subject, Ministry or department for which the Minister is responsible.

(2) Ministers shall attend sittings of the Assembly to answer questions asked of them.

(3) Questions relating to matters which are under the control of a statutory body must be restricted to those matters for which the Minister is responsible.

- (4) The proper object of a question is to obtain information on a matter of fact within the responsibility of a Minister or to press for action.
- (5) Questions may also be put to other Members, relating to a Bill, motion or other public matter connected with the business of the Assembly for which such Members are responsible.
- (6) When a question has been refused or amended, and the Member concerned wishes to make representation to the Speaker on the matter, these must be made privately to the Speaker and not raised by way of a point of order in the Assembly.

#### Questions with and without Notice

31. (1) Notice of questions shall be given in writing by a Member to the Clerk and shall be received by the Clerk not less than ten clear days before the meeting of the Assembly.

(2) All questions of which notice has not been received by the Clerk within paragraph (1) but which, in the opinion of the Speaker, are of an urgent character and relate to matters of public importance may be asked at the conclusion of question time, provided that the Speaker is satisfied that the Minister has been given enough time to prepare an answer.

(3) Subject to paragraph (2), the Leader of the Opposition shall be accorded the privilege to put to a Minister a private notice question by sending it in writing to the Clerk at least six hours before question time.

(4) Subject to paragraph (2), the Leader of the Opposition shall be accorded the privilege to put to a Minister a private notice question by sending it in writing to the Clerk at least six hours before question time.

(5) Notice of questions, including private notice questions, shall not be entertained on the following sitting days —

- (a) on the opening of a session when the Speech of the President is delivered;
- (b) when the Minister responsible for Finance delivers the Budget speech;
- (c) on any day fixed for the consideration of an Appropriation Bill or a Supplementary Appropriation Bill.

#### Content of Questions

32. (1) The right to ask a question shall be subject to the following general rules as to the interpretation of which the Speaker shall be the sole judge-

- (a) not more than one subject matter shall be referred to in any question and the Speaker shall have the power to reject any question which the Speaker considers to be of excessive length;
- (b) a question shall not include the names of persons or any statements of fact unless they be strictly necessary to render the question intelligible;

- (c) a question shall not contain statements which the Member who asks the question is not prepared to substantiate;
  - (d) a question shall not contain arguments, inferences, opinions, amputations, epithets, ironical or offensive expressions or be based upon hypothetical circumstances;
  - (e) a question shall not refer to an answers given to any questions during the last twelve months;
  - (f) a question shall not refer to proceedings in a Committee of the Assembly which have not been reported to the Assembly;
  - (g) a question shall not seek information about any matter which is of its nature secret;
  - (h) a question shall not reflect on the decision of a court of law and no question shall be asked on any matter which is sub judice;
  - (i) a question shall not be asked for the purpose of obtaining an expression of opinion, the solution of an abstract legal case or the answer to a hypothetical proposition;
  - (j) a question shall not be asked as to whether statements in the Press or of private individuals or bodies of persons are accurate;
  - (k) a question shall not be asked as to the character or conduct of any person except in the official or public capacity;
  - (l) a question shall not be asked reflecting on the character or conduct of any person whose conduct can only be challenged on a substantive motion;
  - (m) a question shall not be asked making or implying a charge of a personal character which the Member asking the question is not prepared to substantiate;
  - (n) a question shall not be asked seeking for information set forth in an accessible document or ordinary works of reference;
  - (o) a question fully answered shall not be asked again during the same session.
  - (p) a question cannot be asked on a matter within the jurisdiction of the Speaker.
- (2) If the Speaker is of the opinion that any question of which a Member has given notice to the Clerk is an abuse of the right of questioning, or infringes any of the provisions of this or any other Orders, the Speaker may direct;
- (a) that the Member concerned be informed that the question is inadmissible for reasons stated; or
  - (b) that the question be entered on the Order Paper with such alterations as the Speaker may direct.

Manner of asking and answering Questions

33. (1) When a question for oral answer on the Order Paper is reached, the Speaker shall call upon the Member in whose name the question stands and the Member so called shall then ask the question by reading it out from the Order Paper or if the Speaker so directs by reference to its number on the Order Paper, and the Minister or Member shall then reply.

(2) At the discretion of the Speaker supplementary questions may be asked by Members for the purpose of elucidating any matter of fact regarding which an answer has been given, but the Speaker shall disallow any supplementary question which introduces matters not arising from the original question or which infringes any of the provisions of Order 32.

(3) A Member who desires a written answer to a question shall mark the notices of the question with an asterisk; and that question shall be entered on the Order Paper and the answer shall be sent to the Member who asked it and to the Clerk who shall cause such answer to be circulated to Members and to be in the official report.

(4) No question shall be taken in the Assembly later than one hour and a half after the beginning of question time but the Speaker may, in the Speaker's discretion, extend question time.

(5) If a question is not reached, it shall be the subject of a written answer.

(6) The number of questions which may be put down in the name of a Member for oral answer at any meeting shall not exceed four.

(7) A question may be withdrawn by the Member asking it at any time before an answer is given, either by notice in writing to the Clerk, or by the Member at question time when the Member's name is called by withdrawing it orally.

(8) A question shall not be made the pretext for a debate.

## PART X - STATEMENTS, PERSONAL EXPLANATIONS AND PRIVILEGE

### Statements by Ministers

34. A Minister may make a statement to the Assembly on behalf of the Government on any matter for which the Government is responsible and the statements may not be debated but, at the discretion of the Speaker, questions may be asked by Members for the purpose of elucidating any matter of fact with which the statement deals.

### Personal Explanations by Members

35. (1) With the prior leave of the Speaker, any Member may make a personal explanation although there be no question before the Assembly and the explanation may not be debated and no controversial matter may be included in any explanation.

(2) The precise contents of the proposed explanation must be submitted in advance to the Speaker to ensure that they are appropriate. The Member granted the privilege of making such a statement shall not depart from the text approved by the Speaker.

(3) Notwithstanding the arrangement mentioned in Standing Order 24 (2) and paragraph (1) of this Order, the Speaker may, at any time, allow a Member to offer an explanation.

#### Matter of Privilege

36. (1) A Member who wishes to raise a matter which the Member believes affects the privileges of the Assembly shall do so at the first available sitting of the Assembly by so informing the Speaker and stating the matter it is proposed to be raised.

(2) When called by the Speaker, the Member shall briefly state the grounds on which the Member believes that the matter raised affects the privileges of the Assembly.

(3) The Speaker shall then state whether the matter may or may not affect the privileges of the Assembly.

(4) A Member may then move a motion relating to that matter of privilege which shall take precedence over other business.

(5) Matters of privilege shall be raised as provided for in Order 24(2):

Provided that if during a sitting of the Assembly a matter suddenly arises which appears to involve the privileges of the Assembly, the proceedings may be interrupted, unless a division is in progress, in order that the matter may be raised and disposed of.

#### PART XI - MOTIONS AND AMENDMENTS TO MOTIONS

##### Contents of Motions

37. (1) Subject to the Constitution and these Orders, any Member may propose any matter for debate in the Assembly by way of motion, that is, a self contained proposal submitted for the approval of the Assembly and drafted in such a way as to be capable of expressing a decision of the Assembly.

(2) A notice of motion which, in the opinion of the Speaker, amounts to an attempt to reconsider a specific question upon which the Assembly has decided during the last twelve months shall be disallowed by the Speaker unless it be a notice of a motion to rescind such a previous decision of the Assembly.

##### Notice of Motions

38. (1) Unless otherwise provided by these Orders or with the prior permission of the Speaker on grounds of public urgency, no motion shall be moved at a meeting unless notice thereof has been given at least ten clear days before that meeting.

(2) A Member shall give notice of a motion by handing a copy thereof fairly written and signed by that Member to the Clerk.

(3) The Speaker may disallow a notice of motion which, in the Speaker's opinion, contains unbecoming expressions, or which infringes the rules of debate. Any such notice may be

amended by the Speaker with the consent of the Member who gave the notice and may thereupon appear on the Order Paper.

(4) All motions of which notice has been given in accordance with this Order, including those which the Speaker rules to be out of order, shall be circulated to all Members.

(5) Motions whose contents are cognate may be debated together unless a dissentient view is expressed.

(6) The following motions may be moved without notice:-

(a) a motion moved by a Member for the adjournment of the Assembly or the conclusion of a meeting;

(b) a motion moved by a Member to vary the time or date of a sitting;

(c) a motion for the suspension of any of these Orders;

(d) a motion to recommit a Bill in whole or in part;

(e) a motion to withdraw a Bill;

(f) subject to the provisions of these Orders governing financial procedure and the procedure on Bills, a motion moved when the Assembly is in committee;

(g) a motion for the suspension of a Member;

(h) a motion relating to a matter of privilege;

(i) a motion to adjourn a debate, or in committee to report progress and ask leave to sit again.

(7) A Member may amend a notice of motion standing in the name of that Member if that amendment does not, in the opinion of the Speaker, materially alter the scope of, or any principles embodied in, the original motion, and any such amendment shall be deemed to have been made at the time the original notice of motion was given.

#### Manner of debating Motions

39. (1) A Member called upon by the Speaker to move a motion shall state the terms of the motion and after making other remarks formally move the motion.

(2) Every motion (including an amendment to a motion), except a motion made in committee, must be seconded.

(3) If a motion is not seconded, the Clerk shall make a note in the Records of proceedings to the effect that as the motion was not seconded the Speaker was unable to propose the question thereon.

(4) A motion may be seconded by a Member without speaking to the motion; in that event the Member's right to speak to the motion later shall be reserved.



(5) When a motion has been moved and seconded, the question thereon shall be proposed to the Assembly by the Speaker, and debate may then take place on that question.

(6) Any motion appearing on the Order Paper and not moved when the Member in whose name it stands is called upon by the Speaker at the proper time to move it shall be deemed to be withdrawn unless that Member gives, or has given, notice of the Member's intention to defer it.

(7) When no more Members wish to speak on a motion, the Speaker shall put the question on the motion to the Assembly for its decision.

(8) A question when put from the chair may be amended —

(a) by deleting certain words in order to insert or add other words;

(b) by deleting certain words, or

(c) by inserting or adding other

words. Amendments to Motions

40. (1) Any amendment to a motion shall be put in writing by the mover and delivered to the Clerk at least forty eight hours before moving it;

Provided that the Speaker may, in cases of simple amendment, waive this requirement.

(2) Every amendment shall be relevant to the motion which it seeks to amend and shall not raise any question which, in the opinion of the Speaker, should be raised by a motion for the purpose after notice given.

(3) An amendment shall not be moves if a substantially identical amendment has already been disposed of.

(4) No amendment shall be permitted if, in the opinion of the Speaker, it represents a direct negative of the question proposed.

Manner of debating Amendments to Motions

41. (1) Any amendments to the motion which a Member wishes to propose in accordance with these Orders may be moved at any time after the question upon the motion has been proposed and before it has been put.

(2) When two or more amendments are proposed to be moved to the same motion, the Speaker shall call upon the movers in the order in which their amendments relate to the text of the motion, or in cases of doubt, in such order as the Speaker shall decide.

(3) When every such amendment has been disposed of, the Speaker shall either again propose the question upon the motion, or the motion as amended, as the case may be, and, after any further debate that may arise thereon, shall put the question.

(4) Where the mover of an amendment directly addresses the motion, the mover loses the right to speak again on the main motion after the amendment has been disposed of.

#### Method of dealing with Amendments

42. (1) Upon any amendment to delete any of the words of a motion, the question to be proposed by the Speaker shall be “ That the following words.....be deleted from the motion”.

(2) Upon any amendment to insert words in, or add words at the end of, a motion, the question to be proposed by the Speaker shall be “That the following words .....be inserted (or added)”.

(3) Upon an amendment to delete words and insert or add other words instead, the question to be proposed by the Speaker shall be “That the following words..... be deleted from the question and that the following words .....be there inserted (or added)”.

#### Amendments to Amendments

43. (1) An amendment to an amendment may be moved to at any time after the question upon the original amendment has been proposed and before it has been put.

(2) Order 42 shall apply to amendments to amendments.

(3) When every amendment to an amendment has been disposed of, the Speaker shall either again propose the question upon the original amendment or propose the question on the original amendment as amended, as the case may be.

#### Withdrawal of Motions and Amendments

44. (1) A notice of motion or amendment may be withdrawn at any time before it is moved if the Member in whose name it stands gives instructions to this effect to the Clerk.

(2) After the question on a motion or amendment has been proposed from the Chair, the motion or amendment shall be deemed to have been put in the possession of the Assembly and may only be withdrawn with the leave of the Assembly.

(3) A motion or amendment to which an amendment has been moved may not be withdrawn until that amendment has been disposed of.

(4) A motion or amendment which has been withdrawn may be proposed again on

notice. PART XII - ENFORCEMENT OF DEBATE

#### Point of Order

45. (1) A Member who fails to observe these Orders may be immediately called to order by the Speaker or the Chairperson, or by a Member raising a point of order and the Member raising the point of order shall direct attention to the point the Member desires to bring to notice and submit it to the Speaker or the Chairperson for decision.

(2) The Speaker shall either rule on the point of order forthwith or may suspend the sitting in order to give further consideration to the point before making a ruling; in either case the Member who was speaking at the time the point of order was raised may, as soon as the Speaker has ruled on the point of order, continue speaking.

#### Decision of Speaker final

46. (1) The Speaker shall be responsible for the observance of these Orders in the precincts of the Assembly and in committee and the decision of the Speaker on a point of order shall be final.

(2) A Member infringing any of these Orders shall immediately be called to order by the Speaker and a Member may call the attention of the Speaker to such an infringement.

#### Irrelevance, tedious repetition and gross disorderly conduct

47. (1) After having called the attention of the Assembly to the conduct of a Member who persists in irrelevance or tedious repetition in debate, the Speaker may direct the Member to discontinue speaking.

(2) The Speaker shall order a Member whose conduct is grossly disorderly to withdraw immediately from the Assembly for such period as the Speaker deems appropriate and not more than the remainder of that day's sitting; and an officer shall act on any order received from the Chair to ensure compliance with this Order.

#### Naming and suspension of Members

48. (1) If on any occasion the Speaker is of the opinion that the powers conferred under Order 47 are inadequate to deal with the offence, the Speaker may name the Member.

(2) Whenever a Member has been named by the Speaker immediately after the commission of the offence of disregarding the authority of the Chair or of contravening any Orders of the Assembly by persistently and wilfully obstructing or otherwise, then —

(a) if the offence has been committed in the Assembly, the Speaker or the person presiding shall forthwith put the question on a motion being made, no amendment, adjournment or debate being allowed, "That such Member (naming the Member) be suspended from the service of the Assembly", and

(b) if the offence has been committed in a committee of the whole Assembly, the Chairperson shall forthwith suspend the proceedings and report the circumstances to the Assembly; and the Speaker shall thereupon, on motion being made, put the same question without amendment, adjournment or debate as if the offence had been committed in the Assembly.

(3) If any Member is suspended under this Order, the suspension on the first occasion shall continue for one sitting, on the second occasion for two consecutive sittings, and on the third or any subsequent occasion for four consecutive sittings.

(4) On receiving from a Member so suspended a written expression of regret the Speaker shall lay it before the Assembly and it shall be entered in the Record of proceedings and on a motion being made for the discharge of the Order of suspension the question thereon shall be decided without amendment or debate and if the question is agreed to, the Order shall be discharged and the Member shall be readmitted to the Assembly.

(5) Where several Members present have jointly disregarded the authority of the Chair, the Speaker may name them jointly.

(6) Nothing in this Order shall deprive the Assembly of the power of proceeding against any Member in accordance with any written law for the time being in force.

#### Refusal to obey directions of the Speaker

49. (1) If any Member, or Members acting jointly, who have been suspended under Order 48, shall refuse to obey the directions of the Speaker when ordered so to do, the Speaker shall call the attention of the Assembly to the fact that recourse to force is necessary in order to compel obedience to the directions and the Member or Members named by the Speaker as having refused the directions shall thereupon, and without further question put, be suspended from the service of the Assembly for twelve consecutive sittings:

Provided that any such period of suspension shall come to an end when the Assembly is dissolved.

#### Members suspended to withdraw from the precincts

50. A Member who is ordered to withdraw from the Assembly under Order 47, or who is suspended from the service of the Assembly under Order 48, shall forthwith withdraw from the precincts during the period of the suspension.

#### Grave disorder in the Assembly or Committee of the Whole Assembly

51. (1) If grave disorder arises in the Assembly, the Speaker may adjourn the Assembly without question put or suspend the sitting for any period.

(2) If grave disorder arises in a Committee of the whole Assembly, the Assembly shall resume without question put.

### PART XIII - RULES OF DEBATE

#### Time and Manner of Speaking

52. (1) A Member desiring to speak shall raise a hand and if called upon by the Speaker shall address the Member's observations to the Chair.

(2) If two or more Members wish to speak at the same time, the Speaker shall select one Member and call on the Member to speak.

(3) The mover of any motion or amendment may speak in support thereof, but no further debate shall be allowed nor shall any question thereon be put to the Assembly until the motion or amendment be duly seconded.

(4) No Member shall speak more than once to any question except—

(a) in Committee;

(b) in explanation as provided in paragraphs (5) and (6) of this Order;

(c) in the case of the mover of a substantive motion in the Assembly, in reply not being a motion for the adjournment of the Assembly moved under paragraph (7) of Order 20;

(d) with the pleasure of the Assembly, no dissentient view being expressed:

Provided that any Member may second a motion or amendment without prejudice to the Member's right to speak at a later period of the debate.

(5) A Member who has spoken to the main question may speak again when a new question, such as a proposed amendment, has been put by the Chair.

(6) A Member who has spoken to a question may again be heard to offer an explanation to some material part of the Member's speech which has been misunderstood but the Member must not introduce any new matter.

(7) When the Speaker speaks during proceedings in the Assembly or in committee of the whole Assembly, every Member shall be seated and silent so that the Speaker may be heard without interruption.

(8) No Member shall speak to any question after it has been put by the Speaker, that is, after the votes for and against have been collected.

(9) Subject to paragraph (6) and unless these Standing Orders otherwise provide, a Member shall be entitled to speak to any question in the Assembly for not more than thirty minutes, or to address a Committee of the whole Assembly for not more than fifteen minutes at any one time.

(10) The mover of an original motion shall be entitled to not more than one hour for the mover's opening speech and thirty minutes for the mover's reply, but the Speaker may at the Speaker's discretion extend this time by fifteen minutes.

(11) The ruling of the Speaker as to time shall be final.

(12) The discretion of the Speaker or the person presiding in calling Members to speak cannot be challenged.

#### Behaviour of Members in the Assembly

53. (1) Members shall rise in their places upon the arrival of the Speaker in the Chamber.

- (2) Members shall refrain from moving around and any Member or Officer proceeding to enter the Chamber shall stand still in the gangway until the Speaker has taken his seat.
- (3) Members shall bow to the Chair before leaving or resuming their seat.
- (4) Members shall not pass between the Chair and any Member who is speaking or between the Chair and the Table.
- (5) Except when moving to and from their seat or speaking, Members in the Chamber shall be seated.
- (6) When the Speaker leaves the Chair, Members shall stand in their places in silence.
- (7) Members shall not read newspapers, books, letters or other documents unless they are directly connected with the business of the Assembly.
- (8) Members shall not use mobile phones to make or receive calls in the Chamber, or any electronic equipment, save with the leave of the Speaker.
- (9) (a) Members shall endeavour not to smoke or use tobacco products.  
(b) The Speaker may designate areas outside the National Assembly Building for those Members who wish to smoke.
- (10) Members, while in the Assembly and visitors to the Assembly, shall be dressed in such manner as to show proper respect for the Assembly, and in accordance with directions given from time to time by the Speaker.

#### Content of Speeches

54. (1) A Member shall confine his or her observations to the subject under discussion and may not introduce matters not relevant thereto.
- (2) A Member shall not refer to matters which are sub judice.
  - (3) A Member shall not refer to any proceedings of a Committee of the Assembly, until such proceedings have been presented to the Assembly by a report from the Committee.
  - (4) The name of the President shall not be used disrespectfully in debate.
  - (5) The conduct of the President, Vice-President, Speaker, Deputy Speaker, Ministers, Leader of Government Business, Leader of the Opposition, Members or Judges of Superior Courts and Magistrates and all Constitutional appointees and their families, shall not be referred to except upon a motion moved for that purpose.
  - (6) It shall be out of order to introduce arguments on any question upon which the Assembly has taken a decision during the last twelve months except upon a motion to rescind that decision with the permission of the Speaker.
  - (7) A Member shall not —

- (a) use offensive words or expressions;
- (b) use unbecoming or offensive language against any Member;
- (c) use the right of free speech for the purpose of obstructing the business of the Assembly;
- (d) impute improper motives to or make a personal charge against any Member except upon a motion calling in question the conduct of the Member.

#### Anticipation

55. (1) It shall be out of order to anticipate a Bill which has been published in the Gazette by debate upon a motion or an amendment thereto, or by raising the subject matter of the Bill upon a motion for the adjournment of the Assembly.

(2) It shall be out of order during a debate on any other motion, including a motion for the adjournment of the Assembly, or on an amendment thereto, to anticipate debate on a motion of which notice has been given.

(3) In determining whether a debate is out of order on the grounds of anticipation, regard shall be had to the probability of the matter anticipated being brought before the Assembly within a reasonable time.

#### Interruptions

56. (1) A Member shall not interrupt another Member who is speaking except —

- (a) to raise a point of order;
- (b) to call attention to the absence of a quorum;
- (c) to move the closure under Order 23;
- (d) to correct a misapprehension or elucidate an explanation, provided that the Member speaking is willing to give way and that the Member wishing to interrupt is called by the Chair.

### PART XIV - VOTING

#### Collection of Votes

57. (1) When the Speaker puts a question to the Assembly or to the Committee for its decision, the Speaker shall first call upon those Members who are in favour of the question to raise one hand and the Clerk shall count the Members who have so raised their hands.

(2) The Speaker shall then call upon those Members who are against and the Clerk shall count the Members who have so raised their hands.

(3) The Speaker shall then announce the result of the vote.

(4) If a Member does challenge the Speaker's statement by claiming a division, the Speaker shall order the Assembly or the Committee to proceed to a division if the Speaker considers that there is reasonable doubt as to the outcome of the vote in question.

#### Divisions

58. (1) When a division has been ordered, the Clerk shall ring the division bell for two minutes, unless all Members are sooner present.

(2) At the end of that time the Clerk shall call out the names of Members in alphabetical order and each Member shall vote by saying 'Yes' or 'No' and a Member who abstains from voting shall so state.

(3) When the Clerk has reported to the Speaker the numbers voting for the Yeses and for the Noes respectively, the Speaker shall declare the result of the division.

(4) A Member may at any time before the Speaker has declared the result of a division request to change a vote previously expressed or withdraw a decision to abstain previously made by the Member on the ground that the vote was given erroneously.

(5) In case of confusion or error occurring during the course of a division concerning the numbers or names recorded, which cannot otherwise be corrected, the Speaker shall direct the Assembly or the Committee to proceed to another division.

#### Voting by Members

59. (1) A Member may vote in a division although the Member did not hear the question put.

(2) No Member shall be obliged to vote.

#### Equality of Votes

60. The person presiding at a meeting of the National Assembly shall not vote on any question to be decided by the Assembly but, in the event of an equality of votes on any question the person shall have a casting vote.

### PART XV - LEGISLATION

#### Presentation and Publication of Bills

61. (1) The Vice-President or any Minister or subject to Order 63 any Member may at any time give notice of intention to present a Bill.

(2) A Bill shall be presented to the Assembly by a draft thereof being sent to the Clerk by the Vice-President, the Minister or Member desiring to introduce it, together with an explanatory statement of the object of and reasons for the Bill, which in the case of a Government Bill shall be signed by or on behalf of the Attorney General or the Vice-President or a Minister and in the case of a Bill presented by a Member, the Member.



(3) A copy of the Bill, together with the explanatory statement, shall be sent by the Clerk to every Member.

(4) The Vice-President or the Minister or the Member presenting the Bill shall be known throughout the subsequent proceedings as the Minister or Member in charge of the Bill.

(5) Every Bill presented to the Assembly, together with the explanatory statement, shall be published in the Official Gazette.

(6) If a certificate of the President is laid on the Table by a Minister declaring that a Government Bill is so urgent or of such nature as not to permit compliance with any or all of the provisions of this Part relating to the publication of Bills, those provisions shall, upon a motion by a Member, be dispensed with in respect of that Bill and shall stand suspended without question put.

#### Procedures on Member's Bill

62. (1) The Clerk shall be responsible for the printing of every Bill which a Member has given notice of intention to present after leave to proceed is granted by the Speaker.

(2) Before a Member gives notice of intention to present a Bill under Order 61, the Member shall apply to the Speaker for leave to bring a Bill.

(3) A Member applying for leave to bring a Bill shall at the same time deliver to the Clerk a certified true copy of the full text of the Bill proposed to be introduced.

(4) Before allowing leave to bring a Bill, the Speaker must be satisfied that—

(a) the Bill accords with the requirements of the law;

(b) the Bill is divided into successive clauses consecutively numbered;

(c) to every clause there is annexed in the margin a short indication of its contents;

(d) the Bill does not contain anything foreign to what the title of the Bill imports.

(5) In the case of a Bill involving expenditure of public money, the Speaker shall transmit a copy of the full text of the Bill to the Minister charged with responsibility for Finance.

(6) It shall be the duty of the Minister charged with responsibility for Finance to inform the Speaker, before leave is granted, whether the recommendation of the President in accordance with Order 73 to such a Bill is required by law.

(7) If the Speaker has been informed that such recommendation is required, the Speaker shall, before deciding to allow leave require a Minister to signify to the Speaker, whether or not such recommendation be forthcoming, and if such recommendation be not forthcoming, the Speaker shall not grant leave to publish the Bill.

(8) Where leave to proceed on a Member's Bill is granted, a copy of the Bill must be lodged with the Clerk within three months after such leave is granted and the Clerk shall arrange for the printing of the Bill.

#### First Reading

63. (1) The short title of every Bill presented and published in accordance with Orders 61 and 62 shall be placed on the Order Paper for first reading by the Clerk.

(2) No debate shall be allowed on the first reading of the Bill; and upon the Clerk reading the short title, the Bill shall be deemed to be read the first time, ordered to be read a second time and so recorded in the Record of Proceedings.

#### Second Reading

64. (1) No Bill shall be set down on the Order Paper for the second reading earlier than seven clear days from the first reading.

(2) On the order for the second reading of a Bill being read, a motion may be made "That the Bill be now read a second time" and a debate may arise covering the general merits and principles of the Bill.

(3) To the question "That the Bill be now read a second time", an amendment may be moved to leave out the words after 'that' and add words stating the object and motive on which opposition to the Bill is based, such words being relevant to the general principles of the Bill and not its details.

(4) If such an amendment to the Bill is negatived, the Bill shall be deemed to be read a second time.

#### Committal of Bills

65. When a Bill has been read a second time it shall stand committed to a Committee of the whole Assembly.

#### Functions and powers of Bills Committee

66. (1) The committee to which a Bill is committed shall not discuss the general merits and principles of the Bill but only its details.

(2) The committee shall have power to make amendment to the Bill provided that they are relevant to the subject matter of the Bill; if any such amendments are not within the title of the Bill, it shall amend the title accordingly and shall report the same specially to the Assembly.

#### Amendments of Bills

67. (1) Any proposed amendment to a Bill shall be put in writing by the mover and delivered to the Clerk at least seventy two hours before moving it:

Provided that the Chairperson may relax this provision in favour of simple amendments or emergency Bills.

(2) The following provisions shall apply to the content of amendments proposed to Bills —

- (a) an amendment shall be relevant to the subject matter of the clause to which it relates;
- (b) an amendment shall not be inconsistent with any clause already agreed to or with any previous decision of the committee;
- (c) an amendment must not be such as to make the clause which it proposes to amend unintelligible or ungrammatical;
- (d) if an amendment refers to, or is not intelligible without, a subsequent amendment, notice of the subsequent amendment shall be given before or when the first amendment is moved so as to make the series of amendments intelligible as a whole;
- (e) the Chairperson may refuse to allow an amendment to be moved which, in the Chairperson's opinion, is frivolous or meaningless.

(3) The Chairperson may at any time during the debate on a proposed amendment withdraw it from the consideration of the Committee if in the opinion of the Chairperson the debate has shown that the amendment violates this Order.

#### Procedures in Committee of the Whole Assembly

68. (1) Unless the Committee decides to consider the Bill in any other order, the Chairperson shall call the number of each clause in succession, and if no amendment is proposed thereto, or when all the proposed amendments have been disposed of, the Chairperson shall propose the question “That the clause (or the clause as amended) stand part of the Bill” and when all Members who wish to speak thereon have spoken, the Chairperson shall put the question to the Committee for its decision:

Provided that in order to save time, the Chairperson may, if no Member objects or has given notice of any amendment to any clause affected, call the numbers of more than one clause or of groups of clauses and propose the question “That the clause (or groups of clauses) stand part of the Bill”.

- (2) In order to save time and repetition of arguments the Chairperson may allow a single discussion to cover a series of interdependent amendments.
- (3) Orders 41, 42 and 43 shall apply to debate on amendment to Bills with the substitution of the word 'clause' for the word 'motion' and of the word 'Chairperson' for the word 'Speaker' throughout.
- (4) Consideration of a clause may be postponed, unless a decision has already been taken on an amendment thereto; postponed clauses shall be considered after the remaining clauses of the Bill have been considered.

(5) New clauses shall be considered either after the clauses of the Bill have been disposed of and before consideration of any schedule to the Bill or at the appropriate place in the Bill as the Chairperson may determine.

(6) The Chairperson shall call upon the Member in whose name the new clause stands, and when the Member has moved the clause, the Clerk shall read the marginal note of the clause whereupon the clause shall be deemed to have been read a first time and thereafter the Chairperson shall propose the question that the clause be read a second time on which question debate may take place and when that question has been agreed to, amendments may be proposed to the new clause, and when they have been disposed of, the question shall be proposed 'That the clause (or the clause as amended) be added to the Bill'.

(7) Schedules shall be disposed of in the same way as clauses and any new schedule shall be considered after the schedules to the Bill have been disposed of and shall be treated in the same way as a new clause.

(8) When every clause and schedule and proposed new clause or new schedule has been dealt with, the preamble, if there is one, shall be considered and the question put "That the preamble stand part of the Bill".

(9) If any amendment to the title of the Bill is made necessary by an amendment to the Bill, it shall be made at the conclusion of the aforementioned proceedings, but no question shall be put that the title (as amended) stands part of the Bill nor shall any question be put upon the enacting formula.

(10) A Committee having started to consider a Bill shall proceed with its consideration, but, during such consideration the Leader of Government Business or Member in charge may, or any other Member, subject to the discretion of the Chairperson may move a motion "That the Committee do not proceed further with the vote."

(11) If the motion is moved, the Chairperson of the committee shall then report the Bill to the Assembly, as so far amended or without amendment as the case may be, and the Bill shall be ordered to lie on the Table without question put.

#### Report of Bill from Committee

69. As soon as the Committee has completed consideration of the Bill committed to it, the Assembly shall resume and the Chairperson of the Committee shall report it to the Assembly.

#### Recommittal of Bills

70. (1) If the Minister or Member in charge of a Bill desires to delete or amend any provision contained in the Bill as reported from a Committee or to introduce any new provision therein, the Leader of Government Business or Member may, at any time before the third reading of the Bill is moved, move that the Bill be recommitted, either wholly or in respect only of some particular part or parts of the Bill or some proposed new clause or new schedule.

(2) When the motion for the recommittal is agreed to, the Assembly shall resolve itself into committee either immediately or on a later date to consider the business so recommitted.

- (3) When the whole Bill has been recommitted, the Committee shall go through the Bill as provided for in Order 68.
- (4) When the Bill has been recommitted in respect only of some particular part or parts or of some proposed new clause or new schedule, the Committee shall consider the matter so recommitted and any amendments which may be moved thereto.
- (5) At the conclusion of the proceedings in Committee on a Bill recommitted under this Order, the Assembly shall resume and the Chairperson of the Committee shall then report it to the Assembly and thereafter may either name a future day for the third reading of the Bill or move that it be read a third time forthwith.

### Third Reading

71. (1) On the third reading of the Bill, the Leader of Government Business or Member in charge shall move “That the Bill be now read a third time”, no amendment to this motion may be moved and the debate shall be confined to the contents of the Bill.
- (2) With the permission of the Speaker, amendments for the correction of errors or oversights may be made to the Bill before the question for the third reading is put from the Chair, but no amendments affecting the principles that have already been determined shall be moved.
  - (3) When a Bill has been read a third time it shall be deemed to have been passed and five clean printed copies thereof certified correct by the Clerk, shall as soon as possible, be submitted to the President for the President's assent.

### Withdrawal of Bill

72. The Leader of Government Business or Member in charge of a Bill may, at the beginning of the proceedings on a Bill at a Sitting, move that the Bill be withdrawn.

## PART XVI - FINANCIAL PROCEDURE

### Financial restriction on Bills, Motions and Amendments

73. Except on the recommendation of the President signified by a Minister, neither the Assembly nor a committee shall —
- (a) proceed upon any Bill (including any amendment to a Bill) which, in the opinion of the person presiding or the Attorney General provides for imposing or increasing any tax, for imposing or increasing any charge on the revenue or other funds of Seychelles or for altering any such charge otherwise than by reducing it, or for compounding or remitting any debt due to the Government of Seychelles;
  - (b) proceed upon any motion including any amendment to a motion the effect of which, in the opinion of the person presiding or the Attorney General, is that provision would be made for purposes aforesaid;

(c) receive any petition that, in the opinion of the person presiding or the Attorney General, requests provision be made for any of these purposes.

#### Presentations of the Appropriation Bill and the Estimates

74. (1) Any Bill containing the estimated financial requirements for expenditure in all services of the Government for a current or succeeding financial year shall be known as the Appropriation Bill.

(2) The estimates shall be appended to the Appropriation Bill on its publication to the Assembly. The estimates of revenue and expenditure on the basis of which the Bill has been drafted, and a copy of the Bill and the estimates shall be sent to every Member seven days before the meeting at which it is to be considered.

(3) Except as provided in this Part, the procedure set out in Part XV governing legislation shall apply to Appropriation Bills.

#### Second reading of Appropriation Bill

75. (1) Before the motion for the second reading of an Appropriation Bill is moved, the Minister in charge of the Bill shall state the financial and economic policy of the Government.

(2) Upon the conclusion of the speech of the Minister in charge of the Bill the debate upon the motion for second reading shall be adjourned to such day and time as the Speaker shall appoint.

(3) The debate upon the motion for second reading shall be confined to such policy and to the general principles of Government administration as indicated by the Bill and Estimates.

#### Consideration of Appropriation Bill

76. (1) When the Appropriation Bill has been read a second time it shall stand committed to a Committee of the whole Assembly.

(2) The Speaker shall allot such number of days as the Speaker thinks fit for discussion of the estimates in Committee and the Speaker may, if the Speaker thinks fit, increase the number of allotted days.

(3) Consideration of all clauses of the Bill shall be postponed pending consideration of the schedule.

(4) The Speaker shall fix the time on any other day at which the consideration of any head of expenditure shall, if not previously disposed of, be concluded. If the time so fixed is reached before the head concerned is disposed of, the Chairperson shall forthwith put every question necessary to dispose of that head.

(5) The Speaker may, if the Speaker thinks fit, allot the time to be allowed for discussion of any amendment to any head of expenditure and shall take such time into account in fixing the time on any allotted day at which consideration of the head shall be concluded under

paragraph (4) of this Order. If the time so allowed has expired before the amendment is disposed of, the Chairperson shall forthwith dispose of such amendment.

(6) On consideration of the schedule of the Bill, the Chairperson shall call the number and title of each head of expenditure in turn and shall propose the question "That the sum of SR ..... for head..... stand part of the schedule", and, if no amendment is proposed, debate may take place upon that question, such debate being confined to the policy of the service for which the money is to be provided including the revenue and funds for which the service is responsible but shall not refer to the details of any item or sub-head in the Estimates.

(7) Notice of any amendment to be moved in Committee under this Order shall be given to the Clerk three days before the meeting at which the Appropriation Bill is to be considered:

Provided that the Speaker may authorise the Clerk to receive an amendment of which less notice has been given which authorisation shall not be unreasonably withheld.

(8) An amendment to a head of expenditure to increase the sum allotted thereto whether in respect of any item or sub-head or of the head itself may be proposed only by a Minister, who shall signify to the Committee the recommendation of the President to the increase.

(9) An amendment of the provision allotted to a head in the schedule shall be specifically related to the sub-head, and if the latter is sub-divided, to the item to which the amendment refers.

(10) An amendment to increase a head, in respect of any item or sub-head, shall take precedence over one to reduce the head in the same respect, and if it is carried no amendment to reduce the head in that respect shall be called.

(11) All amendments to a head shall be placed upon the Order Paper and considered in the order in which the sub-heads and items to which they refer appear in the Estimates. If there are two or more amendments to reduce a head in respect of the same sub-head or item, they shall take precedence in accordance with the size of the reductions proposed and if one such amendment is carried, none of the others shall be proposed.

(12) Debate on every amendment shall be confined to the sub-head or item to which it relates. After such an amendment has been disposed of, no amendment to or debate on any previous sub-head or item shall be permitted.

(13) When all amendments to a head have been disposed of, the Chairperson shall again propose the question set out in paragraph (6) of this Order or shall propose the schedule, as the case may require and debate on either question shall be subject to paragraph (6).

(14) When the schedule, with or without amendment, has been disposed of, the committee shall consider the clauses and other parts of the Bill in accordance with Order 68 but all questions shall be decided without debate.

No debate on third reading

77. (1) The question on the third reading of the Appropriation Bill shall be decided without debate.

(2) Upon an Order being made for the Appropriation Bill to be read a third time, the Clerk shall read the short title only.

#### Supplementary Appropriation Bill

78. A Supplementary Appropriation Bill, presented during the financial year to which it relates, shall be dealt with in accordance with Order 74 to 77:

Provided that debate on the second reading shall be confined to the policies of the services, and in the Committee to the sub-heads and items, for which the supplementary appropriation is to be made.

### PART XVII - COMMITTEES OF THE WHOLE ASSEMBLY

#### Resolution of the Assembly to a Committee

79. (1) Whenever in any matter, other than matters considered under procedure on a Bill or financial procedure, a Member desires that the matter be considered in a Committee of the whole Assembly, the Member may move, without notice, that the Assembly shall immediately or on a future sitting day resolve itself into a Committee of the whole Assembly to consider the matter.

(2) When a matter stands committed to a Committee of the whole Assembly, the Assembly shall resolve itself into Committee without question put.

#### Powers of a Committee

80. (1) A Committee of the whole Assembly shall not consider any matter other than a matter which has been referred to it or which it is required by these Orders to consider.

(2) A Committee may not adjourn its own sitting or the consideration of any matter to a further sitting, but the Member in charge of the business under consideration may by motion, to be decided without amendment or debate, be directed, notwithstanding that all matters referred to the Committee have not yet been considered, to report progress to the Assembly and ask leave to sit again.

#### Procedure in Committee

81. The Constitution and, save as it is otherwise specifically provided in these Orders, these Orders shall apply in Committee as they apply in the Assembly.

#### Report from the Committee

82. (1) When all the matters referred to a Committee have been considered the Assembly shall resume without question put and the Member in charge of such matters shall report to the Assembly.



(2) Every report to the Assembly made by the Committee of the whole Assembly may by motion be agreed to or disagreed to by the Assembly or recommitted to the Committee, or postponed for further consideration.

#### Select Committees on Bills

83. (1) The Assembly may, at any time, upon a motion made after notice given, appoint a select Committee to consider a Bill and report thereon to the Assembly. A select Committee shall consist of such number of Members as may be decided by the Assembly, and as far as practicable, reflect the strength of the political parties and independent Members in the Assembly.

(2) A select Committee to which a Bill shall have been referred shall present a report to the Assembly explaining its recommendations, and if the recommendations involve any amendment, a reprint of the Bill shall be attached to the report with all amendments printed in italics and all deletions clearly indicated, and a copy of the Bill so amended shall be distributed to every Member of the Assembly.

(3) The report of the select Committee upon a Bill shall be presented to the Assembly by the Chairperson of the Committee and the report shall be set down for consideration by the Assembly on a day appointed by the Speaker.

(4) Consideration of a Bill reported from the select Committee shall take place upon a motion "That the report from the select Committee be approved".

(5) Upon consideration of a Bill reported from a select Committee, the Assembly shall consider only amendments, if any, made by the Committee, but may further amend those amendments.

(6) Upon consideration of a Bill reported from a select Committee, a motion may be made by any Member that the Bill be recommitted to the select Committee with reference to particular amendments by the select Committee.

(7) Upon consideration of a Bill reported from a select Committee, a motion may be made by any Member that the Bill be recommitted to a Committee of the whole Assembly.

(8) As soon as the Committee has completed consideration of the Bill committed to it, the Assembly shall resume, and the Member in charge of the Bill shall report it to the Assembly.

#### Select Committees to consider matters other than Bills

84. Select Committees may be appointed by the Assembly in accordance with the rules of procedure for the considering of matters other than Bills.

### PART XVIII - STANDING SESSIONAL COMMITTEES

#### Standing Orders Committee

85. (1) The Standing Orders Committee shall consist of seven Members appointed by the Assembly from among its Members at the commencement of each session.

(2) In addition to any other functions conferred upon it by the Assembly, it shall be the duty of the Standing Orders Committee to consider all proposals concerning the rules of procedure of the Assembly and to report to the Assembly thereon.

(3) The Committee shall elect its own Chairperson.

#### Finance and Public Accounts Committee

86. (1) The Finance and Public Accounts Committee of the Assembly shall consist of seven Members appointed by the Assembly from among its Members at the commencement of each session.

(2) The functions of the Committee shall be —

(a) to consider the accounts referred to in article 158(3) of the Constitution in conjunction with the Auditor General's report;

(b) to report to the Assembly on any excess of authorised expenditure; and

(c) to propose any measures it considers necessary to ensure that the funds of the Government are properly and economically spent.

(3) The Committee shall have the power to send for persons and records, to take evidence, and to report from time to time.

(4) The Committee shall elect its own Chairperson and if the Chairperson is unable to be present at any meeting, the Committee shall elect another Chairperson for that day.

#### PART XIX - MEMBERS' FINANCIAL INTERESTS

##### Members Financial Interests

87. (1) Apart from the provision of law requiring a Member to disclose the extent of any direct pecuniary interest, a Member shall not vote on any subject in which he has a direct personal pecuniary interest.

(2) A motion to disallow a Member's vote on the ground of personal pecuniary interest may be moved as soon as the number of the Members voting on the question shall have been declared.

(3) The Speaker or Chairperson shall have the discretion whether or not to propose the question upon such a motion, and in exercising such discretion shall have regard to the subject matter of the question upon which the division was taken and to the consideration whether the interest therein of the Member whose vote is challenged is direct and pecuniary and belongs separately to the Member and is not an interest in common with the rest of the citizens of Seychelles or whether the vote of the Member was given on a matter of state policy.

(4) If the question for disallowing a Member's vote is agreed to, the Speaker or Chairperson shall direct the Clerk to correct the numbers voting in the division accordingly.

## PART XX - ADMISSION OF PRESS AND PUBLIC

### Admission of Press

88. (1) The Speaker may grant a general permission to the representatives of any journal, newspaper or broadcasting organisation to attend the meetings of the Assembly, and such a permission may be granted under such rules as the Assembly may make from time to time for that purpose.

(2) The representative of any journal, newspaper or broadcasting organisation when attending sittings of the Assembly shall sit in the area allotted for the Press and shall under no conditions engage any Member in conversation during sittings.

### Admission of the Public

89. Members of the Public may be present in the Assembly Chamber in the places set apart for them whilst the Assembly or a Committee of the whole Assembly sits.

### Power to remove members of the Public

90. Any officer of the Assembly may remove or cause to be removed any member of the Public from any part of the Assembly appropriated to the Members only, and also any member of the Public who, having been admitted into any other part of the Assembly while the Assembly or any Committee of the whole Assembly is sitting, smokes, uses a camera, mobile phone, a tape recorder or any apparatus or is in possession of any firearm or offensive weapon:

Provided that an officer of the Assembly may not remove or cause to be removed any member of the Public where the Speaker in the Speaker's discretion has permitted the use of a camera, mobile phone or a tape recorder in the Assembly or in the precincts of the Assembly.

## PART XXI - MISCELLANEOUS

### Suspension of Standing Orders

91. (1) Any of these Orders may, with the leave of the Speaker, be suspended by the Assembly wholly or in part, for a specified purpose upon motion made by a Member.

(2) The terms of a motion for the suspension of a Standing Order shall include a statement of the purpose of the proposed suspension and no amendment shall be moved to such a motion.

(3) The suspension of any Standing Order shall be limited in its operation to the particular purpose for which the suspension was sought.

### Amendment of the Standing Orders

92. (1) Unless the Speaker otherwise directs, not less than twelve days' notice of a motion to amend these Orders shall be given, and the notice shall be accompanied by a draft of the proposed amendments.

(2) The motion shall be set down for the earliest sitting after the expiry of the period of notice.

(3) When the motion is reached, the mover shall move the motion, and after it has been seconded, the question shall be put forthwith that the motion be referred to the Standing Orders Committee and if that question is agreed to no further proceedings shall be taken on that motion until the Standing Orders Committee has reported thereon.

#### Employment of Members in professional capacity

93. A Member of the Assembly shall not appear before the Assembly or any Committee thereof as advocate or counsel for any party, or in any capacity for which he is to receive a fee or reward.

#### Institution of Proceedings under Act No. 15 of 1975

94. (1) No prosecution for any of the offences provided for in the House of Assembly (Privileges, Immunities and Powers) Act 1975 shall be instituted except by the Attorney General and in accordance with the following paragraphs of this Order. For the purpose of this Order, any reference in this Order to the House of Assembly (Privileges, Immunities and Powers) Act, 1975 shall include a reference to any Act that replaces it.

(2) Any Member may either at the commencement of business or at any other convenient time, but as soon as possible after their occurrence, report to the Assembly circumstances which, in the view of the Member, constitute any such offence; no debate shall be allowed on such report.

(3) The Speaker may, either at the same sitting or any subsequent sitting and after such investigation as the Speaker may consider necessary, declare to the Assembly that the circumstances reported to the Assembly, in the view of the Speaker, amount to one of the offences provided for in the House of Assembly (Privileges, Immunities and Powers) Act 1975, specifying which amounts to, or as the case may be, does not amount to any such offence and no debate shall be allowed on the declaration of the Speaker.

(4) Where the Speaker declares that the circumstances reported to the Assembly, in the view of the Speaker, amount to a specified offence provided in the House of Assembly (Privileges, Immunities and Powers) Act 1975, the Speaker shall thereupon put the question on a motion being made (no amendment, adjournment or debate being allowed) that the matter of the offence specified in the Speaker's declaration be referred to the Attorney General.

(5) If the motion is carried, proceedings may be instituted by the Attorney General in accordance with the resolution of the Assembly.

(6) Where the Speaker declares that, in the Speaker's view, the circumstances reported to the Assembly do not amount to an offence provided for in the House of Assembly (Privileges Immunities and Powers) Act 1975, the matter shall lapse.

#### General Authority of the Speaker

95. (1) The Speaker shall have the power to regulate the conduct of business of the Assembly in all matters not provided for in these Orders.

(2) The Speaker shall be responsible for the management of the precincts of the Assembly and the general administration of the Assembly Chamber.

(3) The Speaker shall as far as is practicable consult with the Leader of the Government Business and the Leader of the Opposition, or their designated representatives in matters concerning the order of business of the Assembly.

Revocation of S.I. No. 49 of 1994

96. The National Assembly Standing Orders, 1994 are hereby revoked.

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Subsidiary Legislation: \*The Constitution (Use of Official Languages) Regulations

[6th September, 1976]

SI. 83 of 1976

1. These Regulations may be cited as the Constitution (Use of Official Languages) Regulations.
2. English shall be the sole official language for the transaction of Government business (including the business of the Courts) save as provided in regulation 3.
3. French may be used for all matters specified in the Schedule

hereto. SCHEDULE

1. Correspondence with overseas Governments and international bodies, institutions or organisations.
  2. For the purpose of stating or referring to any matter expressed in French.
  3. In Bills, Acts, Statutory Instruments or other instruments for the purpose of identifying or referring to matters of French law.
  4. The citation in any judicial proceedings of any text or authority expressed in French.
  5. The notification in any public place of any matter for the purpose of bringing it to the attention of the public.
  6. Official announcements on the Government radio or in the Government press.
  7. In any circumstances where French has been hitherto used in Seychelles.
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Subsidiary Legislation: Article 136: Supreme Court (Interception of Correspondence or Other Means of Communications) Rules

[9th August, 1993]

SI. 52 of 1993

1. These Rules may be cited as the Supreme Court (Interception of Correspondence or Other Means of Communication) Rules.
2. An application for interception of correspondence or other means of communication of a person shall be made to a Judge in Chambers.
3. The application under rule 2 shall be made by way of petition accompanied by an affidavit in support of it.
4. An application under rule 2 may be made by a police officer not below the rank of an Assistant Superintendent of Police or any person authorised under any written law to open, delay or intercept any correspondence or other means of communication hereafter referred to as an "authorised person".
5. The affidavit in support of the application shall disclose sufficient material to satisfy the Judge that it is necessary or desirable for the purpose of any investigation that any correspondence or means of communication of a person specified in the affidavit should be intercepted.
6. Where a Judge is satisfied on the material disclosed in the affidavit that it is necessary or desirable to intercept any correspondence or other means of communication of a person, the Judge shall by warrant authorise a police officer not below the rank of an Assistant Superintendent of Police or an authorised person and named in the warrant to intercept the correspondence or other means of communication specified in the warrant in the manner and within the time stated therein.
7. (1) A warrant under rule 6 shall be sufficient authority for the police officer or authorised person named in the warrant to intercept the correspondence or other means of communication of a person in the manner and within the time specified therein and any person having the custody or control of such correspondence or other means of communication shall render all facilities to the person named in the warrant for the execution of the warrant.  
  
(2) The police officer or authorised person named in the warrant may take copies or extracts of the correspondence or other means of communication specified in the warrant and shall not use it for any purpose other than the investigation in respect of which the application is made under rule 2.
8. Any person who fails to render facilities as required under rule 7(1) for the execution of a warrant issued under rule 6 or contravenes rule 7(2) is guilty of an offence and is liable on conviction to imprisonment of one year and to a fine of R5000.
9. The warrant under rule 6 shall be in the Form in the Schedule.

SCHEDULE

SUPREME COURT (INTERCEPTION OF CORRESPONDENCE OR OTHER MEANS OF COMMUNICATION) RULES

WARRANT

(Rule 6)

To <sup>1</sup> .....

Where-as I am satisfied that it is necessary or desirable that .....<sup>2</sup>  
in the custody or control of .....<sup>3</sup> should be intercepted by  
.....<sup>4</sup> during the period of 5 days commencing on the date of this warrant.

This is to authorise you to intercept the correspondence or means of communication specified above in the manner and within the time stated herein.

You are further authorised to execute this warrant at any hour of the  
day. GIVEN under my hand and the Seal of the Supreme Court this

day of , 199

1. name of person to whom the warrant is addressed to.
2. describe the correspondence or other means of communication.
3. state the name or designation of the person who has the custody or control of the correspondence or other means of communication.
4. state the manner in which the warrant is to be executed.
5. state the period of the warrant.

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Subsidiary Legislation: Articles 46, 129, 130 and 136: Constitutional Court  
(Application, Contravention, Enforcement or Interpretation of the Constitution) Rules

[25th April, 1994]

SI. 33 of 1994

SI. 2 of 2004

1. These Rules may be cited as the Constitutional Court (Application, Contravention, Enforcement or Interpretation of the Constitution) Rules.

2. (1) These Rules provide for the practice and procedure of the Constitutional Court in respect of matters relating to the application, contravention, enforcement or interpretation of the Constitution.

(2) Where any matter is not provided for in these Rules, the Seychelles Code of Civil Procedure shall apply to the practice and procedure of the Constitutional Court as they apply to civil proceedings before the Supreme Court.

3. (1) An application to the Constitutional Court in respect of matters relating to the application, contravention, enforcement or interpretation of the Constitution shall be made by petition accompanied by an affidavit of the facts in support thereof.

(2) All persons against whom any relief is sought in a petition under subrule (1) shall be made a respondent thereto.

(3) Except where the petition under subrule (1) is presented by the Attorney-General, the Attorney-General shall be made a respondent thereto.

4. (1) Where the petition under rule 3 alleges a contravention or a likely contravention of a provision of the Constitution, the petition shall be filed in the Registry of the Supreme Court -

(a) in a case of an alleged contravention, within 3 months of the contravention;

(b) in a case where the likely contravention is the result of an act or omission, within 3 months of the act or omission;

(c) in a case where the likely contravention arises in consequence of any law, within 3 months of the enactment of such law.

(2) Where a petition under rule 3 relates to the application enforcement or interpretation of any provisions of the Constitution, the petition shall be filed in the Registry of the Supreme Court within 3 months of the occurrence of the event that requires such application, enforcement or interpretation.

(3) Notwithstanding subrules (1) and (2), a petition under rule 3 may, with the leave of the Constitutional Court, be filed out of time.

(4) The Constitutional Court may, for sufficient reason, extend the time for filing a petition under rule 3.

5. (1) A petition under rule 3 shall contain a concise statement of the material facts and refer to the provision of the Constitution that has been allegedly contravened or is likely to be contravened or in respect of which the application, enforcement or interpretation is sought.

(2) Where the petitioner alleges a contravention or likely contravention of any provision of the Constitution, the petition shall contain the name and particulars of the person alleged to have contravened that provision or likely to contravene that provision and in the case of an alleged contravention also state the date and place of the alleged contravention.



(3) The Court shall not permit an amendment of a petition which seeks to include any new matter not pleaded in the petition.

(4) The petitioner shall file in the Registry of the Supreme Court as many copies of the petition as there are respondents.

6. (1) Where a petition which has been presented fails to comply to with the Rules, the Registrar of the Supreme Court shall submit the petition for an order of the Constitutional Court.

(2) The Constitutional Court shall hear the petitioner before making an order under subrule (1).

7. (1) The provision of the Court Fees (Supreme Court) and Costs Act shall apply in relation to the fees and taxation of costs of a petition to the Constitutional Court as they apply to proceedings in the Supreme Court in respect of civil proceedings before the Supreme Court.

(2) For the purpose of subrule (1) the value of the subject matter of the petition shall be deemed to be R25,000.

8. After the petitioner has complied with the Rules, the Registrar shall issue notice on the respondents fixing a date and time for their appearance.

9. The respondent may before filing a defence to the petition raise any preliminary objection to the petition and the Constitutional Court shall hear the parties before making an order on the objection.

10. (1) A reference made to the Constitutional Court by any court of law or tribunal for the determination of the Constitutional Court of any question with regard to the contravention or likely contravention of any provision of the Constitution shall be made in the form of a case stated setting out the facts, the question for determination and the names and addresses of the parties to the proceedings before that court or tribunal, in respect of which the question arose.

(2) A reference under subrule 1 shall be made within 14 days of the date on which the question arose before the court of law or tribunal but the Constitutional Court may for sufficient cause entertain such reference notwithstanding the lapse of time.

(3) The Constitutional Court shall give notice of the reference to the parties to the proceedings of the court of law or tribunal in which the question arose and, where the Attorney-General is not a party, to the Attorney-General.

(4) The Constitutional Court shall hear the parties noticed under subrule (3) and the Attorney-General before making its determination on the question referred to it:

Provided that if any party does not appear on notice served on him, the Constitutional Court may proceed to determine the question in the absence of that party.

11. Where the Constitutional Court is of the opinion that it would be for its convenience and that of all the parties concerned that two or more petitions or references be consolidated the Court may of its own motion or on the application of any parties direct that the petitions or references be consolidated and treated as one petition or reference.

12. Proceedings of the Constitutional Court shall take precedence over all other matters of the Supreme Court.

13. (1) An appeal from a decision of the Constitutional Court to the Seychelles Court of Appeal shall be lodged at the Registry of the Supreme Court within 10 days from the date of such decision.

(2) Subject to subrule (1), the Seychelles Court of Appeal Rules relating to appeals in civil matters shall be applicable to such an appeal.

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Subsidiary Legislation: Schedule 7, Paragraph 2(4): Constitution (Amendment of Existing Law) Order

[27th June, 1994]

SI. 43 of 1994

1. This Order may be cited as the Constitution (Amendment of Existing Law) Order.

2. In this Order "existing law" has the meaning assigned to it in paragraph I of Schedule 7 of the Constitution.

3. Where an expression specified in column I of the Schedule occurs in any existing law there shall be substituted, for that expression, the expression specified in the corresponding entry in column 2 of that Schedule.

#### SCHEDULE

<b>Column 1</b>	<b>Column 2</b>
Chairman of the People's Assembly	Speaker of the National Assembly
Council of Ministers	Cabinet
People's Assembly	National Assembly

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Subsidiary Legislation: Article 136(2): Supreme Court (Supervisory Jurisdiction over Subordinate Courts, Tribunals and Adjudicating Authorities) Rules

[24th April, 1995]

SI. 40 of 1995

1. (1) These Rules may be cited as the Supreme Court (Supervisory Jurisdiction over Subordinate Courts, Tribunals and Adjudicating Authorities) Rules.

(2) These Rules provide for the practice and procedure of the Supreme Court in respect of an application for the exercise of the supervisory jurisdiction of the Court over subordinate courts, tribunals and adjudicating authorities.

2. (1) An application to the Supreme Court for the purposes of Rule 1(2), shall be made by petition accompanied by an affidavit in support of the averments set out in the petition.

(2) The petitioner shall annex to the petition a certified copy of the order or decision sought to be canvassed and originals of documents material to the petition or certified copies thereof in the form of exhibits.

3. The petition under Rule 2 shall contain a statement of -

(a) the name, address and description of the petitioner;

(b) the relief sought and the grounds upon which it is sought;

(c) the name and address of the petitioner's attorney at law, (if any);

(d) the name, address and description of the respondent or each of the respondents;

(e) a claim for damages, if any, and a prayer for costs.

4. A petition under rule 2 shall be made promptly and in any event within 3 months from the date of the order or decision sought to be canvassed in the petition unless the Supreme Court considers that there is good reason for extending the period within which the petition shall be made.

5. Every petition made under Rule 2 shall be registered by the Registry and shall be listed ex-parte for the granting of leave to proceed.

6. (1) The Supreme Court shall not grant the petitioner leave to proceed unless the Court is satisfied that the petitioner has a sufficient interest in the subject matter of the petition and that the petition is being made in good faith.

(2) Where the interest of the petitioner in the subject matter of the petition is not direct or personal but is a general or public interest, the Supreme Court in determining whether the petitioner has a sufficient interest in the subject matter may consider whether the petitioner has the requisite standing to make the petition.

7. (1) Upon an application being registered under Rule 5, the respondent or each of the respondents may take notice of its at any time and object to the grant of leave to proceed, or if leave to proceed had been granted object to the application at any time before the time fixed by Rule 12 for filing objections and the Supreme Court may make such order on the objections as it may deem fit.

(2) The objection under subsection (1) may be made orally or in writing.

8. Where the Supreme Court refuses to grant leave to proceed, the petitioner may appeal to the Court of Appeal within 14 days of the order of refusal with leave of the Supreme Court first had and received.

9. (1) Where leave to proceed is granted, the Supreme Court shall direct that notice be served on the respondent or each of the respondents together with the petition, affidavit and all the connected documents and exhibits.

(2) The petitioner shall furnish such number of copies of the petition, affidavit and other documents as and when required for service on the respondent or each of the respondents.

10. When granting leave to proceed, the Supreme Court shall direct the subordinate court, tribunal or adjudicating authority whose order or decision is canvassed in the petition, to forward the record or the record of proceedings.

11. On receipt of the record or the record of proceedings at the Registry, parties to the petition shall be entitled to peruse it and obtain copies thereof.

12. (1) Where notice is served on the respondent or each of the respondents, the respondent or each of the respondents shall file objections in writing, if any, to the petition accompanied by an affidavit in support thereof within six weeks of the service of such notice, unless the Supreme Court directs otherwise.

(2) Each respondent shall supply a copy of the objections and affidavit to the petitioner and each of the other respondents, if any.

13. Where the Supreme Court orders the deposit of any sum of money as security by a party to the petition, such sum shall be deposited in such manner and within such time as may be directed by the Court.

14. It shall be the duty of the petitioner to take steps as may be necessary to ensure the prompt service of notice, and to prosecute the petition with due diligence.

Where the parties fail to comply with the requirements set out in the preceding Rules, the Court may on the application of any of the parties, or ex mere motu make any suitable order.

Where an order or notice is required to be served on any party, such service shall be effected in the manner prescribed for service of summons in actions before the Supreme Court.

17. After the service of notice on the respondent or each of the respondents as directed under rule 9 and the filing of objections, if any, by the respondent or each of them under Rule 12, the Supreme Court shall enter the petition for a hearing.

18. (1) On a petition under Rule 2 the Supreme Court, may for the purpose of enforcing or securing the enforcement of its supervisory jurisdiction, issue injunctions, directions, orders or writs including writs or orders in the nature of habeas corpus, certiorari, mandamus, prohibition and quo warranto as may be appropriate.

(2) The Supreme Court may, where the petitioner has claimed damages in the petition, award him damages, if the Court is satisfied that if the claim is made in an action begun by the petitioner at the time of making the petition, he could have been awarded damages.

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Subsidiary Legislation: Article 116(1): Constitution of the Republic of Seychelles (Electoral Areas – Mahe and Praslin) Order

SI. 68 of 1996

WHEREAS the Electoral Commissioner in accordance with article 116(3) of the Constitution has submitted to the National Assembly and the President a report together with the Commissioner's recommendation regarding changes in the number and boundaries of the electoral areas which the Commissioner considers necessary in the circumstances;

AND WHEREAS the Electoral Commissioner has recommended the division of Mahe into 22 electoral areas and proposed the names and boundaries of those area and has not recommended any alteration of the number, name and boundaries of the electoral of those areas and has not recommended any alteration of the number, name and boundaries of the electoral areas in Praslin;

AND WHEREAS the President in exercise of the powers conferred by article 116(4) of the Constitution has caused to be laid before the National Assembly on 16th July, 1996 a draft Order for giving effect to the recommendations contained in the report of the Electoral Commissioner;

AND WHEREAS the National Assembly has on 30th July 1996 by resolution approved the draft Order;

NOW THEREFORE the President in the exercise of the powers conferred by article 116(5) of the Constitution makes the following Order-

1. This Order may be cited as the Constitution of the Republic of Seychelles (Electoral Areas – Mahe and Praslin) Order.
2. Mahe shall be divided into 22 electoral areas, the names and boundaries of which are specified in Schedule A.
3. The names and boundaries of the 2 electoral areas on Praslin are specified in Schedule B.

#### SCHEDULE A

1. ANSE AUX PINS,  
being an area-

(a) Bounded on the North-West by Cascade electoral area and North by Point Larue electoral area;

(b) On the East by the sea;

(c) On the South by Au Cap electoral area.

## 2. ANSE BOILEAU

being an area-

(a) bounded on the North-West by Grand Anse electoral area;

(b) on the North-East by Cascade electoral area;

(c) on the East by watershed with Au Cap electoral area from point CAB to the summit of Montagne Posee Road, thence in a straight line to Brulee trigonometrical station, thence in a straight line to point RPB thence in a straight line with Au Cap electoral area to Castle Peak or Piton de L'Eboulis thence in a straight line to beacons M676, BCND and AO66, thence by a road to AO63;

(d) on the South by Baie Lazare electoral area, and

(e) on the West by the sea starting at point AB1 (E+332725 N+9476671) on the high water mark opposite the western end of Les Canelles Road at Anse La Mouche to Riviere Caiman.

## 3. ANSE ETOILE-

being an area-

(a) bounded on the North by Glacis electoral area starting from point GA1 (E+328155 N+9494120), thence by Riviere Hodoul and Riviere D'Antoine to the sea;

(b) bounded on the East by the sea, starting at the mouth of Riviere D'Antoine to point PA91 (E+329272 N+9491046) eastern corner of property No.H1830;

(c) on the South by straight line from point PA91 to the junction of Quincy Village Road along the main road to North East Point, thence by Quincy Village Road to point AE1(E+328710 N+9491120), thence in a straight line to Signal Hill trigonometrical station; and

(d) on the west by a straight line from Signal Hill to point CORAL4 (E+327777 N+9491017), and CORAL6 (E+327455 N+9490898), thence by the western boundary of property No. H933 through points JC87 and CE54 to point GA2 (E+327145 N+9492462), (south of La Gogue Reservoir), thence by the Eastern edge of La Gogue Reservoir to point CE57 (E+327262 N+9492857) thence through points BCN4 (E+327412 N+9493321), BCN2 (E+327700 N+9493843), Montagne Pigeon (E+328055 N+9493935), to the starting point GA1.

## 4. ANSE ROYALE,

being an area-

(a) bounded on the North starting at Piton de L'Eboulis or Castle Peak to point CRL2 (E+334546 N+9477979), thence by the western boundary of property No.C3373, South Western boundary of property No.C3373, South Western boundary of property Nos. C3373, C3374, C1480, C1478, C3220 and C3219 to point MD74 (E+335717 N+9477309) thence by a straight line to Jean Marie trigonometrical station and to the sea through Pointe Au Sel;

(b) on the East by the sea;

(c) on the South by Val d'endor road to its summit;

(d) on the West by Baie Lazare River to point AB, thence following a foot path Northwards through L'Enforcement to the summit of Les Canelles Road at AO63, thence by a road to beacon AO66 (E+333766 N+9476684) and Eastwards to point BCND (E+334091 N+9476681) at the Mental Hospital thence Northwards to beacon M676 (E+333941 N+9477484), thence to the starting point Piton de L'Ebouli or Castle Peak;

(e) Includes Souris island.

## 5. AU CAP

being an area-

(a) bounded on the North by a straight line from Les Capusin Hill to the crossing of Riviere Grand Bassin and Capusin Road thence by Capucin Road to Property No.S837, thence by the estate road from the southern corner of the above mentioned property and Reef estate Road to the sea at point "a" (E+336295 N+9481053) (southern corner of property No.S410);

(b) bounded on the east by the sea;

(c) bounded on the South by Anse Royale electoral area;

(d) bounded on the West by Anse Boileau electoral area.

## 6. BAIE LAZARE,

being an area-

(a) bounded on the North by a straight line from a point AB1 (E+332725 N+9476761) at high water mark opposite western end of Les Canelles Road at Anse La Mouche, thence by Les Caneels Road to point AO63 (E+333958 N+9476459) at the summit;

(b) on the East by Anse Royale electoral area to the summit of Val d'endor Road and by a foot path to Mont. Lockyer;

(c) on the South by a straight line to a hill point TB1 (E+333660 N+9473265) thence in a straight line to Maravi trigonometrical station and then in a straight line to the sea through Maravi R.C. Cross; and

(d) on the West by the sea;

(e) Includes Chauve Souris island.

## 7. BEAU VALLON,

being an area-

(a) bounded on the North by Glacis electoral area;

(b) on the North-East by Anse Etoile electoral area, thence from Signal Hill trigonometrical station by straight lines through points MTB2 (E+327440 N+9490660) and MTB1 (E+327260 N+9490430) to Creve Coeur trigonometrical station, thence in a straight line to Mast MB1 (E+326880 N+9489625) near Cable and Wireless Satellite Station, thence by the road to St. Louis Hill (E+3271

(c) on the South from St. Louis Hill to beacon JB822 (E+327176 N+9489210) thence to point BS! (E+327075 N+9489115) (at the summit of St. Louis Road) thence by St. Louis Road to Le Niol junction (opposite the chapel), thence along Le Niol Road to point BCN67 (E+326630 N+9489085) to point PN35, and thence by Sullivan River, Canada Village, Beau Vallon/ Bel Ombre Road, Sullivan River to sea; and

(d) on the West by the sea.

## 8. BEL AIR

being an area-

(a) bounded on the North by St. Louis electoral area;

(b) on the North-East by the sea starting from point SB2 (E+328890 N+9489127) thence by the sea wall to B1 (E+329100 N+9489545) (northern most edge of the reclamation), thence by the high water mark along the reclaimed land to point MPB (E+328932 N+9488712) (due south of Houdoul Island), thence to a point MB3 (E+328936 N+9488632) (at the intersection of S.M.B. fence with Latanier Road), thence by Latanier Road to the entrance of S.P.T.C. workshop, thence to point MB4 (E+329000 N+9488454) (opposite the mark of Rivieree Trois Freres), thence by Rivieree Trois Freres to point MB6 (E+327818 N+9488395) on the bridge of Sans Soucis Road;

(c) on the East from the point MB6 by Sans Soucis Road in a southerly direction (up hill) to point MB7 (E+328315 N+9487515) (on the last right hand bend facing uphill before the drive to Ex-Makarios's residence), thence in a straight line through New Sans Soucis trigonometrical station PC4 to point MB8 (E+328668 N+9487480) where the straight line intersects the Old Foret Noire Road (the first sharp left hand bend on leaving the Foret Noire Estate when traveling uphill), thence following the old Foret Noire Road to F.E.B.A. housing estate water tower at MB9 (E+328775 N+9487191) thence in a straight line to point MBIO



(E+328860 N+9486975) thence to the confluence of the two streams forming the Rochon River, thence by the stream flowing down Copolia up to a point PLB (E+328625 N+9486315) thence in a straight line to Salafie Forestry Road at point POB 1 (E+328250 N+9485440);

(d) on the South from Point POBI by Salazie Forestry Road to Sans Soucis Road at point POB2 (E+327550 N+9485900) thence by Sans Soucis Road towards North-East to point POB3 (E+327910 N+9486000) thence by a foot path in a north westerly direction to Morne Seychellois;

(e) on the West by straight line from Morne Seychelloise to Trois Freres and to the foot of the escarpment to point SPB (E+326820 E+9488350) on the common boundary with St. Louis and Port Glaud electoral areas; and

(f) includes Hodoul Island.

#### 9. BEL OMBRE,

being an area-

(a) bounded on the North by the sea starting from the mouth of River Majore to point BVB (E+325125 N+9489880) at the mouth of Riviere Sullivan;

(b) on the East by Beau Vallon electoral area;

(c) on the South from PN35 with Beau Vallon and St. Louis electoral areas through points PB1, PB2, AN91, PB4, AN85, PB, and by the northern boundary of property No.J1051 through points B167, E, A, to B122 thence in a straight line to Bernard trigonometrical station, and to the source of the Riviere Cascade at point PB1 (E+324160 N+9487150) thence following Riviere Cascade to PB6 (E+322850 N+9486450) (at the confluence of Riviere Cascade and a stream); and

(d) on the West along stream uphill to the water-shed thence along Riviere Major to the starting point at the mouth of Riviere Major.

#### 10. CASCADE,

being an area-

(a) bounded on the North-West by Les Mamelles and Roche Caiman electoral areas;

(b) on the North by the sea up to Riviere Dejeuner at CP1 (E+334810 N+9483780) thence to point CP2 (E+334870 N+9483740) on the main road, thence to point CP3 (E+335030 N+9483710) (near the exit from the Airport);

(c) on the East by straight line from CP3 to CP4 (E+335025 N+9483495) on a large rock, thence to Les Dents trigonometrical station through Mont. Sebert, thence to Les Capucin Hill, thence to the watershed at point CAB (E+333550 N+9481600) with Anse Aux Pins and Anse Boileau electoral areas;

(d) on the South by watershed to Montagne Planneau; and

(e) on the West by watershed to Montagne Planneau from New Savy thence by a straight line to point GC (E+331350 N+9484265) and by the stream to point LC1 with Les Mamelles electoral area.

#### 11. ENGLISH RIVER,

being an area-

(a) bounded on the North by Anse Etoile electoral area;

(b) on the East by the sea from point PA91 to EM1 (E+328832 N+9489400) at the mouth of Riviere Moosa;

(c) on the South by Riviere Moosa to the junction of Mont Buxton lane and Oliviere Maradan Road;

(d) on the West by Mont Buxton Lane up to Button Lane in position EM2 (E+328120 N+9489636) thence by Button Lane to Mont Buxton Lane EM3 (E=328112 N+9489749) thence by a foot path to the Southern boundary of Union Vale Estate at point AV43 (E+328551 N+9489883) thence to the starting point of Signal Hill.

#### 12. GLACIS,

being an area-

(a) bounded on the West, North and North-East by the sea;

(b) on the East by Anse Etoile electoral area; and

(c) on the South by Nezet River;

(d) includes L'Ilot island.

#### 13. GRAND ANSE (MAHE),

being an area-

(a) bounded on the West by Port electoral area;

(b) on the North-East by Plaisance, Les Mamelles and Cascade electoral areas;

(c) on the East by the watershed from New Savy trigonometrical station to Montagne Planneau and then;

(d) on the South-East by Caiman River to the sea;

and

(e) on the South-West by the sea.

#### 14. LES MAMELLES,

being an area-

(a) bounded on the North-East by the Old Main Road to Point Larue starting from Plaisance junction up to Riviere Brillant;

(b) bounded on the South by Riviere Brillant to a point LCI(E+330190 N+9485290) thence along Ma Josephine Road to La Misere Road;

(c) bounded on the West by La Misere Road to the starting point of Plaisance Junction.

#### 15. MONT BUXTON,

being an area-

(a) bounded on the North-East by English River electoral area;

(b) on the South with St. Louis electoral area from Moosa River crossing Oliviere Maradan Road thence by Hangard Street to Creve Coeur Road;

(c) on the South-West by Creve Coeur Road to point MB1 near Cable and Wireless Satellite station with Beau Vallon electoral area; and

(d) on the West from MB 1 with Beau Vallon electoral area in a straight line through Creve Coeur trigonometrical station, points MTB 1 and MTB2 to Mont. Signal with English River electoral area.

#### 16. MONT FLEURI,

being an area-

(a) bounded on the North-East by the sea, starting from MPB with Bel Air electoral area thence by the sea to point MQ712 (E+329609 N+9487968) Western corner of property No.V8317 occupied by the Vehicle Testing Station;

(b) on the South-East from MQ712 in a straight line to position IPE (E+329596 N+9487912) an iron peg on the wall at the eastern corner of property No.V5820 occupied by the Police Station; thence by Rochon Road and Rochon River to the confluence Road and Rochon River to the confluence of the two streams forming Rochon River;

(c) on the South-West by Bel Air electoral area to point MPB; and

(d) includes Ste. Anne, Cerf, Cache, Long, Moyenne, Round and Seche Islands.

#### 17. PLAISANCE,

being an area-

(a) bounded on the North-East by the sea from point TK450 (E+329843 N+9488220) to point PR(E+330100 N+9488000); and thence through points TR474 (E+329854 N+9487770) (southern corner of property No.V9023 near Sports Complex round-about) and MD479 (E+329696 N+9487723) (on the sea wall at the eastern corner of the property No.V5279) to Cemetery Road junction; and thence by the old Main Road (to Point Larue) to Plaisance junction;

(b) bounded on the East by La Misere Road up to the church;

(c) bounded on the South by the watershed to Salazie Forestry Road, thence by the road to point POBI; and

(d) on the West by Bel Air and North-west by Mont Fleuri electoral areas.

#### 18. POINT LARUE,

being an area-

(a) bounded on the west by Cascade electoral area and the sea;

(b) on the North and North-East by the sea;

(c) on the South by the watershed from point PAI (E+336960 N+9482320) to the Peak at point PA2 and by a straight line through point PA3 to Les Dents; and

(d) includes Anonyme, Rats and Brulee Islands.

#### 19. PORT GLAUD,

being an area-

(a) bounded on the North By Bel Ombre and St. Louis electoral areas;

(b) on the East by Bel Air electoral area up to POBI, thence by the water course of Riviere Grand Anse to its confluence with Riviere Grand Bois, thence by a straight line to point PG1 (E+326960 N+9484200) on Riviere Beoliere, and thence by Riviere Beoliere to the sea;

(c) on the South and West by the sea;

(d) includes Vaches, Trois Dames, Therese, Petite, L'Islette and Conception islands.

#### 20. ROCHE CAIMAN,

being an area-

(a) bounded on the North-West by Plaisance electoral area starting from Cemetery Road junction through points MD479 and TR474 to point PR, thence by the sea to point P (E+330250 N+9488175);

(b) bounded on the North-East by the sea from point P to point PC1 (E+331638 N+9486155) on the jetty of Brillant, thence along the boundary of reclaimed land towards southwest and in a straight line to point PC2 (E+331455 N+9485720) at the mouth of Riviere Brillant;

(c) on the South-East by River Brillant to the old main road to Point Larue Road, and

(d) bounded on the South-West by Point Larue Road to the starting point (Cemetery Road Junction);

## 21. ST. LOUIS,

being an area-

(a) bounded on the North by Mont. Buxton electoral area up to the intersection of Moosa River crossing Oliviere Maradan Road thence by Moosa River to the sea;

(b) bounded on the East by the sea;

(c) on the South from point SB2 by Riviere St. Louis (with Bel Air electoral area), Albert Street, Revolution Avenue, St. Louis Road to St. Louis River at the sharp bend to the right hand side towards uphill, thence by St. Louis River to point SBI (E+327055 N+9488705) thence to point SPB with Bel Air and Port Glaud electoral areas;

(d) on the South-West by the State land Boundary to point PN35 (E+326100 N+9488660); and

(e) on the West by Beau Vallon electoral area.

## 22. TAKAMAKA,

being an area-

(a) bounded on the North by Baie Lazare and Anse Royale electoral area; and

(b) on the East, South and West by the

sea. SCHEDULE B

## 23. GRAND ANSE (PRASLIN),

being an area-

(a) bounded on the North-East by a straight line starting from the estuary of the Anse Georgette River to Many New trigonometrical station, thence to junction of Salazie and Pasquiere Roads, thence to a bridge on Grand Anse Baie Ste. Anne Main Road in Vallee de Mai, thence to Fond Azore trigonometrical station, thence to the estuary of Anse Marie Louis River,

(b) on the South and West by the sea, and

(c) includes Les Parisiennes, Aride, Cousin and Cousine Islands 24. BAIE STE. ANNE (PRASLIN),

being an area-

(a) bounded on the North and East by the sea,

(b) on the South West by Grand Anse (Praslin) electoral area; and

(c) includes Curieuse Island, Round Island, Chauve Souris Island and St. Pierre Islet.

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Subsidiary Legislation: Article 136(2) read with article 125(5): Masters of the Supreme Court (Jurisdiction and Powers) Rules, 2008

[21st April 2008]

SI. 19 of 2008

1. These Rules may be cited as the Masters of the Supreme Court (Jurisdiction and Powers) Rules, 2008.

2. A Master shall hear and determine any matter under the Seychelles Code of Civil Procedure or such other enactment as the Chief Justice determines, which is of an interlocutory nature.

3. (1) In exercising such functions as provided in rule 2, a Master shall have the power and jurisdiction to deal with matters, including the following

(a) uncontested appointment and confirmation of executors;

(b) uncontested appointment of fiduciaries;

(c) rectification of entries in the Births and Death Registers;

(d) application for late registration of births;

(e) uncontested divorce cases;

(f) orders in the nature of provisional seizures, attachments, inhibitions, cautions and restrictions and interim injunctions;

(g) review of payments by judgment debtors excluding issuing of warrants for arrest and examination of judgment debtors as to their means prior to committal.

(2) Where in any such matter, a dispute requiring a final order arises, such matter, at that stage shall be referred to a Judge for determination.

(3) A Master shall have power and jurisdiction to deal with all matters of pleadings and procedure up to the stage of hearing, in civil cases, and such other matters as determined by the Chief Justice.

(4) A Master shall have no power or jurisdiction -

(a) to do any act affecting the liberty of a party in such litigation or any third party connected thereto;

(b) over any matter or proceeding in any enactment except on matters provided in rules 2 and rule 3(1), (2) and (3), which are required to be dealt with only by a Judge.

4. A party aggrieved by a Ruling or Order of an interlocutory nature made by a Master may appeal to a single Judge of the Supreme Court within 14 days of such Ruling or Order.

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## PROCLAMATIONS

### Article 52A

#### Constitution of the Republic of Seychelles (Article 52A) Proclamation

[12th July 2001]

SI. 22 of 2001

1. This Proclamation may be cited as the Constitution of the Republic of Seychelles (Article 52A) Proclamation.

2. The President hereby declares his intention of appealing to the People for a mandate to hold office as the President of Seychelles appeal for by an election for a further term.

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### Article 110

#### Dissolution of the National Assembly Proclamation

[20th March 2007]

SI. 6 of 2007

1. This Proclamation may be cited as the Dissolution of the National Assembly Proclamation.

2. The National Assembly shall stand dissolved on the day next following the publication of this Proclamation.

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### Article 107

Constitution of Seychelles (First Meeting of the National Assembly) Proclamation,

2007 [21st May 2007]

SI. 11 of 2007

1. This Proclamation may be cited as the Constitution of Seychelles (First Meeting of the National Assembly) Proclamation.
2. The National Assembly is summoned for its first meeting which will be held on 29th May, 2007 in the precinct of the National Assembly in the National Library Building commencing at 9 a.m.

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Article 41(1)(b)

Constitution of the Republic of Seychelles (Article 41(1)(b)) Proclamation, 2013

[30<sup>th</sup> January 2013]

SI. 6 of 2013

### **Citation**

1. This Proclamation may be cited as the Constitution of the Republic of Seychelles (Article 41(1)(b)) Proclamation, 2013.

### **Declaration of state of emergency**

2. The President hereby declares that a grave civil emergency has arisen and declares that a state of emergency exists in the districts of –

(i) ANSE AUX PINS – an area bounded on the North West by Cascade electoral area and North by Point Larue electoral area; on the East by the sea; on the South by Au Cap electoral area.

(ii) AU CAP – an area bounded on the North by a straight line for Les Capusin Hill to the crossing of Riviere Grand Bassin and Capusin Road thence by Capusin Road to property No.S837, thence by the estate road from the southern corner of the abovementioned property and Reef Estate Road to the sea at point “a” (E+336295 N+9481053) (Southern corner of property No.S410); bounded on the east by the sea; bounded on the South by Anse Royale electoral area; bounded on the West by Anse Boileau electoral area.

(iii) POINT LARUE – an area bounded on the West by Cascade electoral area and the sea; on the North and North-East by the sea; on the South by the watershed from point PA1 (E+336960 N+9482320) to the peak at point PA2 and by a straight line through point PA3 to



Les Dents and includes Anonyme, Rats and Brulee Islands, excluding the Seychelles International Airport..