



# OFFICIAL GAZETTE

## REPUBLIC OF SEYCHELLES

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**SEYCHELLES INFRASTRUCTURE AGENCY BILL, 2021**

*(Bill No 54 of 2021)*

**OBJECTS AND REASONS**

The object of this Bill is to establish an Agency known as the Seychelles Infrastructure Agency.

Once enacted, the Seychelles Infrastructure Agency will provide technical services for Government construction projects and maintenance of Government properties.

The technical services to be provided by the Agency shall comprise structural surveys, appraisal of projects, concept planning, detailed designs, cost estimates, procurement of construction or consultancy services through tendering, tender evaluation, awards and supervision during the construction stage.

The Agency shall in addition provide property management and maintenance services to ministries and Government departments administering buildings and properties.

For proper policy guidance and administration of the Agency, the Bill seeks to establish the Inter-Ministerial Committee. This Committee will be the Board of Directors of the Agency. Chaired by the Minister responsible for lands, the composition and functions of the Committee are specified in Part III of the Bill.

In Part IV, the Bill provides for the appointment of The Chief Executive Officer, who will be head of the Agency, and responsible for the management of the day-to-day affairs of the Agency. Under him or her will be the Chief Operations officer and other staff of the Agency. It is proposed that the Chief Executive Officer of the Agency shall be an ex-officio member and secretary of the Inter-Ministerial Committee.

In Part V, the Bill seeks to fund the Agency through monies appropriated by the National Assembly. Delegated funds, accounts and audit, accountability,

annual operational plans and annual reports are also made provision for under this Part.

Finally, Part VI of the Bill deals with miscellaneous matters. Transfer of assets and liabilities, transfer of staff and employees, acquisition and disposal of land, application of certain provisions of the Penal and protection of acts done in good faith are dealt with under this Part. In addition, the Minister is mandated to make regulations for the better carrying into effect, the provisions of the Bill.

**Dated this 28<sup>th</sup> day of OCTOBER, 2021.**

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

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## **SEYCHELLES INFRASTRUCTURE AGENCY BILL, 2021**

*(Bill No. 54 of 2021)*

### **ARRANGEMENT OF SECTIONS**

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**SEYCHELLES INFRASTRUCTURE AGENCY BILL, 2021**

*(Bill No. 54 of 2021)*



**A BILL**

**FOR**

**AN ACT** TO ESTABLISH THE SEYCHELLES INFRASTRUCTURE AGENCY AND TO PROVIDE FOR OTHER RELATED MATTERS.

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

**PART I - PRELIMINARY**

**Short title**

**1.** This Act may be cited as the Seychelles Infrastructure Agency Act, 2021.

## **Interpretation**

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

“Agency” means the Seychelles Infrastructure Agency established under section 3;

“Chief Executive Officer” means the Chief Executive Officer of the Agency appointed under section 10;

“Chief Operations Officer” means a Chief Operations Officer provided for under section 11;

“Committee” means the Inter- Ministerial Committee established under section 7;

“member” means a member of the Committee;

“Minister” means the Minister responsible for lands and housing.

## **PART II - SEYCHELLES INFRASTRUCTURE AGENCY**

### **Establishment of the Agency**

3.(1) There is hereby established for the purpose of this Act, an agency known as the Seychelles Infrastructure Agency.

(2) The Agency is a body corporate.

### **Object of the Agency**

4. The object of the Agency is to provide technical services for civil engineering and construction projects to all government ministries, departments and agencies other than those specified in the Schedule, and to provide maintenance to government properties.

### **Functions of the Agency**

5. The functions of the Agency shall be to —

- 
- (a) advise on strategic planning of infrastructure and physical development projects;
  - (b) advise on the financial and cost implications for infrastructure and physical development projects, and on maintenance and property management requirements;
  - (c) provide surveys and assessments of physical conditions for government infrastructure and buildings;
  - (d) provide project designs, procurement of construction services and supervision of project implementation;
  - (e) provide technical support for procurement and supervision of services for maintenance of government infrastructure and buildings;
  - (f) advise on quality standards and policies for government infrastructure and buildings, and for construction services utilised by the government;
  - (g) record and keep register of rating of performance by contractors providing construction services for government projects;
  - (h) outsource and manage consultancy contracts for any specialised services in the construction sector on behalf of the government; and
  - (i) perform such other functions as the Minister may deem necessary.

### **Powers of the Minister**

6. The Minister shall exercise supervision over the Agency in the performance of its functions, and may give policy directives to the agency relating to planning of infrastructure and physical development in line with National development strategies and land use.

## **PART III - THE INTER-MINISTERIAL COMMITTEE**

### **Establishment and composition of the Committee**

7.(1) The Agency shall be administered by an inter-ministerial committee consisting of the following members —

- (a) the Chairperson who shall be the Minister responsible for the parent Ministry of the Agency;
- (b) the Minister responsible for environment and climate change who shall be the Vice-Chairperson;
- (c) a representative of the Department responsible for lands;
- (d) a representative of the department responsible for economic planning;
- (e) a representative of the financial planning and control division of the department of finance;
- (f) a representative of the department of legal affairs;
- (g) a representative of the department of transport;
- (h) a person with extensive experience in auditing or accounting, appointed by the Minister; and
- (i) the Chief Executive Officer who shall be an ex-officio member and the secretary to the Committee.

(2) A member of the Committee shall hold office for a term of 5 years and shall be eligible for re-appointment.

(3) A member of the Committee shall be paid such remuneration and allowances as the President may determine in line with Government policies.

### **Functions of the Committee**

8. The functions of the Committee shall be to —

- (a) review and approve development and project concept plans prepared by the Agency;
- (b) review and determine work and project priorities for implementation by the Agency;
- (c) review and recommend budget priorities for projects to the government based on integrated national development strategies;
- (d) mediate any disputes between the Agency and other ministries, departments or agencies;
- (e) monitor the performance of the Agency on implementation of projects and services; and
- (f) review and approve policies and standards prepared by the Agency.

### **Meetings of the Committee**

9.(1) A meeting of the Committee shall be held at such time and place as may be determined by the Chairperson of the Committee.

(2) Four members of the Committee shall constitute a quorum for a meeting of the Committee.

(3) The decision of a majority of the Members present at a meeting shall constitute a decision of the Committee, and, in the event of an equality of votes on any matter, the person presiding at such meeting shall have a casting vote in addition to his or her vote.

(4) Subject to the provisions of this Act and regulations made under this Act, the Committee may regulate its own proceedings.

## **PART IV - ADMINISTRATION OF THE AGENCY**

### **Chief Executive Officer**

10.(1) The Minister shall appoint a person whom the Minister considers to be suitably qualified and experienced to be Chief Executive Officer of the

Agency, on such terms and conditions of service as the Minister may determine in line with Government policies.

(2) The Chief Executive Officer shall be responsible for the management of the affairs of the Agency in accordance with the policies and directions of the Committee.

(3) The Chief Executive Officer shall be appointed for a term of three years and shall be eligible for reappointment.

(4) The Chief Executive Officer may delegate any of his or her functions to a Chief Operations Officer or any other employee of the Agency.

### **Chief Operations Officer**

**11.**(1) The Agency shall have a Chief Operations Officer who shall be appointed by the Committee.

(2) The Chief Operations Officer shall be in charge of a division of the Agency assigned to him or her, and shall report to the Chief Executive Officer.

### **Employment of staff**

**12.**(1) The Agency may employ officers and other members of staff necessary for the effective performance of its functions on the terms and conditions determined by the Committee.

(2) Every employee of the Agency shall be under the administrative control of the Chief Executive Officer.

## **PART V - FINANCIAL PROVISIONS**

### **Funds of the Agency**

**13.**(1) The funds of the Agency shall consist of moneys appropriated by the National Assembly for the use of the Agency.

(2) The funds of the Agency shall be applied for —

(a) the discharge of the expenses properly incurred by the Agency in the performance of its functions; and

- (b) the payment of remuneration of allowances to the members of the Committee and employees of the Agency.

### **Delegated funds**

14.(1) Funds appropriated for projects involving the implementation and maintenance of government properties shall be delegated to the Agency.

(2) The funds delegated under subsection (1) shall be under the control of the Agency and shall be solely utilised for purposes related to the projects for which they were appropriated.

### **Accounts and audit**

15.(1) The financial year of the agency shall be the calendar year.

(2) The Agency shall maintain proper accounts and other relevant records and prepare a statement of accounts in the form and manner approved by the Auditor General.

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

### **Accountability**

16.(1) The Chief Executive Officer shall be the accounting officer of the Agency.

(2) The Chief Executive Officer shall be charged with the responsibility of —

- (a) accounting for all moneys received and the utilisation thereof; and
- (b) the use and care of the assets of the Agency.

### **Annual operational plan**

17.(1) The Agency shall prepare a draft annual operational plan at least 60 days before the commencement of each financial year and submit it to the

Committee for approval, and shall submit a final annual operational plan not later than 30 days after the commencement of the financial year.

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

(3) The financial plan referred to under subsection (2) (c) shall include estimates of expenditure and revenue for the financial year next following.

(4) The Agency may amend the operational plan with the approval of the Committee.

### **Annual report**

**18.** The Agency shall, after the expiration of each financial year and in any event not later than the 31<sup>st</sup> day of March in any year, submit to the Minister, and the Minister responsible for finance, an annual performance report, outlining the performance of the agency and dealing generally with the administration and activities of the Agency during the preceding financial year.

## **PART VI - MISCELLANEOUS**

### **Transfer of assets and liabilities**

- 19.(1)** The Government may vest in or transfer to the Agency such —
- (a) movable and immovable properties vested in the Government immediately before the coming into force of this Act and used or managed by any Government Ministry, Department or Agency whose functions are being transferred to the Agency; and

- (b) assets, rights, interests, privileges, liabilities of the Government relating to any Ministry, Department or Agency for functions being transferred to the Agency.

(2) Where a question arises as to whether a particular movable or immovable property, asset, right, interest, privilege, liability or obligation has been transferred to or vested in the Agency under subsection (1), a certificate under the hand of the Minister shall be conclusive evidence that the property, asset, right, interest, privilege liability or obligation was or was not transferred or vested.

(3) All agreements, deeds, bonds, agreements relating to matters which fall within the scope of the objects and functions of the Agency, to which the Government is a party, subsisting immediately before the coming into force of this Act, shall continue and shall be enforceable by or against the Agency as if the Agency had been a party to the deed, bond, agreement or arrangement.

### **Transfer of staff and employees**

**20.(1)** All the persons employed in any Government Ministry, Department or Agency prior to the commencement of this Act, whose functions are being merged and transferred to the Agency, shall in accordance with their respective qualifications and competencies be transferred to the services of the Agency on terms and conditions not less favourable than those enjoyed by them before the transfer.

(2) Until such time as new terms and conditions of service are adopted, the terms and conditions of service as they exist presently shall continue to apply to every person transferred to the service of the Agency under subsection (1) as if the persons were still in the service of the Government.

### **Acquisition and disposal of land**

**21.(1)** Where land is required by the Agency in connection with the performance of its functions, upon approval of the Committee, the Agency shall request the Minister responsible for lands to acquire such land for that purpose and thereafter transfer or allocate use of the land to the Agency.

(2) The Agency shall not sell, exchange or otherwise dispose of land or interest in land vested in the Agency without the consent of the Minister responsible for lands.

### **Application of certain provisions of the Penal Code**

22. The members and employees of the Agency shall be deemed to be employed in the public service and sections 91 to 96 of the Penal Code shall apply to them.

### **Protection of acts done in good faith**

23. No civil or criminal liability shall attach to the Agency, an officer or employee of the Agency or a member of the Committee in respect of an act done or omission made in good faith in the performance of the functions of the Agency.

### **Regulations**

24. The Minister may make regulations for the carrying into effect the principles and provisions of this Act.

## **SCHEDULE**

*(Section 4)*

### **ORGANISATIONS EXCLUDED FROM APPLICATION OF THIS ACT**

1. Department of Transport
2. Seychelles Land Transport Agency
3. Non- Budget-Dependent Commercial Public Enterprises
4. Public Utilities Corporation
5. Public Enterprises with specialist technical mandates which include provision of technical services offered by the Agency.
6. Any other Department or Agency as the President may determine.

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**SEYCHELLES NATIONAL YOUTH COUNCIL (AMENDMENT)  
BILL, 2021**

*(Bill No. 55 of 2021)*

**OBJECTS AND REASONS**

The Seychelles National Youth Council Act, 1997 (Cap 319) (hereinafter “*the Act*”) was enacted to provide for the establishment of the National Youth Council, its composition, functions and mandates and for the development of the youth and for matters connected therewith or incidental thereto. The affairs of the Seychelles National Youth Council is managed and administered by a Board of the Council consisting of persons elected by the General Assembly.

The President, in his address to the Nation on the 1<sup>st</sup> of February, 2021, made an announcement pertaining to the restructuring of statutory and other parastatal bodies.

In order to give effect to the announcement made by the President, this Bill proposes to repeal the provisions relating to the Board of the Council and entrust its functions to the Minister.

Accordingly, in view of the above, this Bill proposes the substitution in the Act of section 6, the repeal of section 8 and the amendment of section 7.

The Bill seeks to achieve the above objectives.

**Dated this 28<sup>th</sup> day of OCTOBER, 2021.**

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

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**SEYCHELLES NATIONAL YOUTH COUNCIL (AMENDMENT)  
BILL, 2021**

*(Bill No. 55 of 2021)*

**ARRANGEMENT OF SECTIONS**

**Sections**

1. Short title
2. Substitution of section 6
3. Amendment of section 7
4. Repeal of section 8

**SEYCHELLES NATIONAL YOUTH COUNCIL (AMENDMENT)  
BILL, 2021**

*(Bill No. 55 of 2021)*



**A BILL  
FOR**

**AN ACT** TO AMEND THE SEYCHELLES NATIONAL YOUTH COUNCIL ACT, 1997 (*CAP 319*).

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

**Short title**

**1.** This Act may be cited as the Seychelles National Youth Council (Amendment) Act, 2021.

### **Substitution of Section 6**

2. Section 6 of the Seychelles National Youth Council Act, 1997 (Cap 319) (hereinafter referred to as the “principal Act”) is hereby repealed and substituted by the following —

#### **“Minister's responsibility**

6. The Minister shall be responsible for advising on and approving all matters relating to the functions of the Council.”.

### **Amendment of section 7**

3. Section 7 of the principal Act is amended in paragraph (b) by repealing the word “nominated” and substituting therefor the word “appointed”.

### **Repeal of section 8**

4. Section 8 of the principal Act is repealed.

**EMPLOYMENT (SUSPENSION OF THIRTEENTH MONTH PAY)  
BILL, 2021**

*(Bill No. 56 of 2021)*

**OBJECTS AND REASONS**

This Bill seeks to suspend the payment of the thirteenth month pay payable to workers under the Employment Act (Cap 69).

**Dated this 28<sup>th</sup> day of OCTOBER, 2021.**

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

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**EMPLOYMENT (SUSPENSION OF THIRTEENTH MONTH PAY)  
BILL, 2021**

*(Bill No. 56 of 2021)*

**ARRANGEMENT OF SECTIONS**

**Sections**

1. Short title
2. Suspension of thirteenth month pay under Cap. 69

**EMPLOYMENT (SUSPENSION OF THIRTEENTH MONTH PAY)  
BILL, 2021**

*(Bill No. 56 of 2021)*



**A BILL**

**FOR**

**AN ACT** TO SUSPEND THE PAYMENT OF THE THIRTEENTH MONTH PAY PAYABLE TO WORKERS UNDER THE EMPLOYMENT ACT (CAP. 69) IN RESPECT OF THE YEAR 2021.

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

**Short title**

1. This Act may be cited as the Employment (Suspension of Thirteenth Month Pay) Act, 2021.

**Suspension of thirteenth month pay under Cap. 69**

2.(1) The payment of the thirteenth month pay under section 46C of the Employment Act in respect of the period from 1<sup>st</sup> January, 2021 to 31<sup>st</sup> December, 2021, due on 31<sup>st</sup> December, 2021 and payable on or before 31<sup>st</sup> January 2022, is hereby suspended.

(2) Notwithstanding subsection (1), if any employer pays the thirteenth month pay to his or her workers in respect of the year 2021, such payment shall be eligible for exemption under the Second Schedule to the Income and Non-Monetary Benefits Tax Act (Cap 273).

**SEYCHELLES QUALIFICATIONS AUTHORITY BILL, 2021***(Bill No. 57 of 2021)***OBJECTS AND REASONS**

The Seychelles Qualifications Authority Act, Cap. 323, that came into operation on the 17<sup>th</sup> January 2006, established the Seychelles Qualifications Authority (hereinafter the “SQA”). The establishment of the SQA was followed by the establishment of the National Qualifications Framework in 2008.

After over a decade of operation of the SQA, a review of the Seychelles Qualifications Authority Act, Cap 323, was carried out with a view to address deficiencies in its implementation and to modernise it.

The Bill is the outcome of such review.

The Bill provides for the following —

- (a) to formalise relevant government policies and circulars;
- (b) the revision of terms and expression used in the Seychelles Qualifications Authority Act, Cap. 323 that have evolved during the past years;
- (c) ensuring that the content of the law is at par with international trends and developments in quality assurance and national qualifications frameworks;
- (d) for entities to appeal against a decision of the Seychelles Qualifications Authority;
- (e) for statement of attainment, academic awards and transcripts;
- (f) to better safeguard the interest of learners;
- (g) enforcing compliance with the provisions of the Act;

- (h) to effectively quality assure the whole education and training system and build quality assurance capacity;
- (i) to harmonise the provisions of Bill with relevant provisions of the Education Act (Cap. 68) and the Tertiary Education Act (*Act 12 of 2011*);
- (j) to make provision for merger of the Seychelles Qualifications Authority and Inspectorate unit;
- (k) to make provision for transfer of the function relating to quality assurance from the Tertiary Education Commission established under the Tertiary Education Act (*Act 12 of 2011*) to the Seychelles Qualifications Authority upon the anticipated dissolution of the Tertiary Education Commission.

The Bill also gives effect to the Revised Convention on the Recognition of Studies, Certificates, Diplomas, Degrees and Other Academic Qualifications in Higher Education in African States, 2014 (Addis Convention) which Seychelles ratified in November 2019.

**Dated this 28<sup>th</sup> day of OCTOBER, 2021.**

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

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## **SEYCHELLES QUALIFICATIONS AUTHORITY BILL, 2021**

*(Bill No. 57 of 2021)*

### **ARRANGEMENT OF SECTIONS**

#### **Part 1 - Preliminary**

1. Short title and commencement
2. Interpretation

#### **Part 2 - Seychelles Qualifications Authority**

3. Establishment of the Seychelles Qualifications Authority
4. Object and functions of the Authority
5. Powers of the Authority
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# SEYCHELLES QUALIFICATIONS AUTHORITY BILL, 2021

(Bill No. 57 of 2021)



## A BILL

## FOR

**AN ACT** TO PROVIDE FOR THE DEVELOPMENT, IMPLEMENTATION AND MAINTENANCE OF A NATIONAL QUALIFICATIONS FRAMEWORK AND THE QUALITY ASSURANCE OF EDUCATION AND TRAINING.

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

### Part I - Preliminary

#### Short title and commencement

1. This Act may be cited as the Seychelles Qualifications Authority Act, 2021 and shall come into operation on such date as the President may, by notice in the *Gazette*, appoint.

## **Interpretation**

### **2. In this Act —**

“accreditation” means a process of assessment and review which enables a person, a tertiary education and training provider, or a programme of education and training to be recognised and certified for a specified period of time by the Authority as meeting and conforming to appropriate standards of quality set by the Authority;

“Authority” means the Seychelles Qualifications Authority established under section 3;

“Board” means the Board of the Authority constituted under section 8;

“certification” means the formal recognition of a learner's achievement of the required number and range of credits or other requirements at a specified level of the National Qualifications Framework;

“Chairperson” means the Chairperson of the Board appointed under section 8;

“Chief Executive Officer” means the Chief Executive Officer of the Authority appointed under section 20;

“committee” means a committee established under section 14;

“competence” means the knowledge, skills, attitudes and personal attributes combined with the underlying understanding to perform all or some of the functions of an occupation or a profession;

“course” means a self-contained teaching or learning component of a programme that is integral to that programme, representing a discrete part of the learning to be achieved and is based on an

overall clear aim, specific learning outcomes, content and assessment procedures;

“credit accumulation” means the totalling of relevant credits required to complete a qualification or a part-qualification;

“credit transfer” means the vertical, horizontal or diagonal relocation of credits towards a qualification or part-qualification on the same or different level, usually between different programmes, departments or institutions;

“enrolled learner” means a learner who has enrolled in a programme or a course of education and training and registered as such by a provider;

“entity” means a person or a partnership, organisation, or business that has a legal and separately identifiable existence;

“equivalence of qualifications” means a process of formally establishing that two qualifications are of comparable standard or level;

“evaluation of foreign qualifications” means the process followed by the Authority to verify the authenticity of foreign qualifications and to compare foreign qualifications with national and international qualifications registered on the National Qualifications Framework;

“institutional accreditation” means recognition status granted to a provider by the Authority for a stipulated period of time after an evaluation through self-assessment and external review indicates that it meets or exceeds established standards for educational quality set by the Authority;

“international learner” means a learner with a foreign nationality who, on the basis of a residence permit granted for the purpose by the Department of Immigration, desires to continue, continues or has continued his or her education at a tertiary education institution in Seychelles;

“learner” means a person who is acquiring or has acquired knowledge, skills, attitudes, personal attributes or competencies;

“member” means a member of the Board appointed under section 8;

“Minister” means the Minister responsible for education;

“National Qualifications Framework” means a comprehensive system approved by the Minister for the development, classification, registration, publication, evaluation and articulation of quality-assured qualifications;

“part qualification” means an assessed unit of learning that is registered by the Authority as part of a qualification, including a course and a unit standard;

“post compulsory education and training” means education and training after compulsory education;

“programme” means a planned combination of a coherent set of courses designed to meet the requirements of a qualification;

“programme accreditation” means recognition status granted to a programme by the Authority for a stipulated period of time after an evaluation by the Authority indicates that it meets standards of quality.

“programme of education and training” means a process by which learners acquire knowledge, skills, attitudes, personal attributes and competence;

“provider” means an entity that intends to offer or is offering education and training in Seychelles, whether public or private, and registered as such by the ministry responsible for education or the Seychelles Qualifications Authority;

“qualification” means a registered national qualification;

“quality assurance” means an ongoing process of evaluating and enhancing the quality of the education system, providers or programme, for ensuring that the required standards as determined by the Authority are maintained and enhanced;

“recognition of foreign qualifications” means the formal acceptance of the appropriateness of a foreign qualification for a specific purpose;

“Recognition of Prior Learning” means principles and processes through which the prior knowledge and skills of a person are made visible, mediated and assessed for the purposes of alternative access and admission, recognition and certification, or further learning and development;

“school” means a provider of general education established by its owner, whether public or private, and in the case of a private provider, also registered by the ministry responsible for education;

“school inspection” means the formal exercise of critically examining and evaluating a provider of general education as a place for teaching and learning in order to ensure that high standards are maintained through improving the quality of the schools' self-evaluation processes and setting up of standards to enhance the quality of education;

“tertiary education” means learning programmes or courses provided by tertiary education and training providers leading to qualifications or part qualifications from level 3 to level 10 of the National Qualifications Framework;

“tertiary education and training provider” means an entity that provides or organises a programme or course of tertiary education and training including the provision of professional development services;

“unit standard” means a statement of the outcome of any learning

assessed, the type and quality of evidence that represents performance worthy of an award of credits and the context in which that evidence should be demonstrated;

“Vice Chairperson” means the person appointed as Vice Chairperson of the Board under section 8.

## **Part 2 - Seychelles Qualifications Authority**

### **Establishment of the Seychelles Qualifications Authority**

3. There is hereby established the Seychelles Qualifications Authority which shall be a body corporate with perpetual succession and a common seal, capable of suing and being sued in its corporate name.

### **Object and functions of the Authority**

4.(1) The object of the Authority shall be to develop, implement and maintain a national qualifications framework and to provide for quality assurance of the education and training system nationally.

(2) In pursuing the object, the Authority shall have the following functions —

- (a) recognise, evaluate and register national qualifications and part qualifications on the National Qualifications Framework;
- (b) generate and register national unit standards and qualifications for occupations and professions and ensure their relevance to social and economic needs;
- (c) maintain a national database of registered and accredited providers, programmes, qualifications and part qualifications, as prescribed;
- (d) design, develop and implement a common quality assurance system, and regulate compliance therewith;

- (e) develop and review quality standards and ensure compliance by providers through a monitoring system;
- (f) accredit tertiary education and training providers and other providers of post compulsory education and training and monitor that such providers continue to comply with prescribed standards and criteria
- (g) accredit programmes and courses of education and training and monitor that such programmes and courses continue to comply with prescribed standards and criteria;
- (h) conduct inspection of established and registered schools to ensure national education quality and standards are maintained;
- (i) review the policies and criteria on which the National Qualifications Framework is based;
- (j) establish policy, criteria and procedures for, and monitor the process of evaluation and recognition of competencies acquired formally, informally and non-formally through Recognition of Prior Learning;
- (k) establish policy and criteria for credit accumulation and credit transfer;
- (l) recognise, evaluate and establish equivalence of foreign qualifications to the levels of the National Qualifications Framework and record the decisions made;
- (m) develop policy and criteria for the recognition of foreign programmes leading to the award. of qualifications and part qualifications delivered by or through local tertiary education and training providers;
- (n) develop policy for recognition by the Authority of any

foreign qualification before the qualification bearer may be entitled to enter into an occupation or a profession;

- (o) promote international recognition of the national qualifications and the international comparability of national qualifications;
- (p) register tertiary education and training providers and other providers of post compulsory education and training and maintain a register to this effect;
- (q) establish criteria for classification of providers and for the transitioning from one category of provider to another in accordance with this Act and made hereunder;
- (r) establish criteria and procedures for the protection of the interests of enrolled learners, which include arrangements for the protection of learners where learners have begun but not completed a programme of education and training where a provider ceases to provide the programme before completion, or ceases to operate;
- (s) establish standards and criteria for teachers and lecturers of providers to deliver programmes and courses to ensure learners are protected;
- (t) provide a national advisory service on foreign qualifications and foreign providers of education and training;
- (u) collaborate with international counterparts on all matters of mutual interest concerning national qualifications frameworks;
- (v) advise the Minister on matters relating to the functions of the Authority and perform any function consistent with this Act that the Minister may, by regulations, determine;

- (w) do all such things and perform all such functions as may be necessary or conducive for the achievement of the purposes of this Act.
- (2) The Authority, in the performance of its functions shall —
  - (a) inform itself of the needs of commerce, industry, the professions and the public service pertaining to education, training, skills and qualifications and promote practices in education and training which would meet those needs;
  - (b) inform itself of practices outside the Republic in respect of matters relevant to its object and functions;
  - (c) consult as it considers appropriate, with providers, professional bodies, and any other entities the Authority considers appropriate in making decisions;
  - (d) give effect to such policies of the Government relating to education and training as are notified in writing to the Authority by the Minister; and
  - (e) collect any information relating to the performance of its functions it considers appropriate.

### **Powers of the Authority**

- 5.(1) The Authority shall have all powers necessary or expedient for the performance of its functions including the power to —
- (a) liaise or enter into agreements with any entity within or outside Seychelles;
  - (b) enforce compliance to the provisions of this Act and the elements of the National Qualifications Framework; and
  - (c) charge such fees as may be prescribed in respect of any service provided by the Authority.

### **Power to require information**

6.(1) The Authority may, by notice in writing require, from any person, provider, or any other entity such information as the Authority deems necessary, for the purposes of the performance of its functions under this Act.

(2) Where any person or other entity is required to furnish any information to the Authority under subsection (1), it shall be the duty of such person or entity to comply with the request.

(3) A person or other entity who contravenes subsection (2) commits an offence and shall on conviction be liable to a fine of SCR20,000.

(4) A person who obtains any information for the Authority under this provision shall take every reasonable step to ensure that such information is kept in such manner to ensure that the contents of the information are kept confidential and used only for the purposes of performing the functions of the Authority.

### **Protection of terms**

7.(1) The term “National” when used in conjunction with a qualification type on the National Qualifications Framework shall apply to a local qualification recognised by the Authority.

(2) The generic terms “Certificate”, “Diploma” and “Degree” shall refer to qualifications accredited or recognised by the Authority.

## **Part 3 - The Board of the Authority**

### **Constitution of the Board**

8.(1) There shall be a Board of the Authority, which shall be the governing body of the Authority.

(2) The Board shall consist of 7 members appointed by the President by notice in the *Gazette* on such terms and conditions as the President may determine.

(3) There shall be paid to the members of the Board such remuneration or allowances as the Government may from time to time determine.

(4) Appointments shall be made on the recommendation of the Minister.

(5) In recommending members to the Board for appointment, the Minister shall give due consideration for representation from ministries, agencies, civil society and the private sector whose operations have implications for, or may be affected by the National Qualifications Framework.

(6) The Minister shall also have regard to the need for its members to collectively have a breadth of experience and expertise, and depth of knowledge, to be able to effectively contribute to the development of the National Qualifications Framework and quality assurance in education and training in Seychelles.

(7) Staff of providers shall not be eligible to be appointed as members of the Board.

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

(9) The Chief Executive Officer of the Authority shall be an *ex officio* member of the Board but shall not have right to vote.

### **Tenure of office**

9. A member of the Board shall hold office for a period of 3 years and shall be eligible for reappointment on completion of the term of appointment.

### **Resignation**

10. A member may resign his or her office by giving one month's notice in writing, to the President.

**Vacation of office**

11. The office of a member shall become vacant —
- (a) if the member has been absent without leave of the Board from three consecutive meetings of the Board;
  - (b) on ceasing to hold the office by virtue of which the member was appointed;
  - (c) if the member is convicted of an offence under any written law and sentenced to imprisonment for a term of 3 months or more without the option of fine;
  - (d) upon expiry of one month's notice under section 10;
  - (e) if the member is mentally or physically incapable of carrying out his or her functions under this act.

**Filling of vacancies**

12.(1) Where the office of a member becomes vacant before the expiry of the member's term of office, the President shall appoint a person to fill the vacancy for the remaining period of the term for which that member was appointed.

(2) Subsection (1) shall not apply where the remaining period of the term of office of the member whose office has become vacant is less than six months.

(3) Where the Chairperson or the Vice-Chairperson vacates office, a new Chairperson or Vice-Chairperson, as the case may be, shall be appointed by the President.

(4) The Chairperson or Vice-Chairperson may vacate his or her office whilst remaining a member of the Board.

(5) The Vice-Chairperson shall exercise the functions of the Chairperson during any period the Chairperson is absent or unable to act as Chairperson.

### **Meetings and proceedings of the Board**

13.(1) Subject to the provisions of this Act, the Board shall regulate its own proceedings.

(2) The Board shall meet at such times and places as the Chairperson may determine provided that at least four meetings shall be held in a year.

(3) The Chairperson may convene a meeting of the Board after giving notice, in writing, of not less than 14 working days, but if the urgency of the matter does not permit giving of such notice, a special meeting may be convened after giving of a shorter notice.

(4) Where 4 members request the Chairperson, by notice in writing to convene a meeting of the Board for any purpose specified in the notice, the Chairperson shall, within 10 working days from the receipt of the notice, convene a meeting for that purpose.

(5) The Board may invite any person whose presence it deems necessary to attend and participate in the deliberations of a meeting of the Board, but such person shall have no right to vote.

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

(7) The Board shall cause to be kept minutes of the proceedings of every meeting of the Board and every meeting of any committee established by the Board.

(8) Five members shall constitute a quorum for a meeting.

### **Establishment of Committees**

14.(1) The Board may, for the purpose of discharging any of its functions under this Act, constitute committees as it considers appropriate.

(2) A committee constituted under subsection (1) may consist of one or more members of the Board and one or more other persons with specialised skills as the Board may consider necessary.

(3) The persons with specialised skills shall be appointed as members of the committee for a term as the Board may determine.

(4) The Board shall appoint one of the members of the committee who is a member of the Board as Chairperson of the committee.

(5) An officer of the Authority appointed in writing by the Chief Executive Officer shall be the secretary to the committee and shall, on the instruction of the Chairperson of the committee, convene meetings of the committee.

(6) The meetings of a committee shall be held at such times and place as the committee may determine, or as the Board may direct.

(7) Subject to any specific or general directions of the Board, a committee established under subsection (1) may regulate its own procedure.

### **Allowances of committee members**

**15.** A member of a committee of the Board shall be paid such allowances as the Authority may, with the approval of the Board, determine.

### **Secretary of the Board**

**16.(1)** An officer of the Authority appointed in writing by the Chief Executive Officer shall be secretary to the Board, or the Board shall appoint a secretary from among the Board members.

(2) The secretary of the Board if not a member of the Board, shall attend meetings of the Board but shall have no right to vote.

(3) The secretary shall be responsible for recording the Board's proceedings and decisions.

(4) There shall be paid to the secretary of the Board, if not a member of the Board, such remuneration or allowances as the Government may from time to time determine.

### **Disclosure of interest**

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

(2) A disclosure of interest made under subsection (1) shall be recorded in the minutes of the meeting at which it is made.

### **Confidentiality**

18.(1) A member or any other person assisting the Board shall observe and preserve the confidentiality of all matters coming before the Board, and such confidentiality shall subsist even after the termination of their terms of office or their mandates.

(2) Any member or any person to whom confidential information is revealed through working with the Board or committee of the Board shall not disclose that information to any other person unless he or she is required to do so in terms of any written law or for purposes of any judicial proceedings.

(3) A person who contravenes subsection (2) commits an offence and shall be liable upon conviction to a fine not exceeding SCR20,000.

### **Part 4 - Administration of the Authority Chief Executive Officer**

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

(2) The Minister shall invite applications for the post of Chief Executive Officer and constitute an interview panel to consider the applications.

(3) The interview panel shall prepare and submit a list of qualified

candidates to the Minister and the Minister shall make a recommendation of not less than 3 candidates as far as practicable to the President for consideration and appointment.

### **Responsibilities of Chief Executive Officer**

- 20.** The Chief Executive Officer shall —
- (a) be responsible for the day-to-day management of the affairs of the Authority subject to such directions on matters of policy as may be given by the Board;
  - (b) be accountable to the Board for the discharge of the functions delegated by the Board;
  - (c) be the chief accounting officer of the Authority;
  - (d) be responsible for the development, implementation and maintenance of the National Qualifications Framework;
  - (e) be responsible for the organisation, control and management of all staff of the Authority.

### **Staff of the Authority**

**21.(1)** The Chief Executive Officer shall appoint staff of the Authority as it deems necessary for the efficient discharge of the functions of the Authority.

(2) Where a person is transferred to the Authority from the public service, the terms and conditions applicable to that person shall not be less favourable than those enjoyed by that person immediately before the transfer.

### **Reports by the Authority**

**22.** The Authority shall furnish the Minister with such information on its activities as the Minister may from time to time require.

### **Directions issued by the Minister**

**23.** The Minister may, issue directions not inconsistent with the provisions of this Act to the Authority as to the exercise of its powers or performance of its duties and the Authority shall give effect to such direction.

## **Part 5 - Financial Provision**

### **Funds of the Authority**

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

- (a) such monies appropriated by the National Assembly for purposes of the Authority;
- (b) such grants and donations as the Authority may receive.

(2) The Authority shall use the funds acquired under subsection (1) to meet the costs incurred for its operations and the discharge of its functions.

### **Accounts and audit**

**25.(1)** The financial year of the Authority shall be the period of 12 months ending on 31<sup>st</sup> December of each year.

(2) The Authority shall keep proper books of account of its income, receipts and expenditure.

(3) The accounts of the Authority shall be audited not later than the 31<sup>st</sup> of each year after the end of each financial year by the Auditor General in accordance with Article 158 of the Constitution.

### **Annual Report**

**26.(1)** The Authority shall within three months of completion of the audit of its account in respect of any financial year, submit to the Minister —

- (a) a copy of its audited accounts; and
- (b) a written report of its operations and activities for that financial year.

(2) The Minister shall, within 30 days of receiving the Authority's audited accounts, and report, cause them to be laid before the National Assembly.

### **Application of certain Penal Code provisions**

27. All employees of the Authority shall be deemed to be employed in the public service for the purpose of sections 91 to 96 of the Penal Code.

### **Protection of acts done in good faith**

28. No liability civil or criminal, shall lie against the Authority, the Chairperson, Vice-Chairperson or a member of the Board or committee of the Board, employee of the Authority or any person acting under any authority conferred by the Authority, in respect of an act done or omitted to be done in good faith in the exercise or performance or purported exercise or performance of any of the powers, functions or duties conferred by or under this Act or any regulations made thereunder.

## **PART 6 - Miscellaneous Provisions**

### **Regulations**

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

(2) Without prejudice to the generality of subsection (1), the regulations may provide for —

- (a) the establishment of the National Qualifications Framework;
- (b) the structure' of the National Qualifications Framework;
- (c) the qualification types;
- (d) unit standard types;
- (e) the structure of qualifications;
- (f) standards setting;
- (g) quality assurance including —
  - (i) institutional accreditation ' and monitoring of tertiary

- education and training providers and other providers of post compulsory education and training;
- (ii) school inspection;
  - (iii) accrediting and monitoring of programmes and courses;
  - (h) the form and manner of Statement of Attainment, Academic Transcript and Award;
  - (i) fees and charges payable under this Act;
  - (j) information management system;
  - (k) recognition and evaluation, and determination of equivalences of qualifications and part qualifications within the National Qualifications Framework;
  - (l) protection of learners, including international learners;
  - (m) appeals;
  - (n) withdrawal of recognition or accreditation of a provider or a programme accredited or recognised under this Act; and
  - (o) registration and revocation of registration of providers.

**30.(1)** There shall be established an Appeals Committee appointed by the Minister to hear appeals from providers, persons including learners, and any other entity in relation to the decisions of the Authority.

(2) Decisions of the Authority shall constitute any decision of the Authority in relation to the functions of the Authority as set in section 4 (2) that may affect providers, persons and any other entity.

(3) The Appeals Committee shall consist of a maximum of 5 members with expertise in, or knowledge of, education and training or the functions of the Authority, other than members of the Board or staff of the Authority.

(4) The Chairperson and two other members of the Appeals Committee shall form a quorum for a meeting of the Appeals Committee.

(5) A member of the Appeals Committee shall hold office for a period of 3 years and shall be eligible for reappointment on completion of the term of appointment.

(6) A member of the Appeals Committee may at any time resign from his or her office by giving a notice in writing to the Chairperson of the Board.

(7) A member of the Appeals Committee shall be paid such allowances as the Authority may, with the approval of the Board, determine.

(8) Subject to this Act, the Appeals Committee shall regulate its proceedings.

### **Compliance**

**31.**(1) Providers, employers, and other entities shall comply with the provisions of this Act.

(2) The Authority shall hold providers to account for breach of their responsibilities under this law.

(3) It shall be incumbent upon any tertiary education and training provider once registered to apply to the Authority for institutional accreditation and accreditation or recognition of programmes and courses that it intends to offer.

(4) It shall be incumbent upon any school once established or registered to submit an annual self-evaluation report to the Authority as evidence of adherence to prescribed quality standards and in preparation for inspection by the Authority.

(5) The Authority shall issue a compliance notice to a provider where the Authority is satisfied that the provider is not complying with any prescribed requirements for maintaining its accreditation or recognition status, and accreditation or recognition of its programmes and courses.

(6) Subject to subsection (5), the Authority shall cancel or suspend the accreditation or recognition of a programme or course, or the accreditation or recognition of a provider where that provider does not comply with a compliance notice.

(7) Nothing in subsection (6) prohibits the right of a provider to reapply for institutional accreditation or recognition, or re-accreditation or recognition of its programmes and courses, once accreditation or recognition requirements have been complied with.

(8) The Authority shall issue a compliance notice to a provider of education and training where the Authority is satisfied that the provider is offering a programme or course that is not accredited or recognised, or its accreditation or recognition status is not recognised by the Authority.

(9) Subject to subsection (8), the Authority shall cause to discontinue or suspend the offering of a non-accredited or non-recognised programme or course where that provider does not comply with a compliance notice.

(10) Nothing in subsection (9) prohibits the right of a provider to offer the programme or course once accreditation or recognition requirements have been complied with.

(11) A provider that fails to comply with the provisions of this Act for which a specific penalty has not been provided commits an offence and shall be liable upon conviction to a fine not exceeding SCR50,000.

### **Repeal and savings**

**32.(1)** The Seychelles Qualifications Authority Act (Cap 323) is hereby repealed.

(2) Notwithstanding the repeal of the Seychelles Qualifications Authority Act —

- (a) any acts done or commenced under the repealed Act, where such act is within the powers of the Authority, shall be carried on and completed by or under the authority of the Authority under this Act;
- (b) any statutory instrument or regulations made under the repealed Act, shall to the extent that they are not inconsistent with this Act, continue in force as statutory instruments or

regulations made under this Act until amended or repealed by a statutory instrument or regulations made under this Act;

- (c) all officers or employees of the Seychelles Qualifications Authority appointed under the repealed Act, shall be deemed to be officers and employees of the Authority under this Act on the terms and conditions no less favourable than those subsisting immediately prior to the coming into operations of this Act.

### **Transfer of assets**

**33.(1)** As from the commencement of this Act, all moveable property vested in the Seychelles Qualifications Authority established under section 3 of the Seychelles Qualifications Authority, Act (Cap 323) immediately before that date and used and managed by the aforesaid and all assets, rights, interests, privileges, liabilities and obligations, shall, subject to subsection (2), be transferred to and vested in the Authority.

(2) If any question arises as to whether any particular immovable and moveable property or any particular asset, right, interest, liability or obligation has been transferred to or vested in the Authority under subsection (1), a certificate signed by the Minister shall be conclusive evidence that the property, asset, right, interest, liability or obligation was or was not so transferred or vested as the case may be.

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**SEYCHELLES NATIONAL YOUTH COUNCIL (AMENDMENT)  
BILL, 2021**

*(Bill No. 55 of 2021)*

**OBJECTS AND REASONS**

The Seychelles National Youth Council Act, 1997 (Cap 319) (hereinafter “*the Act*”) was enacted to provide for the establishment of the National Youth Council, its composition, functions and mandates and for the development of the youth and for matters connected therewith or incidental thereto. The affairs of the Seychelles National Youth Council is managed and administered by a Board of the Council consisting of persons elected by the General Assembly.

The President, in his address to the Nation on the 1<sup>st</sup> of February, 2021, made an announcement pertaining to the restructuring of statutory and other parastatal bodies.

In order to give effect to the announcement made by the President, this Bill proposes to repeal the provisions relating to the Board of the Council and entrust its functions to the Minister.

Accordingly, in view of the above, this Bill proposes the substitution in the Act of section 6, the repeal of section 8 and the amendment of section 7.

The Bill seeks to achieve the above objectives.

**Dated this 28<sup>th</sup> day of OCTOBER, 2021.**

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

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**SEYCHELLES NATIONAL YOUTH COUNCIL (AMENDMENT)  
BILL, 2021**

*(Bill No. 55 of 2021)*

**ARRANGEMENT OF SECTIONS**

**Sections**

1. Short title
2. Substitution of section 6
3. Amendment of section 7
4. Repeal of section 8

**SEYCHELLES NATIONAL YOUTH COUNCIL (AMENDMENT)  
BILL, 2021**

*(Bill No. 55 of 2021)*



**A BILL  
FOR**

**AN ACT** TO AMEND THE SEYCHELLES NATIONAL YOUTH COUNCIL ACT, 1997 (*CAP 319*).

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

**Short title**

**1.** This Act may be cited as the Seychelles National Youth Council (Amendment) Act, 2021.

### **Substitution of Section 6**

2. Section 6 of the Seychelles National Youth Council Act, 1997 (Cap 319) (hereinafter referred to as the “principal Act”) is hereby repealed and substituted by the following —

#### **“Minister's responsibility**

6. The Minister shall be responsible for advising on and approving all matters relating to the functions of the Council.”.

### **Amendment of section 7**

3. Section 7 of the principal Act is amended in paragraph (b) by repealing the word “nominated” and substituting therefor the word “appointed”.

### **Repeal of section 8**

4. Section 8 of the principal Act is repealed.

**SEYCHELLES QUALIFICATIONS AUTHORITY BILL, 2021***(Bill No. 57 of 2021)***OBJECTS AND REASONS**

The Seychelles Qualifications Authority Act, Cap. 323, that came into operation on the 17<sup>th</sup> January 2006, established the Seychelles Qualifications Authority (hereinafter the “SQA”). The establishment of the SQA was followed by the establishment of the National Qualifications Framework in 2008.

After over a decade of operation of the SQA, a review of the Seychelles Qualifications Authority Act, Cap 323, was carried out with a view to address deficiencies in its implementation and to modernise it.

The Bill is the outcome of such review.

The Bill provides for the following —

- (a) to formalise relevant government policies and circulars;
- (b) the revision of terms and expression used in the Seychelles Qualifications Authority Act, Cap. 323 that have evolved during the past years;
- (c) ensuring that the content of the law is at par with international trends and developments in quality assurance and national qualifications frameworks;
- (d) for entities to appeal against a decision of the Seychelles Qualifications Authority;
- (e) for statement of attainment, academic awards and transcripts;
- (f) to better safeguard the interest of learners;
- (g) enforcing compliance with the provisions of the Act;

- (h) to effectively quality assure the whole education and training system and build quality assurance capacity;
- (i) to harmonise the provisions of Bill with relevant provisions of the Education Act (Cap. 68) and the Tertiary Education Act (*Act 12 of 2011*);
- (j) to make provision for merger of the Seychelles Qualifications Authority and Inspectorate unit;
- (k) to make provision for transfer of the function relating to quality assurance from the Tertiary Education Commission established under the Tertiary Education Act (*Act 12 of 2011*) to the Seychelles Qualifications Authority upon the anticipated dissolution of the Tertiary Education Commission.

The Bill also gives effect to the Revised Convention on the Recognition of Studies, Certificates, Diplomas, Degrees and Other Academic Qualifications in Higher Education in African States, 2014 (Addis Convention) which Seychelles ratified in November 2019.

**Dated this 28<sup>th</sup> day of OCTOBER, 2021.**

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

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## **SEYCHELLES QUALIFICATIONS AUTHORITY BILL, 2021**

*(Bill No. 57 of 2021)*

### **ARRANGEMENT OF SECTIONS**

#### **Part 1 - Preliminary**

1. Short title and commencement
2. Interpretation

#### **Part 2 - Seychelles Qualifications Authority**

3. Establishment of the Seychelles Qualifications Authority
4. Object and functions of the Authority
5. Powers of the Authority
6. Power to require information
7. Protection of terms

#### **Part 3 - The Board of the Authority**

8. Constitution of the Board
9. Tenure of office
10. Resignation
11. Vacation of office
12. Filling of vacancies
13. Meeting and proceedings of the Board
14. Establishment of Committees
15. Allowances of committee members
16. Secretary of the Board
17. Disclosure of interest
18. Confidentiality

#### **Part 4 - Administration of the Authority**

19. Chief Executive Officer
20. Responsibilities of Chief Executive Officer
21. Staff of the Authority
22. Reports by the Authority
23. Directions issued by the Minister

**Part 5 - Financial Provision**

- 24. Funds of the Authority
- 25. Accounts and audit
- 26. Annual Report
- 27. Application of certain Penal Code provisions
- 28. Protection of acts done in good faith

**Part 6 - Miscellaneous Provisions**

- 29. Regulations
- 30. Appeals
- 31. Compliance
- 32. Repeal and savings
- 33. Transfer of assets

**SEYCHELLES QUALIFICATIONS AUTHORITY BILL, 2021**

*(Bill No. 57 of 2021)*



**A BILL**

**FOR**

**AN ACT** TO PROVIDE FOR THE DEVELOPMENT, IMPLEMENTATION AND MAINTENANCE OF A NATIONAL QUALIFICATIONS FRAMEWORK AND THE QUALITY ASSURANCE OF EDUCATION AND TRAINING.

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

**Part I - Preliminary**

**Short title and commencement**

**1.** This Act may be cited as the Seychelles Qualifications Authority Act, 2021 and shall come into operation on such date as the President may, by notice in the *Gazette*, appoint.

## **Interpretation**

### **2. In this Act —**

“accreditation” means a process of assessment and review which enables a person, a tertiary education and training provider, or a programme of education and training to be recognised and certified for a specified period of time by the Authority as meeting and conforming to appropriate standards of quality set by the Authority;

“Authority” means the Seychelles Qualifications Authority established under section 3;

“Board” means the Board of the Authority constituted under section 8;

“certification” means the formal recognition of a learner's achievement of the required number and range of credits or other requirements at a specified level of the National Qualifications Framework;

“Chairperson” means the Chairperson of the Board appointed under section 8;

“Chief Executive Officer” means the Chief Executive Officer of the Authority appointed under section 20;

“committee” means a committee established under section 14;

“competence” means the knowledge, skills, attitudes and personal attributes combined with the underlying understanding to perform all or some of the functions of an occupation or a profession;

“course” means a self-contained teaching or learning component of a programme that is integral to that programme, representing a discrete part of the learning to be achieved and is based on an

overall clear aim, specific learning outcomes, content and assessment procedures;

“credit accumulation” means the totalling of relevant credits required to complete a qualification or a part-qualification;

“credit transfer” means the vertical, horizontal or diagonal relocation of credits towards a qualification or part-qualification on the same or different level, usually between different programmes, departments or institutions;

“enrolled learner” means a learner who has enrolled in a programme or a course of education and training and registered as such by a provider;

“entity” means a person or a partnership, organisation, or business that has a legal and separately identifiable existence;

“equivalence of qualifications” means a process of formally establishing that two qualifications are of comparable standard or level;

“evaluation of foreign qualifications” means the process followed by the Authority to verify the authenticity of foreign qualifications and to compare foreign qualifications with national and international qualifications registered on the National Qualifications Framework;

“institutional accreditation” means recognition status granted to a provider by the Authority for a stipulated period of time after an evaluation through self-assessment and external review indicates that it meets or exceeds established standards for educational quality set by the Authority;

“international learner” means a learner with a foreign nationality who, on the basis of a residence permit granted for the purpose by the Department of Immigration, desires to continue, continues or has continued his or her education at a tertiary education institution in Seychelles;

“learner” means a person who is acquiring or has acquired knowledge, skills, attitudes, personal attributes or competencies;

“member” means a member of the Board appointed under section 8;

“Minister” means the Minister responsible for education;

“National Qualifications Framework” means a comprehensive system approved by the Minister for the development, classification, registration, publication, evaluation and articulation of quality-assured qualifications;

“part qualification” means an assessed unit of learning that is registered by the Authority as part of a qualification, including a course and a unit standard;

“post compulsory education and training” means education and training after compulsory education;

“programme” means a planned combination of a coherent set of courses designed to meet the requirements of a qualification;

“programme accreditation” means recognition status granted to a programme by the Authority for a stipulated period of time after an evaluation by the Authority indicates that it meets standards of quality.

“programme of education and training” means a process by which learners acquire knowledge, skills, attitudes, personal attributes and competence;

“provider” means an entity that intends to offer or is offering education and training in Seychelles, whether public or private, and registered as such by the ministry responsible for education or the Seychelles Qualifications Authority;

“qualification” means a registered national qualification;

“quality assurance” means an ongoing process of evaluating and enhancing the quality of the education system, providers or programme, for ensuring that the required standards as determined by the Authority are maintained and enhanced;

“recognition of foreign qualifications” means the formal acceptance of the appropriateness of a foreign qualification for a specific purpose;

“Recognition of Prior Learning” means principles and processes through which the prior knowledge and skills of a person are made visible, mediated and assessed for the purposes of alternative access and admission, recognition and certification, or further learning and development;

“school” means a provider of general education established by its owner, whether public or private, and in the case of a private provider, also registered by the ministry responsible for education;

“school inspection” means the formal exercise of critically examining and evaluating a provider of general education as a place for teaching and learning in order to ensure that high standards are maintained through improving the quality of the schools' self-evaluation processes and setting up of standards to enhance the quality of education;

“tertiary education” means learning programmes or courses provided by tertiary education and training providers leading to qualifications or part qualifications from level 3 to level 10 of the National Qualifications Framework;

“tertiary education and training provider” means an entity that provides or organises a programme or course of tertiary education and training including the provision of professional development services;

“unit standard” means a statement of the outcome of any learning

assessed, the type and quality of evidence that represents performance worthy of an award of credits and the context in which that evidence should be demonstrated;

“Vice Chairperson” means the person appointed as Vice Chairperson of the Board under section 8.

## **Part 2 - Seychelles Qualifications Authority**

### **Establishment of the Seychelles Qualifications Authority**

3. There is hereby established the Seychelles Qualifications Authority which shall be a body corporate with perpetual succession and a common seal, capable of suing and being sued in its corporate name.

### **Object and functions of the Authority**

4.(1) The object of the Authority shall be to develop, implement and maintain a national qualifications framework and to provide for quality assurance of the education and training system nationally.

(2) In pursuing the object, the Authority shall have the following functions —

- (a) recognise, evaluate and register national qualifications and part qualifications on the National Qualifications Framework;
- (b) generate and register national unit standards and qualifications for occupations and professions and ensure their relevance to social and economic needs;
- (c) maintain a national database of registered and accredited providers, programmes, qualifications and part qualifications, as prescribed;
- (d) design, develop and implement a common quality assurance system, and regulate compliance therewith;

- (e) develop and review quality standards and ensure compliance by providers through a monitoring system;
- (f) accredit tertiary education and training providers and other providers of post compulsory education and training and monitor that such providers continue to comply with prescribed standards and criteria
- (g) accredit programmes and courses of education and training and monitor that such programmes and courses continue to comply with prescribed standards and criteria;
- (h) conduct inspection of established and registered schools to ensure national education quality and standards are maintained;
- (i) review the policies and criteria on which the National Qualifications Framework is based;
- (j) establish policy, criteria and procedures for, and monitor the process of evaluation and recognition of competencies acquired formally, informally and non-formally through Recognition of Prior Learning;
- (k) establish policy and criteria for credit accumulation and credit transfer;
- (l) recognise, evaluate and establish equivalence of foreign qualifications to the levels of the National Qualifications Framework and record the decisions made;
- (m) develop policy and criteria for the recognition of foreign programmes leading to the award. of qualifications and part qualifications delivered by or through local tertiary education and training providers;
- (n) develop policy for recognition by the Authority of any

foreign qualification before the qualification bearer may be entitled to enter into an occupation or a profession;

- (o) promote international recognition of the national qualifications and the international comparability of national qualifications;
- (p) register tertiary education and training providers and other providers of post compulsory education and training and maintain a register to this effect;
- (q) establish criteria for classification of providers and for the transitioning from one category of provider to another in accordance with this Act and made hereunder;
- (r) establish criteria and procedures for the protection of the interests of enrolled learners, which include arrangements for the protection of learners where learners have begun but not completed a programme of education and training where a provider ceases to provide the programme before completion, or ceases to operate;
- (s) establish standards and criteria for teachers and lecturers of providers to deliver programmes and courses to ensure learners are protected;
- (t) provide a national advisory service on foreign qualifications and foreign providers of education and training;
- (u) collaborate with international counterparts on all matters of mutual interest concerning national qualifications frameworks;
- (v) advise the Minister on matters relating to the functions of the Authority and perform any function consistent with this Act that the Minister may, by regulations, determine;

- (w) do all such things and perform all such functions as may be necessary or conducive for the achievement of the purposes of this Act.
- (2) The Authority, in the performance of its functions shall —
- (a) inform itself of the needs of commerce, industry, the professions and the public service pertaining to education, training, skills and qualifications and promote practices in education and training which would meet those needs;
  - (b) inform itself of practices outside the Republic in respect of matters relevant to its object and functions;
  - (c) consult as it considers appropriate, with providers, professional bodies, and any other entities the Authority considers appropriate in making decisions;
  - (d) give effect to such policies of the Government relating to education and training as are notified in writing to the Authority by the Minister; and
  - (e) collect any information relating to the performance of its functions it considers appropriate.

### **Powers of the Authority**

5.(1) The Authority shall have all powers necessary or expedient for the performance of its functions including the power to —

- (a) liaise or enter into agreements with any entity within or outside Seychelles;
- (b) enforce compliance to the provisions of this Act and the elements of the National Qualifications Framework; and
- (c) charge such fees as may be prescribed in respect of any service provided by the Authority.

### **Power to require information**

6.(1) The Authority may, by notice in writing require, from any person, provider, or any other entity such information as the Authority deems necessary, for the purposes of the performance of its functions under this Act.

(2) Where any person or other entity is required to furnish any information to the Authority under subsection (1), it shall be the duty of such person or entity to comply with the request.

(3) A person or other entity who contravenes subsection (2) commits an offence and shall on conviction be liable to a fine of SCR20,000.

(4) A person who obtains any information for the Authority under this provision shall take every reasonable step to ensure that such information is kept in such manner to ensure that the contents of the information are kept confidential and used only for the purposes of performing the functions of the Authority.

### **Protection of terms**

7.(1) The term “National” when used in conjunction with a qualification type on the National Qualifications Framework shall apply to a local qualification recognised by the Authority.

(2) The generic terms “Certificate”, “Diploma” and “Degree” shall refer to qualifications accredited or recognised by the Authority.

## **Part 3 - The Board of the Authority**

### **Constitution of the Board**

8.(1) There shall be a Board of the Authority, which shall be the governing body of the Authority.

(2) The Board shall consist of 7 members appointed by the President by notice in the *Gazette* on such terms and conditions as the President may determine.

(3) There shall be paid to the members of the Board such remuneration or allowances as the Government may from time to time determine.

(4) Appointments shall be made on the recommendation of the Minister.

(5) In recommending members to the Board for appointment, the Minister shall give due consideration for representation from ministries, agencies, civil society and the private sector whose operations have implications for, or may be affected by the National Qualifications Framework.

(6) The Minister shall also have regard to the need for its members to collectively have a breadth of experience and expertise, and depth of knowledge, to be able to effectively contribute to the development of the National Qualifications Framework and quality assurance in education and training in Seychelles.

(7) Staff of providers shall not be eligible to be appointed as members of the Board.

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

(9) The Chief Executive Officer of the Authority shall be an *ex officio* member of the Board but shall not have right to vote.

### **Tenure of office**

9. A member of the Board shall hold office for a period of 3 years and shall be eligible for reappointment on completion of the term of appointment.

### **Resignation**

10. A member may resign his or her office by giving one month's notice in writing, to the President.

**Vacation of office**

11. The office of a member shall become vacant —
- (a) if the member has been absent without leave of the Board from three consecutive meetings of the Board;
  - (b) on ceasing to hold the office by virtue of which the member was appointed;
  - (c) if the member is convicted of an offence under any written law and sentenced to imprisonment for a term of 3 months or more without the option of fine;
  - (d) upon expiry of one month's notice under section 10;
  - (e) if the member is mentally or physically incapable of carrying out his or her functions under this act.

**Filling of vacancies**

12.(1) Where the office of a member becomes vacant before the expiry of the member's term of office, the President shall appoint a person to fill the vacancy for the remaining period of the term for which that member was appointed.

(2) Subsection (1) shall not apply where the remaining period of the term of office of the member whose office has become vacant is less than six months.

(3) Where the Chairperson or the Vice-Chairperson vacates office, a new Chairperson or Vice-Chairperson, as the case may be, shall be appointed by the President.

(4) The Chairperson or Vice-Chairperson may vacate his or her office whilst remaining a member of the Board.

(5) The Vice-Chairperson shall exercise the functions of the Chairperson during any period the Chairperson is absent or unable to act as Chairperson.

### **Meetings and proceedings of the Board**

13.(1) Subject to the provisions of this Act, the Board shall regulate its own proceedings.

(2) The Board shall meet at such times and places as the Chairperson may determine provided that at least four meetings shall be held in a year.

(3) The Chairperson may convene a meeting of the Board after giving notice, in writing, of not less than 14 working days, but if the urgency of the matter does not permit giving of such notice, a special meeting may be convened after giving of a shorter notice.

(4) Where 4 members request the Chairperson, by notice in writing to convene a meeting of the Board for any purpose specified in the notice, the Chairperson shall, within 10 working days from the receipt of the notice, convene a meeting for that purpose.

(5) The Board may invite any person whose presence it deems necessary to attend and participate in the deliberations of a meeting of the Board, but such person shall have no right to vote.

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

(7) The Board shall cause to be kept minutes of the proceedings of every meeting of the Board and every meeting of any committee established by the Board.

(8) Five members shall constitute a quorum for a meeting.

### **Establishment of Committees**

14.(1) The Board may, for the purpose of discharging any of its functions under this Act, constitute committees as it considers appropriate.

(2) A committee constituted under subsection (1) may consist of one or more members of the Board and one or more other persons with specialised skills as the Board may consider necessary.

(3) The persons with specialised skills shall be appointed as members of the committee for a term as the Board may determine.

(4) The Board shall appoint one of the members of the committee who is a member of the Board as Chairperson of the committee.

(5) An officer of the Authority appointed in writing by the Chief Executive Officer shall be the secretary to the committee and shall, on the instruction of the Chairperson of the committee, convene meetings of the committee.

(6) The meetings of a committee shall be held at such times and place as the committee may determine, or as the Board may direct.

(7) Subject to any specific or general directions of the Board, a committee established under subsection (1) may regulate its own procedure.

### **Allowances of committee members**

**15.** A member of a committee of the Board shall be paid such allowances as the Authority may, with the approval of the Board, determine.

### **Secretary of the Board**

**16.(1)** An officer of the Authority appointed in writing by the Chief Executive Officer shall be secretary to the Board, or the Board shall appoint a secretary from among the Board members.

(2) The secretary of the Board if not a member of the Board, shall attend meetings of the Board but shall have no right to vote.

(3) The secretary shall be responsible for recording the Board's proceedings and decisions.

(4) There shall be paid to the secretary of the Board, if not a member of the Board, such remuneration or allowances as the Government may from time to time determine.

### **Disclosure of interest**

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

(2) A disclosure of interest made under subsection (1) shall be recorded in the minutes of the meeting at which it is made.

### **Confidentiality**

18.(1) A member or any other person assisting the Board shall observe and preserve the confidentiality of all matters coming before the Board, and such confidentiality shall subsist even after the termination of their terms of office or their mandates.

(2) Any member or any person to whom confidential information is revealed through working with the Board or committee of the Board shall not disclose that information to any other person unless he or she is required to do so in terms of any written law or for purposes of any judicial proceedings.

(3) A person who contravenes subsection (2) commits an offence and shall be liable upon conviction to a fine not exceeding SCR20,000.

### **Part 4 - Administration of the Authority Chief Executive Officer**

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

(2) The Minister shall invite applications for the post of Chief Executive Officer and constitute an interview panel to consider the applications.

(3) The interview panel shall prepare and submit a list of qualified

candidates to the Minister and the Minister shall make a recommendation of not less than 3 candidates as far as practicable to the President for consideration and appointment.

### **Responsibilities of Chief Executive Officer**

- 20.** The Chief Executive Officer shall —
- (a) be responsible for the day-to-day management of the affairs of the Authority subject to such directions on matters of policy as may be given by the Board;
  - (b) be accountable to the Board for the discharge of the functions delegated by the Board;
  - (c) be the chief accounting officer of the Authority;
  - (d) be responsible for the development, implementation and maintenance of the National Qualifications Framework;
  - (e) be responsible for the organisation, control and management of all staff of the Authority.

### **Staff of the Authority**

**21.(1)** The Chief Executive Officer shall appoint staff of the Authority as it deems necessary for the efficient discharge of the functions of the Authority.

(2) Where a person is transferred to the Authority from the public service, the terms and conditions applicable to that person shall not be less favourable than those enjoyed by that person immediately before the transfer.

### **Reports by the Authority**

**22.** The Authority shall furnish the Minister with such information on its activities as the Minister may from time to time require.

### **Directions issued by the Minister**

**23.** The Minister may, issue directions not inconsistent with the provisions of this Act to the Authority as to the exercise of its powers or performance of its duties and the Authority shall give effect to such direction.

## **Part 5 - Financial Provision**

### **Funds of the Authority**

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

- (a) such monies appropriated by the National Assembly for purposes of the Authority;
- (b) such grants and donations as the Authority may receive.

(2) The Authority shall use the funds acquired under subsection (1) to meet the costs incurred for its operations and the discharge of its functions.

### **Accounts and audit**

**25.**(1) The financial year of the Authority shall be the period of 12 months ending on 31<sup>st</sup> December of each year.

(2) The Authority shall keep proper books of account of its income, receipts and expenditure.

(3) The accounts of the Authority shall be audited not later than the 31<sup>st</sup> of each year after the end of each financial year by the Auditor General in accordance with Article 158 of the Constitution.

### **Annual Report**

**26.**(1) The Authority shall within three months of completion of the audit of its account in respect of any financial year, submit to the Minister —

- (a) a copy of its audited accounts; and
- (b) a written report of its operations and activities for that financial year.

(2) The Minister shall, within 30 days of receiving the Authority's audited accounts, and report, cause them to be laid before the National Assembly.

### **Application of certain Penal Code provisions**

27. All employees of the Authority shall be deemed to be employed in the public service for the purpose of sections 91 to 96 of the Penal Code.

### **Protection of acts done in good faith**

28. No liability civil or criminal, shall lie against the Authority, the Chairperson, Vice-Chairperson or a member of the Board or committee of the Board, employee of the Authority or any person acting under any authority conferred by the Authority, in respect of an act done or omitted to be done in good faith in the exercise or performance or purported exercise or performance of any of the powers, functions or duties conferred by or under this Act or any regulations made thereunder.

## **PART 6 - Miscellaneous Provisions**

### **Regulations**

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

(2) Without prejudice to the generality of subsection (1), the regulations may provide for —

- (a) the establishment of the National Qualifications Framework;
- (b) the structure' of the National Qualifications Framework;
- (c) the qualification types;
- (d) unit standard types;
- (e) the structure of qualifications;
- (f) standards setting;
- (g) quality assurance including —
  - (i) institutional accreditation ' and monitoring of tertiary

- education and training providers and other providers of post compulsory education and training;
- (ii) school inspection;
  - (iii) accrediting and monitoring of programmes and courses;
  - (h) the form and manner of Statement of Attainment, Academic Transcript and Award;
  - (i) fees and charges payable under this Act;
  - (j) information management system;
  - (k) recognition and evaluation, and determination of equivalences of qualifications and part qualifications within the National Qualifications Framework;
  - (l) protection of learners, including international learners;
  - (m) appeals;
  - (n) withdrawal of recognition or accreditation of a provider or a programme accredited or recognised under this Act; and
  - (o) registration and revocation of registration of providers.

**30.(1)** There shall be established an Appeals Committee appointed by the Minister to hear appeals from providers, persons including learners, and any other entity in relation to the decisions of the Authority.

(2) Decisions of the Authority shall constitute any decision of the Authority in relation to the functions of the Authority as set in section 4 (2) that may affect providers, persons and any other entity.

(3) The Appeals Committee shall consist of a maximum of 5 members with expertise in, or knowledge of, education and training or the functions of the Authority, other than members of the Board or staff of the Authority.

(4) The Chairperson and two other members of the Appeals Committee shall form a quorum for a meeting of the Appeals Committee.

(5) A member of the Appeals Committee shall hold office for a period of 3 years and shall be eligible for reappointment on completion of the term of appointment.

(6) A member of the Appeals Committee may at any time resign from his or her office by giving a notice in writing to the Chairperson of the Board.

(7) A member of the Appeals Committee shall be paid such allowances as the Authority may, with the approval of the Board, determine.

(8) Subject to this Act, the Appeals Committee shall regulate its proceedings.

### **Compliance**

**31.**(1) Providers, employers, and other entities shall comply with the provisions of this Act.

(2) The Authority shall hold providers to account for breach of their responsibilities under this law.

(3) It shall be incumbent upon any tertiary education and training provider once registered to apply to the Authority for institutional accreditation and accreditation or recognition of programmes and courses that it intends to offer.

(4) It shall be incumbent upon any school once established or registered to submit an annual self-evaluation report to the Authority as evidence of adherence to prescribed quality standards and in preparation for inspection by the Authority.

(5) The Authority shall issue a compliance notice to a provider where the Authority is satisfied that the provider is not complying with any prescribed requirements for maintaining its accreditation or recognition status, and accreditation or recognition of its programmes and courses.

(6) Subject to subsection (5), the Authority shall cancel or suspend the accreditation or recognition of a programme or course, or the accreditation or recognition of a provider where that provider does not comply with a compliance notice.

(7) Nothing in subsection (6) prohibits the right of a provider to reapply for institutional accreditation or recognition, or re-accreditation or recognition of its programmes and courses, once accreditation or recognition requirements have been complied with.

(8) The Authority shall issue a compliance notice to a provider of education and training where the Authority is satisfied that the provider is offering a programme or course that is not accredited or recognised, or its accreditation or recognition status is not recognised by the Authority.

(9) Subject to subsection (8), the Authority shall cause to discontinue or suspend the offering of a non-accredited or non-recognised programme or course where that provider does not comply with a compliance notice.

(10) Nothing in subsection (9) prohibits the right of a provider to offer the programme or course once accreditation or recognition requirements have been complied with.

(11) A provider that fails to comply with the provisions of this Act for which a specific penalty has not been provided commits an offence and shall be liable upon conviction to a fine not exceeding SCR50,000.

### **Repeal and savings**

**32.(1)** The Seychelles Qualifications Authority Act (Cap 323) is hereby repealed.

(2) Notwithstanding the repeal of the Seychelles Qualifications Authority Act —

- (a) any acts done or commenced under the repealed Act, where such act is within the powers of the Authority, shall be carried on and completed by or under the authority of the Authority under this Act;
- (b) any statutory instrument or regulations made under the repealed Act, shall to the extent that they are not inconsistent with this Act, continue in force as statutory instruments or

regulations made under this Act until amended or repealed by a statutory instrument or regulations made under this Act;

- (c) all officers or employees of the Seychelles Qualifications Authority appointed under the repealed Act, shall be deemed to be officers and employees of the Authority under this Act on the terms and conditions no less favourable than those subsisting immediately prior to the coming into operations of this Act.

### **Transfer of assets**

**33.(1)** As from the commencement of this Act, all moveable property vested in the Seychelles Qualifications Authority established under section 3 of the Seychelles Qualifications Authority, Act (Cap 323) immediately before that date and used and managed by the aforesaid and all assets, rights, interests, privileges, liabilities and obligations, shall, subject to subsection (2), be transferred to and vested in the Authority.

(2) If any question arises as to whether any particular immovable and moveable property or any particular asset, right, interest, liability or obligation has been transferred to or vested in the Authority under subsection (1), a certificate signed by the Minister shall be conclusive evidence that the property, asset, right, interest, liability or obligation was or was not so transferred or vested as the case may be.

**EMPLOYMENT (SUSPENSION OF THIRTEENTH MONTH PAY)  
BILL, 2021**

*(Bill No. 56 of 2021)*

**OBJECTS AND REASONS**

This Bill seeks to suspend the payment of the thirteenth month pay payable to workers under the Employment Act (Cap 69).

**Dated this 28<sup>th</sup> day of OCTOBER, 2021.**

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

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**EMPLOYMENT (SUSPENSION OF THIRTEENTH MONTH PAY)  
BILL, 2021**

*(Bill No. 56 of 2021)*

**ARRANGEMENT OF SECTIONS**

**Sections**

1. Short title
2. Suspension of thirteenth month pay under Cap. 69

**EMPLOYMENT (SUSPENSION OF THIRTEENTH MONTH PAY)  
BILL, 2021**

*(Bill No. 56 of 2021)*



**A BILL**

**FOR**

**AN ACT** TO SUSPEND THE PAYMENT OF THE THIRTEENTH MONTH PAY PAYABLE TO WORKERS UNDER THE EMPLOYMENT ACT (CAP. 69) IN RESPECT OF THE YEAR 2021.

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

**Short title**

1. This Act may be cited as the Employment (Suspension of Thirteenth Month Pay) Act, 2021.

**Suspension of thirteenth month pay under Cap. 69**

2.(1) The payment of the thirteenth month pay under section 46C of the Employment Act in respect of the period from 1<sup>st</sup> January, 2021 to 31<sup>st</sup> December, 2021, due on 31<sup>st</sup> December, 2021 and payable on or before 31<sup>st</sup> January 2022, is hereby suspended.

(2) Notwithstanding subsection (1), if any employer pays the thirteenth month pay to his or her workers in respect of the year 2021, such payment shall be eligible for exemption under the Second Schedule to the Income and Non-Monetary Benefits Tax Act (Cap 273).

**SEYCHELLES INFRASTRUCTURE AGENCY BILL, 2021**

*(Bill No 54 of 2021)*

**OBJECTS AND REASONS**

The object of this Bill is to establish an Agency known as the Seychelles Infrastructure Agency.

Once enacted, the Seychelles Infrastructure Agency will provide technical services for Government construction projects and maintenance of Government properties.

The technical services to be provided by the Agency shall comprise structural surveys, appraisal of projects, concept planning, detailed designs, cost estimates, procurement of construction or consultancy services through tendering, tender evaluation, awards and supervision during the construction stage.

The Agency shall in addition provide property management and maintenance services to ministries and Government departments administering buildings and properties.

For proper policy guidance and administration of the Agency, the Bill seeks to establish the Inter-Ministerial Committee. This Committee will be the Board of Directors of the Agency. Chaired by the Minister responsible for lands, the composition and functions of the Committee are specified in Part III of the Bill.

In Part IV, the Bill provides for the appointment of The Chief Executive Officer, who will be head of the Agency, and responsible for the management of the day-to-day affairs of the Agency. Under him or her will be the Chief Operations officer and other staff of the Agency. It is proposed that the Chief Executive Officer of the Agency shall be an ex-officio member and secretary of the Inter-Ministerial Committee.

In Part V, the Bill seeks to fund the Agency through monies appropriated by the National Assembly. Delegated funds, accounts and audit, accountability,

annual operational plans and annual reports are also made provision for under this Part.

Finally, Part VI of the Bill deals with miscellaneous matters. Transfer of assets and liabilities, transfer of staff and employees, acquisition and disposal of land, application of certain provisions of the Penal and protection of acts done in good faith are dealt with under this Part. In addition, the Minister is mandated to make regulations for the better carrying into effect, the provisions of the Bill.

**Dated this 28<sup>th</sup> day of OCTOBER, 2021.**

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

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# **SEYCHELLES INFRASTRUCTURE AGENCY BILL, 2021**

*(Bill No. 54 of 2021)*

## **ARRANGEMENT OF SECTIONS**

### **Section**

#### **PART I - PRELIMINARY**

1. Short Title
2. Interpretation

#### **PART II - SEYCHELLES INFRASTRUCTURE AGENCY**

3. Establishment of the Agency
4. Object of the Agency
5. Functions of the Agency
6. Powers of the Minister

#### **PART III - INTER-MINISTERIAL COMMITTEE**

7. Establishment and composition of the Committee
8. Functions of the Committee
9. Meetings of the Committee

#### **PART IV - ADMINISTRATION OF THE AGENCY**

10. Chief Executive Officer
11. Chief Operations Officers
12. Employment of staff

#### **PART V - FINANCIAL PROVISIONS**

13. Funds of the Agency
14. Delegated funds
15. Accounts and audit
16. Accountability
17. Annual operational plan
18. Annual report

**PART VI - MISCELLANEOUS**

19. Transfer of assets and liabilities
20. Transfer of staff and employees
21. Acquisition and disposal of land
22. Application of certain provisions of the Penal Code
23. Protection of acts done in good faith
24. Regulations

**SEYCHELLES INFRASTRUCTURE AGENCY BILL, 2021**

*(Bill No. 54 of 2021)*



**A BILL**

**FOR**

**AN ACT** TO ESTABLISH THE SEYCHELLES INFRASTRUCTURE AGENCY AND TO PROVIDE FOR OTHER RELATED MATTERS.

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

**PART I - PRELIMINARY**

**Short title**

**1.** This Act may be cited as the Seychelles Infrastructure Agency Act, 2021.

## **Interpretation**

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

“Agency” means the Seychelles Infrastructure Agency established under section 3;

“Chief Executive Officer” means the Chief Executive Officer of the Agency appointed under section 10;

“Chief Operations Officer” means a Chief Operations Officer provided for under section 11;

“Committee” means the Inter- Ministerial Committee established under section 7;

“member” means a member of the Committee;

“Minister” means the Minister responsible for lands and housing.

## **PART II - SEYCHELLES INFRASTRUCTURE AGENCY**

### **Establishment of the Agency**

3.(1) There is hereby established for the purpose of this Act, an agency known as the Seychelles Infrastructure Agency.

(2) The Agency is a body corporate.

### **Object of the Agency**

4. The object of the Agency is to provide technical services for civil engineering and construction projects to all government ministries, departments and agencies other than those specified in the Schedule, and to provide maintenance to government properties.

### **Functions of the Agency**

5. The functions of the Agency shall be to —

- 
- (a) advise on strategic planning of infrastructure and physical development projects;
  - (b) advise on the financial and cost implications for infrastructure and physical development projects, and on maintenance and property management requirements;
  - (c) provide surveys and assessments of physical conditions for government infrastructure and buildings;
  - (d) provide project designs, procurement of construction services and supervision of project implementation;
  - (e) provide technical support for procurement and supervision of services for maintenance of government infrastructure and buildings;
  - (f) advise on quality standards and policies for government infrastructure and buildings, and for construction services utilised by the government;
  - (g) record and keep register of rating of performance by contractors providing construction services for government projects;
  - (h) outsource and manage consultancy contracts for any specialised services in the construction sector on behalf of the government; and
  - (i) perform such other functions as the Minister may deem necessary.

### **Powers of the Minister**

6. The Minister shall exercise supervision over the Agency in the performance of its functions, and may give policy directives to the agency relating to planning of infrastructure and physical development in line with National development strategies and land use.

## **PART III - THE INTER-MINISTERIAL COMMITTEE**

### **Establishment and composition of the Committee**

7.(1) The Agency shall be administered by an inter-ministerial committee consisting of the following members —

- (a) the Chairperson who shall be the Minister responsible for the parent Ministry of the Agency;
- (b) the Minister responsible for environment and climate change who shall be the Vice-Chairperson;
- (c) a representative of the Department responsible for lands;
- (d) a representative of the department responsible for economic planning;
- (e) a representative of the financial planning and control division of the department of finance;
- (f) a representative of the department of legal affairs;
- (g) a representative of the department of transport;
- (h) a person with extensive experience in auditing or accounting, appointed by the Minister; and
- (i) the Chief Executive Officer who shall be an *ex-officio* member and the secretary to the Committee.

(2) A member of the Committee shall hold office for a term of 5 years and shall be eligible for re-appointment.

(3) A member of the Committee shall be paid such remuneration and allowances as the President may determine in line with Government policies.

### **Functions of the Committee**

8. The functions of the Committee shall be to —

- (a) review and approve development and project concept plans prepared by the Agency;
- (b) review and determine work and project priorities for implementation by the Agency;
- (c) review and recommend budget priorities for projects to the government based on integrated national development strategies;
- (d) mediate any disputes between the Agency and other ministries, departments or agencies;
- (e) monitor the performance of the Agency on implementation of projects and services; and
- (f) review and approve policies and standards prepared by the Agency.

### **Meetings of the Committee**

9.(1) A meeting of the Committee shall be held at such time and place as may be determined by the Chairperson of the Committee.

(2) Four members of the Committee shall constitute a quorum for a meeting of the Committee.

(3) The decision of a majority of the Members present at a meeting shall constitute a decision of the Committee, and, in the event of an equality of votes on any matter, the person presiding at such meeting shall have a casting vote in addition to his or her vote.

(4) Subject to the provisions of this Act and regulations made under this Act, the Committee may regulate its own proceedings.

## **PART IV - ADMINISTRATION OF THE AGENCY**

### **Chief Executive Officer**

10.(1) The Minister shall appoint a person whom the Minister considers to be suitably qualified and experienced to be Chief Executive Officer of the

Agency, on such terms and conditions of service as the Minister may determine in line with Government policies.

(2) The Chief Executive Officer shall be responsible for the management of the affairs of the Agency in accordance with the policies and directions of the Committee.

(3) The Chief Executive Officer shall be appointed for a term of three years and shall be eligible for reappointment.

(4) The Chief Executive Officer may delegate any of his or her functions to a Chief Operations Officer or any other employee of the Agency.

### **Chief Operations Officer**

**11.**(1) The Agency shall have a Chief Operations Officer who shall be appointed by the Committee.

(2) The Chief Operations Officer shall be in charge of a division of the Agency assigned to him or her, and shall report to the Chief Executive Officer.

### **Employment of staff**

**12.**(1) The Agency may employ officers and other members of staff necessary for the effective performance of its functions on the terms and conditions determined by the Committee.

(2) Every employee of the Agency shall be under the administrative control of the Chief Executive Officer.

## **PART V - FINANCIAL PROVISIONS**

### **Funds of the Agency**

**13.**(1) The funds of the Agency shall consist of moneys appropriated by the National Assembly for the use of the Agency.

(2) The funds of the Agency shall be applied for —

(a) the discharge of the expenses properly incurred by the Agency in the performance of its functions; and

- (b) the payment of remuneration of allowances to the members of the Committee and employees of the Agency.

### **Delegated funds**

14.(1) Funds appropriated for projects involving the implementation and maintenance of government properties shall be delegated to the Agency.

(2) The funds delegated under subsection (1) shall be under the control of the Agency and shall be solely utilised for purposes related to the projects for which they were appropriated.

### **Accounts and audit**

15.(1) The financial year of the agency shall be the calendar year.

(2) The Agency shall maintain proper accounts and other relevant records and prepare a statement of accounts in the form and manner approved by the Auditor General.

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

### **Accountability**

16.(1) The Chief Executive Officer shall be the accounting officer of the Agency.

(2) The Chief Executive Officer shall be charged with the responsibility of —

- (a) accounting for all moneys received and the utilisation thereof; and
- (b) the use and care of the assets of the Agency.

### **Annual operational plan**

17.(1) The Agency shall prepare a draft annual operational plan at least 60 days before the commencement of each financial year and submit it to the

Committee for approval, and shall submit a final annual operational plan not later than 30 days after the commencement of the financial year.

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

(3) The financial plan referred to under subsection (2) (c) shall include estimates of expenditure and revenue for the financial year next following.

(4) The Agency may amend the operational plan with the approval of the Committee.

### **Annual report**

**18.** The Agency shall, after the expiration of each financial year and in any event not later than the 31<sup>st</sup> day of March in any year, submit to the Minister, and the Minister responsible for finance, an annual performance report, outlining the performance of the agency and dealing generally with the administration and activities of the Agency during the preceding financial year.

## **PART VI - MISCELLANEOUS**

### **Transfer of assets and liabilities**

- 19.(1)** The Government may vest in or transfer to the Agency such —
- (a) movable and immovable properties vested in the Government immediately before the coming into force of this Act and used or managed by any Government Ministry, Department or Agency whose functions are being transferred to the Agency; and

- (b) assets, rights, interests, privileges, liabilities of the Government relating to any Ministry, Department or Agency for functions being transferred to the Agency.

(2) Where a question arises as to whether a particular movable or immovable property, asset, right, interest, privilege, liability or obligation has been transferred to or vested in the Agency under subsection (1), a certificate under the hand of the Minister shall be conclusive evidence that the property, asset, right, interest, privilege liability or obligation was or was not transferred or vested.

(3) All agreements, deeds, bonds, agreements relating to matters which fall within the scope of the objects and functions of the Agency, to which the Government is a party, subsisting immediately before the coming into force of this Act, shall continue and shall be enforceable by or against the Agency as if the Agency had been a party to the deed, bond, agreement or arrangement.

### **Transfer of staff and employees**

**20.(1)** All the persons employed in any Government Ministry, Department or Agency prior to the commencement of this Act, whose functions are being merged and transferred to the Agency, shall in accordance with their respective qualifications and competencies be transferred to the services of the Agency on terms and conditions not less favourable than those enjoyed by them before the transfer.

(2) Until such time as new terms and conditions of service are adopted, the terms and conditions of service as they exist presently shall continue to apply to every person transferred to the service of the Agency under subsection (1) as if the persons were still in the service of the Government.

### **Acquisition and disposal of land**

**21.(1)** Where land is required by the Agency in connection with the performance of its functions, upon approval of the Committee, the Agency shall request the Minister responsible for lands to acquire such land for that purpose and thereafter transfer or allocate use of the land to the Agency.

(2) The Agency shall not sell, exchange or otherwise dispose of land or interest in land vested in the Agency without the consent of the Minister responsible for lands.

### **Application of certain provisions of the Penal Code**

22. The members and employees of the Agency shall be deemed to be employed in the public service and sections 91 to 96 of the Penal Code shall apply to them.

### **Protection of acts done in good faith**

23. No civil or criminal liability shall attach to the Agency, an officer or employee of the Agency or a member of the Committee in respect of an act done or omission made in good faith in the performance of the functions of the Agency.

### **Regulations**

24. The Minister may make regulations for the carrying into effect the principles and provisions of this Act.

## **SCHEDULE**

*(Section 4)*

### **ORGANISATIONS EXCLUDED FROM APPLICATION OF THIS ACT**

1. Department of Transport
2. Seychelles Land Transport Agency
3. Non- Budget-Dependent Commercial Public Enterprises
4. Public Utilities Corporation
5. Public Enterprises with specialist technical mandates which include provision of technical services offered by the Agency.
6. Any other Department or Agency as the President may determine.