

CONSOLIDATED TO 1 DECEMBER 2014

LAWS OF SEYCHELLES

CHAPTER 103

INTERPRETATION AND GENERAL PROVISIONS ACT

[6th September 1976]

Act 22 of 1976
Dec 7 of 1977
Act 31 of 1980
Act 11 of 1982
Act 14 of 1984

Note: References to the Constitution in this Act are references to the Constitution in force on 31 December 1991.

ARRANGEMENT OF SECTIONS

INTERPRETATION AND GENERAL PROVISIONS ACT

PART I PRELIMINARY

1. Short title
2. Application
3. Republic bound

PART II GENERAL PROVISIONS RELATING TO ACTS

4. Acts to be public Acts
5. Acts to be divided into sections
6. Schedule, etc., part of an Act
7. Marginal notes, etc., not part of an Act
8. Punctuation

PART III PROVISIONS RELATING TO INTERPRETATION

9. Extent of application
10. Republic not bound
11. Acts always speaking
12. International obligations
13. Other rules of interpretation
14. Citation of references
15. Reference to a series of provisions
16. Descriptive references to other Acts etc
17. Application of rules of interpretation
18. Cognate words
19. Gender

20. Singular and plural
21. French expressions in Acts
22. Meaning of words in Acts

PART IV CITATION AND COMMENCEMENT OF ACTS

23. Citation of Acts
24. References to Act, etc., to include amendments
25. Commencement of Acts
26. Evidence of commencement of Act

PART V REPEAL, AMENDMENT AND EXPIRY OF ACTS

27. Amending Act construed with amended Act
28. Repealed Act not revived
29. Repeal of Act includes amending Acts and statutory instruments
30. Repeal and re-enactment
31. Effect of repeal of Act
32. Expiry, etc., of Act

PART VI POWERS AND DUTIES

33. Power to be exercised from time to time
34. Extent of powers conferred by Act
35. Construction of powers conferred by Act
36. Majority may act
37. Reference to holder of office
38. Appointment by name or office
39. Change of title of public officer
40. Power to relate back appointments
41. Exercise of power between passing and commencement of Act
42. Signification of the exercise or performance of functions

PART VII STATUTORY BODIES

43. Bodies corporate
44. Acts and proceedings of statutory body
45. Alternate member of body, etc.
46. Chairman, etc., of body

PART VIII GENERAL PROVISIONS REGARDING LEGAL PROCEEDINGS AND PENALTIES

47. Evidence of signature of authority
48. Evidence
49. Ex-officio proceedings not to abate
50. Power to determine includes authority to administer oath
51. Imposition of penalty no bar to civil action
52. Person not to be twice criminally responsible for same offence

53. Penalties are maximum penalties
54. Offences by bodies corporate
55. Service of documents and notices

PART IX MISCELLANEOUS

56. References to time
57. Rules for computing time
58. Distance
59. Gazette to be evidence
60. Fee to be paid
61. Deviation from form
62. Fines

PART X STATUTORY INSTRUMENTS

63. Publication of statutory instruments
64. Statutory instruments to be laid before National Assembly
65. Application of certain provisions to statutory instruments
66. Citation of statutory instrument
67. General provisions relating to statutory instruments
68. Power to make regulations
69. Fees
70. Effect of repeal, etc., of statutory instrument

NO SUBSIDIARY LEGISLATION

PART I PRELIMINARY

Short title

1. This Act may be cited as the Interpretation and General Provisions Act.

Application

2. (1) This Act applies to the interpretation of and otherwise in relation to
 - (a) this Act;
 - (b) any other Act enacted before the commencement of this Act, except in so far as a contrary intention appears in this Act or in the other Act; and
 - (c) any other Act enacted after the commencement of this Act, except in so far as a contrary intention appears in the other Act.
- (2) Part X applies to a statutory instrument, whether made before or after the

commencement of this Act, except in so far as a contrary intention appears in this Act or in the Act under which the statutory instrument is or was made.

Republic bound

3. This Act binds the Republic.

PART II GENERAL PROVISIONS RELATING TO ACTS

Acts to be public Acts

4. Every Act is a public Act and shall be judicially noticed as such.

Acts to be divided into sections

5. (1) Every Act enacted after the commencement of this Act shall be divided into sections.
(2) A section of an Act has effect as a substantive enactment without any introductory words.

Schedule, etc., part of an Act

6. (1) A Schedule to or table in an Act is part of the Act,
(2) Notes to a Schedule to or table in an Act are part of the Act.

Marginal notes, etc., not part of an Act

7. Marginal notes and headings in an Act and references to other Acts in the margin of or at the end of an Act do not form part of the Act and shall be treated as having been inserted for convenience or reference only.

Punctuation

8. Punctuation forms part of an Act, and regard shall be had to it accordingly in construing the Act.

PART III PROVISIONS RELATING TO INTERPRETATION

Extent of application

9. An Act extends to the whole of Seychelles in its application.

Republic not bound

10. An Act does not bind the Republic unless it is expressed to do so or unless it appears to do so by necessary implication.

Acts always speaking

11. (1) An Act shall be considered as always speaking.

(2) An Act or thing expressed in an Act in the present tense shall be applied to the circumstances as they arise so that effect may be given to the Act and every part of the Act according to its true spirit.

International obligations

12. A construction of an Act which is consistent with the international obligations of Seychelles is to be preferred to a construction which is not.

Other rules of interpretation

13. This Act does not exclude the application in any particular case of a rule of interpretation not referred to in this Act, but if this Act applies in the particular case the rule is applicable subject to this Act.

Citation of references

14. (1) Where a provision of an Act refers

(a) to a Part, section or Schedule by a number but does not identify it as being part of any particular Act, the reference shall be read and construed as a reference to the Part, section or Schedule, designated by that number, of or to the Act in which the reference occurs;

(b) to a Schedule but does not refer to it by a number or identify it as being a Schedule to any particular Act, the reference shall, if there is only one Schedule to the Act in which the reference occurs, be read and construed as a reference to the Schedule to the Act in which the reference occurs; or

(c) to a Division, subsection, paragraph, sub paragraph, clause, subclause, item or column by a number but does not identify it as being part of any particular Act, the reference shall be read and construed as a reference

(i) to the Division, designated by that number, of the Part in which the reference occurs;

(ii) to the subsection, designated by that number, of the section in which the reference occurs;

(iii) to the paragraph, designated by that number, of the section, subsection, Schedule or definition, or of the clause, subclause, item or column of, or in the Schedule, in which the reference occurs;

(iv) to the sub paragraph, designated by that number, of the paragraph in

which the reference occurs; or

(v) to the clause, subclause, item or column, designated by that number, of the Schedule in which the reference occurs,

as the case may require.

(2) In this section "number" means

(a) a number expressed in words or figures;

(b) a letter; or

(c) a combination of a number so expressed and a letter,

with or without parenthesis.

Reference to a series of provisions

15. (1) Where consecutive provisions of an Act are described by reference to the number or word by which the first and last of the provisions are designated, the description shall be read and construed as including the first and last of the provisions.

(2) In this section "number" has the same meaning as in section 14.

Descriptive references to other Acts etc

16. Words in an Act descriptive of another Act, statutory instrument or document shall not be used as an aid to the construction of that other Act, statutory instrument or document and are intended for convenience of reference only.

Application of rules of interpretation

17. Definitions and rules of interpretation in an Act apply to the provisions containing them as well as to the other provisions of the Act.

Cognate words

18. Where a word is defined in an Act, any grammatical variation of the word or any cognate word in the Act has a meaning corresponding to that defined word.

Gender

19. In an Act words importing the masculine gender include females and words importing the feminine gender include males.

Singular and plural

20. In an Act words in the singular include the plural and words in the plural include the singular.

French expressions in Acts

21. (1) Where in an Act terms or expressions of French Law are used, they shall be interpreted in accordance with French Law.

(2) Where in an Act English words are followed by terms or expressions of French Law in parenthesis, subsection (1) applies to those terms and expressions and the English words shall be treated as being the equivalent only of those terms or expressions.

Meaning of words in Acts

22. (1) In an Act, unless the context otherwise requires

"Act" means –

(a) an Act made under section 58 of the Constitution;

(b) any Act, Decree or Order in Council having effect as part of the law of Seychelles by virtue of section 15 of the Constitution of the Republic of Seychelles Decree, 1979.

"act", used with reference to an offence or a civil wrong, includes an omission and extends to a series of acts or omissions or a series of acts and omissions;

"amend" includes repeal, revoke, cancel, delete and replace, in whole or in part, add to, vary, and the doing of any two or more of any such things simultaneously or in the same Act;

"Assembly" or "People's Assembly" means the People's Assembly established under section 36 of the Constitution;

"attorney" means a person admitted to practise as such in Seychelles under any law relating to the admission of attorneys in Seychelles;

"Attorney General" means the Attorney General of the Republic appointed in accordance with the Constitution;

"bank" means a bank licensed to do banking business in Seychelles;

"barrister" means a person admitted to practise as such in Seychelles under any law relating to the admission of barristers in Seychelles;

"broker" means a sworn broker and exchange broker;

"Chief Justice" means the Chief Justice of the Supreme Court appointed under the Constitution;

"citizen of Seychelles" means a person who is a citizen of Seychelles in terms of Part II of the Constitution;

"Civil Code" means the Civil Code of Seychelles set out in the First Schedule to the Civil Code of Seychelles Act;

"civil status officer" means any officer performing duties in connection with the civil status;

"coin" means any coin legally current in Seychelles;

"commencement", used with reference to any Act, statutory instrument or any provision thereof, means the date on which it comes or came into operation

"Consolidated Fund" means the Consolidated Fund for the purposes of the Constitution;

"Constitution" means the Constitution of the Republic of Seychelles established by law;

"contravene", in relation to any requirement or condition prescribed in or under any Act, statutory instrument, instrument or document, includes a failure to comply with the requirement or condition;

"court" means a court established for Seychelles;

"Court of Appeal" mean the Seychelles Court of Appeal established by the Constitution;

"Curatelle" means the office of the Curator of Vacant Estates;

"Curator" means the Curator of Vacant Estates;

"Defence Force" means the Seychelles People's Defence Force established by the Defence Act, 1980;

"definition" means the interpretation given to any word or expression;

"document" includes any publication and any matter written upon any substance which is intended to be used or may be used for the purpose of recording that matter;

"exclusive economic zone of Seychelles" means the exclusive economic zone of Seychelles defined by or under section 6 of the Maritime Zones Act;

"export" means to take out or cause to be taken out of Seychelles;

"financial year" means the period of twelve months beginning on the first day of January in any year or on such other day as the President may, by order published in the Gazette,

prescribe;

"foreshore" means the area between high and low water marks;

"functions" includes powers and duties;

"Gazette" means the official Gazette of the Government and includes any Government Gazette Extraordinary, any supplement to the Gazette and any matter referred to in the Gazette as being published with the Gazette;

"goods" includes all kinds of movable personal property;

"Government" means the Government of Seychelles;

"Government Printer" means the Government Printer of Seychelles and any other printer authorised by or on behalf of the Government to print any law or other instrument of the Government;

"import" means to bring, or cause to be brought, into Seychelles;

"individual" means a natural person;

"insolvency" means any judicial application for leave to make a cessio bonorum or for a full discharge of debts and "insolvent" means a person making any such application;

"Judge" means the Chief Justice or a Puisne Judge of the Supreme Court;

"land" includes land covered with water and any estate, interest, usufruct, easement, servitude or right in or over land;

"legal practitioner" means an attorney or a barrister;

"local newspaper" means a newspaper published in and circulating in Seychelles;

"medical practitioner" means a person registered as such in Seychelles under any Act relating to the registration of medical practitioners in Seychelles;

"Minister" means a Minister of the Government appointed under section 26 of the Constitution and includes the President in respect of departments of Government for which he is politically responsible in terms of section 28 of the Constitution;

"month" means a calendar month;

"oath", "swear" or "affidavit" includes and applies to the affirmation or declaration of a person allowed by law to make an affirmation or declaration instead of an oath;

"occupy" includes use, inhabit, be in possession of or enjoy the land or premises to which the word relates, otherwise than only as a servant or only for the purposes of the care,

custody or charge of the land or premises;

"offence" means the contravention, breach or failure to comply with an Act or any statutory instrument for which a penalty is provided;

"officer of customs" means an officer attached to the Customs division;

"person" includes any public body, company or association or any body of persons corporate or unincorporate;

"police officer" means a member of the Seychelles Police Force constituted by law;

"power" includes any privilege, authority or discretion;

"prescribed" means prescribed by or under the Act in which the word occurs;

"President" means the President of the Republic of Seychelles;

"Principal Secretary" means a person appointed by the President as Principal Secretary to supervise the work relating to any matter or department of Government;

"proces verbal" means a memorandum or report made by a person charged with making or drawing up the memorandum or report;

"public" includes any class of the public;

"public body" means

(a) a department, division or agency of the Government;

(b) a statutory corporation;

(c) a company incorporated and registered under the Companies Act of which the Government is the majority shareholder; or

(d) any other body of persons, whether corporate or unincorporate, carrying on a service or undertaking which in the opinion of the Minister is of a public nature for the benefit of Seychelles;

"public holiday" means a day which is a public holiday by virtue of the Public Holidays Act;

"public office" or "office in the service of Seychelles" means any office, the emoluments attaching to which are paid directly from the Consolidated Fund or directly out of moneys provided by an Act, and "public officer" and "public service" are construed accordingly;

"public place" includes every place or building to which the public are entitled or permitted to have access, whether on payment or otherwise;

"Public seal" means the Public Seal of Seychelles;

"regulation" includes rule, rule of court and bye law;

"Registrar General" means the person appointed to that office by the President and includes

(a) the Land Registrar appointed under section 5 of the Land Registration Act;

(b) the Registrar of Deeds appointed under section 4 of the Mortgage and Registration Act; and

(c) the Registrar of Companies appointed under section 329 of the Companies Act;

"repeal" includes rescind, revoke, cancel or replace;

"Republic" means the Republic of Seychelles;

"road" or "street" includes any highway, street, road, bridge, square, court, alley, lane, bridgeway, track, parade, thoroughfare, passage, or open space to which the public are entitled or permitted to have access whether on payment or otherwise;

"rules of court", used in relation to any court, means rules made by the authority having for the time being power to make rules or orders regulating the practice and procedure of that court;

"sell" includes barter, exchange and offer to sell or offer for sale;

"Seychelles" means the islands of the Seychelles Archipelago as set out in Schedule I to the Constitution;

"Seychellois" means a person who is a citizen of Seychelles and includes a company under the control of Seychellois;

"sign" or "signature", with reference to a person who is unable to write his name, includes his mark;

"statutory corporation" means a body corporate directly constituted by an Act of Seychelles;

"statutory instrument" means any Proclamation, regulation, order, rule, notice or other instrument (not being an Act) of a legislative, as distinct from an executive, character and having the force of law;

"Supreme Court" means the Supreme Court for Seychelles established by the Constitution;

"territorial waters" means the territorial waters of Seychelles as defined by or under section 3 of the Maritime Zones Act;

"this Act" includes any statutory instrument made and in force under the Act in which the expression appears;

"vehicle" means any kind of wheeled transport propelled or drawn by mechanical power, or by an animal or person, and used or intended to be used for the conveyance of persons or goods on a road, and includes a bicycle and a tricycle;

"vessel" includes –

- (a) any kind of water craft;
- (b) an aircraft; and
- (c) a hovercraft;

"word" includes abbreviations, figures, punctuation marks, parenthesis and typographical, monetary and mathematical symbols;

"written law" includes any Act and any statutory instrument;

"writing" and expression referring to writing include printing, photography, lithography, typewriting and any other modes of representing or reproducing words in visible form;

"year" means a calendar year.

(2) The expression "the Minister" in an Act means the Minister from time to time responsible for the administration of the Act or, if more than one Minister is so responsible, the Minister so responsible with respect to the provisions of the Act in which the expression occurs.

(3) In an Act, an expression or name which is the commonly used title of a person or thing means that person or thing even if it is not the official, formal or full title of that person or thing.

PART IV CITATION AND COMMENCEMENT OF ACTS

Citation of Acts

23. (1) An Act may be cited

- (a) by its short title;
- (b) by reference to the year in which it was enacted and its number among the Acts of that year; or
- (c) by the Chapter number given to it in any revised edition of the Laws of Seychelles.

(2) A reference to an Act in accordance with subsection (1) shall be made according to the short title, number or Chapter number used in copies of the Act printed by the Government Printer.

References to Act, etc., to include amendments

24. A reference in an Act to the Constitution, an Act, a statutory instrument or any provision thereof is a reference to the Constitution, the Act, the statutory instrument or the provision as from time to time amended.

Commencement of Acts

25. (1) Every Act enacted after this Act shall be published in the Gazette.

(2) An Act comes into operation on the date on which it is published in the Gazette or, if is provided that the Act is to come into operation on some other date, on that date.

(3) Where provision is made in an Act for the coming into operation of some only of the provisions of the Act, the provisions of the Act for which no such provision is made come into operation on the date on which the Act is published in the Gazette.

(4) An Act or a provision of an Act is in operation as from the beginning of the day on which it comes into operation.

Evidence of commencement of Act

26. A copy of an Act printed by the Government Printer which includes a date purporting to be the date on which the Act or any provision of the Act came or will come into operation is evidence that the Act or provision came or will come into operation on that date.

PART V REPEAL, AMENDMENT AND EXPIRY OF ACTS

Amending Act construed with amended Act

27. An Act amending any other Act shall be read as one with the other Act.

Repealed Act not revived

28. The repeal of an Act which repealed the whole or part of any other Act does not revive the other Act or that part.

Repeal of Act includes amending Acts and statutory instruments

29. (1) Where a particular Act is repealed

(a) any other Act then having effect only as an Act to amend the particular Act is also repealed; and

(b) any other Act then having effect in part as an Act to amend the particular Act is repealed to the extent that it has that effect.

(2) Where an Act is repealed after the commencement of this Act, any statutory instrument

made under the Act is repealed unless and to the extent that the statutory instrument is saved in the repealing Act.

(3) For the purposes of this section an Act or a section or provision of an Act shall be treated as having effect to amend a particular Act if it is expressed to do so.

Repeal and re-enactment

30. (1) Where an Act repeals a previous written law and substitutes provisions for the written law repealed, the repealed written law remains in force until the substituted provisions come into force.

(2) Where an Act repeals and re enacts with or without modification, any provisions of a previous written law then, unless the contrary intention appears,

(a) any reference, whether express or implied, in any other written law to the provision so repealed shall be construed as a reference to the provision re enacted;

(b) notwithstanding section 29(2), in so far as any statutory instrument made or other thing done under the written law so repealed, or having effect as if so made or done, could have been made or done under the provisions re enacted, it has effect as if made or done under that provision.

Effect of repeal of Act

31. (1) The repeal of an Act does not

(a) affect the previous operation of the Act or anything duly done or suffered under it;

(b) affect any right, privilege, obligation or liability acquired, accrued or incurred under the Act;

(c) affect any penalty, forfeiture or punishment incurred in respect of any offence against the Act; or

(d) affect any investigation, legal proceedings or remedy in respect of any right, privilege, obligation or liability referred to in paragraph (b), or any penalty, forfeiture or punishment referred to in paragraph (c),

and the investigation, legal proceedings or remedy may be instituted, continued or enforced and any such penalty, forfeiture or punishment may be imposed as if the Act had not been repealed.

(2) Where an Act repeals part only of any other Act, subsection (1) applies in relation to the part as it would apply if the other Act were wholly repealed.

Expiry, etc., of Act

32. (1) Where an Act or a provision of an Act expires, lapses or ceases to have effect otherwise than on repeal, sections 29 and 31 apply in relation to the Act, the provision or a statutory instrument made under the Act as they apply to an Act, provision of an Act, or a statutory instrument made under an Act that is repealed.

(2) Where an Act is expressed to expire, lapse or cease to have effect on a particular day, it expires, lapses or ceases to have effect at the beginning of the day following the particular day.

PART VI POWERS AND DUTIES

Power to be exercised from time to time

33. A power conferred or a duty imposed by an Act may be exercised or performed from time to time as the occasion arises and as often as is necessary to correct any error or omission in any previous exercise or performance of the power or duty, notwithstanding that the power or duty is not in general capable of being exercised from time to time.

Extent of powers conferred by Act

34. Where an Act confers a power to do any act or thing, all powers reasonably necessary to enable the act or thing to be done are also conferred by the Act.

Construction of powers conferred by Act

35. (1) A power conferred by an Act enacted after the commencement of this Act

(a) to provide for, regulate or otherwise control any act or thing, includes a power to do so by the grant of a licence;

(b) to grant a licence or an exemption or to give an approval or a direction, includes a power to amend the licence, exemption, approval or direction;

(c) to grant a licence or an exemption or to give an approval, includes a power to do so subject to conditions not inconsistent with the Act;

(d) to give directions with respect to any matter or thing, includes a power to prohibit that matter or thing;

(e) to make an appointment, includes a power to revoke the appointment; and

(f) to approve any person, matter or thing, includes a power to withdraw that approval.

(2) Where paragraph (a) of subsection (1) applies in the case of a power conferred by an Act, paragraphs (b) and (c) of that subsection also apply.

(3) In this section "licence" includes authorization, certificate or permit.

Majority may act

36. Where any act or thing may or is required to be done under an Act by more than two persons, a majority of them may do it.

Reference to holder of office

37. A reference in an Act to the holder of an office by the term designating his office is a reference to the person from time to time holding, acting in or discharging the functions of the office.

Appointment by name or office

38. (1) A power under an Act to appoint a person to hold or act in an office may be exercised

(a) by appointing a person by name; or

(b) by appointing the holder of an office by the term designating his office.

(2) An appointment made as provided in subsection (1)(b) operates to appoint the person who, from time to time, holds, acts in or discharges the functions of the office designated.

(3) Where the holder of an office is on leave of absence pending the relinquishment of the office, another person may be appointed to, and may exercise and perform the functions of, the office.

Change of title of public officer

39. (1) Where the title of a public office or officer is changed, the President may, by notice in the Gazette, declare that, for the purposes of all written laws, the title of the office or officer is replaced by the new title specified in the notice.

(2) Where a notice is published under subsection (1), any written law or document containing a reference, whether express or implied, to the title which is changed is deemed, unless the context otherwise requires, to have been amended by substituting for that reference a reference to the new title.

Power to relate back appointments

40. Any appointment made under an Act may be declared to have effect as from the date upon which the person appointed in fact began to exercise the powers and perform the duties of his appointment, not being a date earlier than the commencement of the Act under which the appointment is made.

Exercise of power between passing and commencement of Act

41. Where an Act or a provision of an Act which is not to come into operation immediately on its publication in the Gazette confers power

- (a) to make appointments;
- (b) to make a statutory instrument;
- (c) to establish offices;
- (d) to prescribe fees or forms;
- (e) to give directions; or
- (f) to do any other thing for the purposes of the Act,

the power may be exercised at any time after the passing of the Act, but any such statutory instrument shall not come into operation and no such appointment shall take effect until the Act or the provision comes into operation.

Signification of the exercise or performance of functions

42. (1) The fact of the exercise or performance by the President of a function conferred or imposed on him by an Act may be signified under the hand of a Minister, a Principal Secretary in the President's office or the Attorney General.

(2) The fact of the exercise or performance by a Minister of a function conferred or imposed on him by an Act may be signified under the hand of a Principal Secretary.

(3) The reference in this section to a function conferred or imposed on an authority by an Act includes a reference to a function delegated under any Act to the authority.

PART VII STATUTORY BODIES

Bodies corporate

43. (1) A body corporate constituted by an Act enacted after the commencement of this Act

- (a) shall have a seal;
- (b) may sue and be sued in its corporate name;
- (c) may acquire, hold and dispose of movable and immovable property; and
- (d) may do all other things necessary for or incidental to the purposes for which it is constituted.

(2) The design of the seal of a body corporate constituted by an Act shall be as determined by the body corporate.

(3) The seal of a body corporate constituted by an Act shall be kept in such custody as the body corporate directs and shall not be used except as authorised by the body corporate.

(4) All Courts, Judges and persons acting judicially shall take judicial notice of the seal of a body corporate constituted by an Act affixed to a document and shall presume that it was duly affixed.

(5) A provision of an Act requiring a document to be signed is complied with by a body corporate constituted by an Act if the document is sealed by the body corporate.

Acts and proceedings of statutory body

44. An act or decision of a body, whether corporate or unincorporate, constituted or established by an Act enacted after the commencement of this Act is not invalid by reason only

(a) of a vacancy or vacancies in the membership of the body;

(b) of a defect or irregularity in connection with the appointment or election of one, or more than one, member of the body; or

(c) of an irregularity in the convening of a meeting of the body.

Alternate member of body, etc.

45. (1) The power under an Act enacted after the commencement of this Act to appoint a member of a body, whether corporate or unincorporate includes a power

(a) to appoint an alternate for the member; and

(b) to appoint a person to act for the member during any period when the member is unable to exercise and perform his function as a member,

and the alternate or person so acting shall be treated as a member of the body when, pursuant to his appointment, he attends at meetings of the body.

(2) A person appointed a member of a body, whether corporate or unincorporate, constituted or established by an Act may resign his office by writing under his hand delivered to the authority appointing him.

Chairman, etc., of body

46. Where a body, whether corporate or unincorporate, is constituted or established by an Act enacted after the commencement of this Act, the authority empowered to appoint the members of the body

(a) may appoint from amongst the members a person to be chairman, deputy chairman or vice chairman of the body; and

(b) may appoint a member or a person who is not a member to be secretary of the body,

and may stipulate the terms on which any such person is appointed.

PART VIII GENERAL PROVISIONS REGARDING LEGAL PROCEEDINGS AND PENALTIES

Evidence of signature of authority

47. Where the consent of an authority is necessary before any proceedings, whether civil or criminal, are commenced, a document or instrument giving the consent and purporting to be signed by the authority is evidence that the consent has been given, without proof that the signature to the document or instrument is that of the authority.

Evidence

48. Where an Act provides that a document or instrument is evidence of a fact without anything in the context to indicate that the document or instrument is conclusive evidence then, in any legal proceedings the document or instrument is admissible in evidence and the fact shall be deemed to be established in the absence of evidence to the contrary.

Ex-officio proceedings not to abate

49. Civil proceedings taken by or against a person in virtue of his office are not discontinued or abated by his death, resignation, absence or removal from office, but may be carried on by or against the person for the time being holding, acting in or discharging the functions of the office.

Power to determine includes authority to administer oath

50. Any court, Judge or person authorised by law or by the consent of the parties to hear and determine any matter or thing has authority to administer an oath to all witnesses legally called before the court or person.

Imposition of penalty no bar to civil action

51. The imposition of a penalty or fine by or under the authority of an Act does not relieve a person from liability to answer for damages to a person injured.

Person not to be twice criminally responsible for same offence

52. A person cannot be twice criminally responsible either under the provisions of the Penal Code or under the provisions of any other law for the same act or omission, except in the case where the act or omission is such that by means thereof he causes the death of another person, in which case he may be convicted of the offence of which he is guilty by reason of causing such

death, notwithstanding that he has already been convicted of some other offence constituted by the act or omission.

Penalties are maximum penalties

53. Where a penalty is prescribed in an Act for an offence, the offence is punishable by a penalty not exceeding the penalty prescribed.

Offences by bodies corporate

54. (1) Where at any time a body corporate commits an offence under an Act enacted after the commencement of this Act with the consent or connivance of, or because of neglect by, any individual, the individual commits the same offence if at that time

- (a) he is a director, manager, secretary or similar officer of the body corporate;
- (b) he is purporting to act as such an officer; or
- (c) the body corporate is managed by its members of whom he is one.

(2) Where a body corporate commits an offence under an Act enacted after the commencement of this Act for which the only penalty prescribed is a term of imprisonment, the body corporate is punishable on conviction by a fine which

- (a) if the penalty so prescribed is a term of six months or under, shall not exceed five thousand rupees;
- (b) if the penalty so prescribed is over a term of six months but not over a term of two years, shall not exceed ten thousand rupees; and
- (c) if the penalty so prescribed is over a term of two years, shall not exceed twenty thousand rupees.

Service of documents and notices

55. (1) A document or notice required or permitted to be served on, or given to, a person under or for the purposes of an Act, may be served or given

- (a) in the case of an individual (except where paragraph (b) or (c) applies), by serving it personally upon the individual or by sending it by post to him at his usual or last known place of abode or business;
- (b) in the case of a public officer as such, by serving it personally upon him or by leaving it at or sending it by post to him at the principal office where he exercises and performs his functions;
- (c) in the case of a partnership

(i) by serving it personally upon a partner or the person having the control or management of the partnership or by sending it by post to him at his usual or last known place of abode; or

(ii) by leaving it at or sending it by post to the principal office of the partnership;

(d) in the case of a body corporate, by leaving it at or sending it by post to the registered or principal office of the body corporate; or

(e) in the case of a body, whether corporate or unincorporate, constituted or established by an Act, by leaving it at or sending it by post to the principal office of the body or any other office specified by the body as one at which it will accept service of documents or notices of the same kind as that document or notice.

(2) For the purposes of subsection (1) (c) or (1)(d), the principal office of a company registered outside Seychelles or of a partnership carrying on business outside Seychelles is its principal office within Seychelles.

(3) Where a document or notice is required or permitted under or for the purposes of an Act to be served on, or given to, a person as being the person having an interest in land and it is not practicable after reasonable inquiry to ascertain that person's name or address, the document or notice may be served or given

(a) by addressing it to that person by the description of the person having that interest in the land (naming it); and

(b) by delivering the document or notice to some responsible person on the land or affixing it, or a copy of it, in a conspicuous position on the land.

(4) Where a document or notice is sent by post pursuant to subsection (1), service or notice shall be deemed to have been effected or given, unless the contrary is proved, at the time at which the document or notice would be delivered in the ordinary course of post.

PART IX MISCELLANEOUS

References to time

56. Words and expressions in an Act relating to time and references in an Act to a point of time shall be read and construed as relating to or as reference to standard time as used in Seychelles, that is four hours in advance of Greenwich Mean Time.

Rules for computing time

57. In computing time for the purposes of an Act

(a) a period reckoned by days from the happening of an event or the doing of any act or thing is exclusive of the day on which the event happens or the act or thing is done;

(b) where a period is expressed to begin or end at, on or with a specified day or to continue to or until a specified day, the period shall include that day;

(c) where a period is expressed to begin after or to be from a specified day, the period shall not include that day;

(d) where the last day of a period is an excluded day, the period includes the next following day (not being an excluded day); and

(e) where an act or proceeding may be or is required to be done or taken on a certain day and that day is an excluded day, the act may be done or the proceeding taken on the next following day (not being an excluded day).

(2) Where no time is prescribed in an Act for the doing of any act or thing, it shall be done without unreasonable delay and as often as due occasion arises.

(3) Where a court or an authority is empowered by an Act to extend the period of time within which any act or proceeding is permitted or required to be done or taken, the power may be exercised notwithstanding that the period of time has then expired.

(4) For the purposes of this section "excluded day" means a public holiday or a bank holiday declared under section 51 of Financial Institutions Act.

(5) The expression "a.m" indicates the period between midnight and the following noon, and the expression "p.m" indicates the period between noon and the following midnight.

(6) Where the two expressions referred to in subsection (5) occurs conjunctively in relation to any specified hour or in conjunction with the word "sunset" or "sunrise", they are construed as relating to a consecutive period of time.

Distance

58. In determining any distance for the purposes of an Act, the measured distance shall be reduced to that distance which would be recorded if the distance were measured in a straight line on a horizontal plane.

Gazette to be evidence

59. (1) A copy of the Gazette containing an Act is evidence of the due making of the Act and of its tenor.

(2) A copy of the Gazette containing any notice or publication (not being a statutory instrument) is evidence of the tenor of the notice or publication.

Fee to be paid

60. An authority required by an Act to do any act or thing for which a fee or charge is to be paid is not required to do the act or thing until the fee or charge is paid.

Deviation from form

61. Where a form is prescribed for use, the use of the form is not invalidated by any variation or alteration of the form that is not calculated to mislead or does not affect the substance of the form.

Fines

62. A fine or penalty imposed by, or under the authority of, an Act shall be paid into the Consolidated Fund.

PART X STATUTORY INSTRUMENTS

Publication of statutory instruments

63. (1) A statutory instrument made after the commencement of this Act

(a) shall be published in the Gazette and shall be judicially noticed; and

(b) shall come into operation on the date of publication or, if it is provided that the statutory instrument is to come in operation on some other date, on that date.

(2) A statutory instrument is in operation as from the beginning of the day on which it comes into operation.

Statutory instruments to be laid before National Assembly

64. (1) Subject to subsection (3), a statutory instrument made under an Act after the commencement of this Act shall be laid before the People's Assembly.

(2) If the People's Assembly passes a resolution, within three months after a statutory instrument is laid before it, to the effect that the statutory instrument is annulled, the statutory instrument shall thereupon cease to have effect, but without prejudice to the validity of anything previously done under the statutory instrument.

(3) Subsection (1) does not apply to a statutory instrument a draft of which is laid before, and approved by resolution by, the People's Assembly before the making of the statutory instrument

Application of certain provisions to statutory instruments

65. (1) Sections 6, 7 and 8, Part III (except section 9), sections 26 to 30, section 32, Part VI, section 48, sections 51 to 55 and Part IX apply to a statutory instrument made under an Act to the extent that they apply to the Act.

(2) Except where the context otherwise requires, words and expressions used in a statutory instrument have the same meaning as they have in the Act under which the statutory instrument is made.

(3) A reference in a statutory instrument to "the Act" is a reference to the Act under which the statutory instrument is made.

(4) For the purposes of the application (referred to in subsection (1)) of section 14, the reference in that section to any provision of an Act shall be read and construed as a reference to the appropriate provision of the statutory instrument.

Citation of statutory instrument

66. (1) A statutory instrument may be cited

(a) by its title; or

(b) by reference to the year in which it was made and the number of the notice in which it was published in the Gazette.

(2) A reference in any statutory instrument to the Constitution, an Act, any statutory instrument or any provision thereof is a reference to the Constitution, the Act, the statutory instrument or the provision as from time to time amended.

General provisions relating to statutory instruments

67. (1) A statutory instrument which purports to be made in exercise of a power shall be treated as having been made in exercise also of all other powers which would enable the statutory instrument to be made.

(2) A statutory instrument may be amended, in the same manner as it was made, by the authority who made it or by any other authority lawfully substituted for that authority.

(3) Where an Act confers power on an authority to make a statutory instrument for any general purpose and for any special purposes, the enumeration of the special purposes does not derogate from the generality of the powers conferred with reference to the general purpose.

(4) There is a rebuttable presumption that all conditions and preliminary steps precedent to the making of any statutory instrument have been complied with and performed.

(5) No statutory instrument shall be inconsistent with the provisions of any Act.

(6) A statutory instrument has the same force and effect and is binding and is construed for all purposes as if it had been contained in the Act under which it was made.

(7) An act is deemed to be done under an Act, or by virtue of the powers conferred by an Act or in pursuance or execution of the provisions of or under the authority of an Act, if it is done under or by virtue of or in pursuance or execution of or under the authority of a statutory instrument made under any power contained in that Act.

(8) A statutory instrument extends to the whole of Seychelles in its application unless the contrary intention appears.

(9) Any reference to a written law in any other written law includes a reference to any statutory instrument made under the written law to which reference is made.

Power to make regulations

68. (1) Statutory instruments made under an Act may

(a) constitute offences; and

(b) provide, in respect of any such offence, for the imposition by way of penalty of a fine not exceeding twenty thousand rupees or imprisonment for a term not exceeding two years.

(2) The power under an Act to make statutory instruments may be exercised

(a) either in relation to all cases to which the power extends, or in relation to all of those cases subject to specified exceptions or in relation to any specified case or class of case; and

(b) so as to make, as respects the cases in relation to which it is exercised,

(i) the same provision for all the cases, a different provision for different cases or classes of cases, or different provisions for the same case or classes of cases for different purposes of the Act; or

(ii) any such provision either unconditionally or subject to any specified condition.

Fees

69. (1) The power under an Act to make statutory instruments providing for fees or charges may be exercised by making provision

(a) for specific fees or charges;

(b) for maximum or minimum fees or charges;

(c) for maximum and minimum fees or charges;

(d) for ad valorem fees or charges;

(e) for the payment of fees or charges either generally or under specified conditions or in specified circumstances;

(f) for the reduction, waiver or refund, in whole or in part, of the fees or charges, either upon the happening of an event or in the discretion of a specified authority; or

(g) for more than one of the foregoing.

(2) A reduction, waiver or refund pursuant to subsection (1)(f) may be expressed to apply or be applicable either generally or specifically

(a) in respect of certain matters or transactions or classes of matters or transactions;

(b) in respect of certain documents or classes of documents;

(c) when an event happens or ceases to happen;

(d) in respect of certain persons or classes of persons; or

(e) in respect of any continuation of such matters, transactions, documents or events.

Effect of repeal, etc., of statutory instrument

70. (1) The repeal of a statutory instrument does not

(a) affect the previous operation of the statutory instrument or anything duly done or suffered under the statutory instrument;

(b) affect any right, privilege, obligation or liability acquired, accrued or incurred under the statutory instrument;

(c) affect any penalty, forfeiture or punishment incurred in respect of any offence against the statutory instrument; or

(d) affect any investigation, legal proceedings or remedy in respect of any right, privilege, obligation or liability referred to in paragraph (b), or any penalty, forfeiture or punishment referred to in paragraph (c),

and the investigation, legal proceedings or remedy may be instituted, continued or enforced and any such penalty, forfeiture or punishment may be imposed as if the repeal had not occurred.

(2) Where part only of a statutory instrument is repealed, subsection (1) applies in relation to the part as it would apply if the statutory instrument was wholly repealed.

NO SUBSIDIARY LEGISLATION
