

CONSOLIDATED TO 30 JUNE 2012

LAWS OF SEYCHELLES

CHAPTER 214

SEYCHELLES FISHING AUTHORITY (ESTABLISHMENT) ACT

Act 10 of 1984
Act 9 of 1985

[31st August, 1984.]

ARRANGEMENT OF SECTIONS

1. Short title
2. Interpretation

PART II - AUTHORITY

Division 1 - Establishment

3. Establishment of Authority
4. Authority to be corporate

Division 2 - Functions and Powers of the Authority

5. Functions of the Authority
6. Powers of the Authority

Division 3 - The Board of Directors

7. Board of Directors
8. Membership of the Board
9. Chairman and Deputy Chairman
10. Fees and Allowances
11. Disclosure of interest
12. Meetings of Board

Division 4 - Staff

13. Offices
14. Use of services of public officers

Division 5 - Financial

15. Funds of the Authority
16. Borrowing by the Authority
17. Bank Accounts
18. Application of Funds
19. Surplus income to be paid into Consolidated Fund
20. Estimates
21. Exemptions
22. Accounts and Audit

PART III - MISCELLANEOUS

23. Transfer of Assets
24. Regulations

PART I - PRELIMINARY

1. This Act may be cited as the Seychelles Fishing Authority (Establishment) Act.
2. In this Act, unless the context otherwise requires -
"Authority" means the Seychelles Fishing Authority established by this Act;
"Board" means the Board of Directors of the Authority established by this Act;
"director" means a person appointed as such pursuant to section 8.

PART II - THE AUTHORITY

Division 1 - Establishment

3. There is established by this Act an authority by the name of the Seychelles Fishing Authority.
4. The Authority -

- (a) is a body corporate;
- (b) shall have a common seal; and
- (c) may sue and be sued in its corporate name.

Division 2 - Functions and Powers of the Authority.

5. The functions of the Authority are -

- (a) to promote, organize and develop fishing, fishing industries and fishing resources in Seychelles;
- (b) to assist in the formulation of the national policy with respect to fishing, fishing industries and fishing resources and in the implementation of that policy;
- (c) to conduct negotiations, or engage in meetings, seminars or discussions, with regard to fishing or fisheries or the establishment or operation of fishing industries, whether at a national or international level, on behalf of the Republic or otherwise;
- (d) to identify the manpower training requirements of Seychelles with regard to fishing and fishing industries; and
- (e) those mentioned in any other written law.

6. (1) Subject to this Act, the Authority has power to do all things necessary or convenient to be done for or in connection with, or incidental to, the performance of its functions and, in particular the Authority may -

- (a) own, lease or dispose of movables or immovables;
- (b) own, operate or charter any vessel;
- (c) form companies under the Companies Act;
- (d) enter into partnership or joint ventures;
- (e) act as agent for the purpose of the management of any business or enterprise, or for any other purpose;
- (f) hold shares in, or debentures of, any company;
- (g) carry on any business or enterprise for or in connection with -
 - (i) fishing or fisheries;
 - (ii) processing, transporting, handling, marketing or distributing fish or fish products;
 - (iii) exporting fish or fish products;
 - (iv) the sale of equipment or apparatus to be used for fishing; or

- (v) any other matter relating to its functions where, in the opinion of the Authority, the carrying on of such a business or enterprise is in the best interest of the Republic;
- (h) conduct surveillance operations, in conjunction with the Ministry of Defence, in relation to fishing operations in the exclusive economic zone or in the waters super adjacent to the continental shelf;
- (i) monitor the catch of all fishing vessels; or
- (j) carry out scientific and development research.

(2) The powers under subsection (1) may be exercised by the Authority acting alone or, where appropriate, by the Authority acting in association with any other person, including the Government, a foreign Government, or any agency or instrumentality thereof.

Division 3 - The Board of Directors.

7. There shall be a Board of Directors of the Authority which -

- (a) shall be responsible for the policy, control and management of the Authority; and
- (b) shall perform the functions and may exercise the powers of the Authority.

8. (1) The Board shall consist of 5 directors who shall be appointed by the President by instrument in writing.

(2) The President may, by instrument in writing, revoke the appointment of a director.

9. (1) The President may, by instrument in writing, designate a director to be Chairman of the Board and a director to be Deputy Chairman of the Board, and may in like manner revoke any such designation.

(2) If a person designated as provided in subsection (1) ceases to be a director he also ceases to be Chairman or, as the case may be, Deputy Chairman, of the Board.

10. The authority shall pay to Directors such fees and allowances (if any) as the President may determine, in writing, either generally or in relation to a particular director or class of directors.

11. (1) A director who is directly or indirectly interested in any way in a contract made or proposed to be made by or on behalf of the Authority, or in any other matter whatsoever which falls to be considered by the Board, shall disclose the nature of his interest at a meeting of the Board and the disclosure shall be recorded in the minutes of the meeting.

(2) The director shall not, without the consent of the Board -

- (a) in the case of any such contract, take part in any deliberation or decision of the Board with respect to the contract; and
- (b) in the case of any other matter, take part in any deliberation or decision of the Board with respect to the matter if the Board decides that the interest in

question might prejudicially affect the member's consideration of the matter.

(3) For the purposes of this section, a notice given by a director at a meeting of the Board to the effect that he is a member of an identified body corporate or firm and is to be regarded as interested in any contract which is made with the body corporate or firm after the date of the notice, and in any other matter whatsoever concerning the body corporate or firm which falls to be considered by the Board after that date, is sufficient disclosure of his interest.

(4) A director need not attend in person at a meeting of the Board in order to make a disclosure which he is required to make under this section, if he takes reasonable steps to secure that the disclosure is made by notice that is taken into consideration at such a meeting.

12. (1) The Board shall hold such meetings as are necessary for the performance of its functions.

(2) The Chairman of the Board -

(a) may convene meetings of the Board, and shall comply with any resolution of the Board with respect to the convening of meetings; and

(b) shall, on receipt of a written request signed by not less than 3 directors, convene a meeting of the Board.

(3) If the Chairman of the Board is not available, the Deputy Chairman may convene a meeting of the Board.

(4) Subject to subsection (5), the Chairman of the Board shall preside at meetings of the Board, and in his absence the Deputy Chairman shall preside.

(5) At a meeting of the Board at which the Chairman and the Deputy Chairman of the Board are not present, the members present shall appoint one of their number to preside.

(6) The quorum at a meeting of the Board is 3.

(7) Questions arising at a meeting of the Board shall be determined by a majority of the members present and voting.

(8) The member presiding at a meeting of the Board has a deliberative vote and, in the event of an equality of votes, also has a casting vote.

(9) The Board shall cause to be kept, in such manner and form as the Board determines, full and accurate minutes of proceedings at its meetings.

(10) The arrangements relating to meetings of the Board not provided for by this section shall be such as are determined the Board.

Division 4 - Staff

13. (1) There shall be a General Manager of the Authority who shall be appointed by the Authority with the approval of the President.

(2) The General Manager shall be appointed on such terms and for such period as the Authority determines and he shall be eligible for reappointment at the end of each term of office.

(3) The General Manager is the Chief Executive of the Authority and, in addition to such other functions which the Authority may assign to him from time to time and subject to the direction of the Authority, has supervision over and direction of the day-to-day affairs of the Authority.

(4) Subject to subsection (5), the General Manager shall, unless for reasons which appear to the Board to be reasonable, attend and participate in the meetings of the Board but has no right to vote at the meetings.

(5) The General Manager shall not, without the consent of the Board, attend or take part in a meeting of the Board at which any matter in which he has a direct interest is being considered.

(6) The Authority may employ such other persons as may be necessary for the proper discharge of its functions.

(7) The term and conditions of service of a person employed pursuant to subsection (6) shall be determined by the Authority.

14. For the purposes of this Act, the Authority may, with the approval of the President on such terms as may be arranged, make use of the services of any public officer to perform the functions of any office established pursuant to section 13 or for any other purposes.

Division 5 - Financial

15. The funds of the Authority shall consist of -

- (a) moneys appropriated by an Appropriation Act and paid to the Authority;
- (b) moneys derived by the Authority from carrying on any business or enterprise or by reason of its shareholding in any company;
- (c) moneys lawfully borrowed by the Authority;
- (d) moneys due on any investment made by the authority; or
- (e) other moneys lawfully received by the Authority for the purposes of the Authority.

16. (1) The Authority may, for the purpose of the performance of its functions under this Act, with the approval of the President, given either conditionally or unconditionally, borrow money in or outside Seychelles.

(2) The Authority may give security over any of its assets for the purpose of a borrowing under subsection (1).

(3) The Minister responsible for finance may, out of public moneys, make advances to the Authority of such amounts and on such terms as that Minister determines.

(4) The Authority shall make to the Republic, at such times and in such manner as the Minister responsible for Finance may direct, payments of such amounts as may be so directed in or towards the repayment of advances made pursuant to subsection (3) or of any sums issued in fulfillment of any guarantee given under any Act in respect of any amount borrowed in accordance with subsection (1) or of interest on any such advances or sums at the rate directed by the Minister responsible for finance.

(5) The Authority may, when it considers it necessary to do so, establish and operate sinking funds or other special funds for the purpose of, or in relation to, any loan borrowed by the Authority under this section.

(6) The Authority shall not borrow otherwise than in accordance with this section.

17. (1) The Authority may open and maintain an account or accounts with one, or more than one, bank and shall maintain at all times at least one such account.

(2) The Authority shall pay all funds of the Authority into an account referred to in this section.

18. (1) Subject to subsection (3), the funds of the Authority may be applied by the Authority -

- (a) in payment or discharge of the costs, expenses and other obligations of the Authority;
- (b) in payment of remuneration, fees and allowances payable to any person under this Act; or
- (c) as provided in subsection (2),

but not otherwise.

(2) Moneys of the Authority not immediately required for the purposes of the authority may be invested -

- (a) on fixed deposit with one, or more than one, bank;
- (b) in Government securities; or
- (c) in any other manner which the Authority thinks fit.

(3) Where the Authority receives any money and the money is received on the express condition that it shall be applied for a particular purpose, then the money shall be applied for that purpose and for no other purpose; but without prejudice to the operation of subsection (2) in relation to any such money when not immediately required for that purpose.

19. The Authority shall, with the approval of the President and after making adequate provisions for -

- (a) depreciation of assets;
- (b) repayment of loans and advances;

- (c) repayment of interest on all charges and expenses incurred in connection with loans;
- (d) replacement or acquisition of assets;
- (e) any sinking funds or other special funds set up under section 16(5);
- (f) any matter which the Authority deems necessary, including any investments under section 18(2),

pay the surplus income remaining for each financial year into the Consolidated Fund.

20. (1) For -

- (a) each financial year of the Authority; and
- (b) any longer period which the President may from time to time require,

the Authority shall prepare and submit to the President, not later than such date as the President directs, estimates of the income and expenditure of the Authority, including its capital budget for the coming financial year or any such longer period.

(2) The financial year of the Authority is a period of 12 months beginning each year on 1st January and ending on the 31st December next following.

21. (1) The Authority is liable -

- (a) to taxation in respect of income derived -
 - (i) from carrying on any business or enterprise of the kind referred to in section 6(1)(g) or
 - (ii) by way of dividend or otherwise from any company in which it is a shareholder,

to the same extent as it would be so liable if subsection (3) had not been enacted; and

- (b) to pay trades tax under the Trades Tax Act in carrying on any business or enterprise of the kind referred to in section 6 (1) (g) where, and to the same extent as, it would be so liable if subsection (3) had not been enacted.

(2) Nothing in subsection (3) shall be construed as operating to exempt any company formed by the Authority under the Companies Act, from any tax, duty or fee which is lawfully payable by that company.

(3) Except as provided in subsection (1) -

- (a) the Authority is not liable to any taxation imposed by law in respect of income, whether gross or net, on profits;
- (b) the Authority is not liable to any trades tax under the Trades Tax Act; and

- (c) no duty or fee is chargeable under the Stamp Duty Act, the Land Registration Act, in respect of any instrument executed by or on behalf of, or in favour of, the Authority.

22. (1) The Authority shall keep proper accounts and proper records in relation to the accounts and shall prepare, in respect of each financial year, a statement of accounts in such form as the Minister responsible for finance may direct, being a form which shall comply with the best commercial standards.

(2) The accounts and statement of accounts of the authority shall be audited by an auditor or auditors appointed annually by the Authority and approved by the Minister responsible for finance.

(3) As soon as the accounts and statement of accounts of the Authority in respect of any financial year have been audited pursuant to subsection (2), the authority shall send to the President a copy of the statement together with a copy of any report made by the auditor on that statement or on the accounts of the Authority.

PART III – MISCELLANEOUS

23. (1) The President may, by order, direct that the interest, or any part thereof, of the Government in any property identified in the order shall be transferred to the Authority and the Minister designated in the order shall take, or cause to be taken, all steps legally necessary to effect the transfer.

(2) In this section -

"Government" includes parastatal organizations, statutory corporations and other instrumentalities of the Government;

"interest", in relation to property, includes ownership;

"property" means movable and immovable property of every description.

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

NO SUBSIDIARY LEGISLATION
