

Seychelles

Courts Act

Chapter 52

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Seychelles

Courts Act

Chapter 52

Commenced on 30 November 1964

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Part I – General

1. Short title

This Act may be cited as the Courts Act.

2. Interpretation

In this Act unless the context otherwise requires—

"**Chief Justice**" means the Chief Justice of the Supreme Court;

"**Court of Appeal**" means the Court of Appeal constituted under section 120 of the Constitution;

"**Judge**" means a judge of the Supreme Court and includes the Chief Justice and a Puisne Judge;

"**Magistrates' Court**" means a court presided over by a Senior Magistrate or a magistrate;

"**Registrar**" means the Registrar of the Supreme Court;

"**Supreme Court**" means the Supreme Court constituted under section 125 of the Constitution.

3. Courts

- (1) The courts for the general administration of justice in Seychelles are the Supreme Court and the Magistrates' Court.
- (2) Local courts exercise jurisdiction under the Peace Officers (Inner Islands and Outlying Islands) Act.

Part II – Supreme Court

A. Jurisdiction and powers

4. General jurisdiction

The Supreme Court shall be a Superior Court of Record and, in addition to any other jurisdiction conferred by this Act or any other law, shall have and may exercise the powers, authorities and jurisdiction possessed and exercised by the High Court of Justice in England.

5. Jurisdiction in civil matter

The Supreme Court shall continue to have, and is hereby invested with full original jurisdiction to hear and determine all suits, actions, causes, and matters under all laws for the time being in force in Seychelles relating to wills and execution of wills, interdiction or appointment of a Curator, guardianship of minors, adoption, insolvency, bankruptcy, matrimonial causes and generally to hear and determine all civil suits, actions, causes and matters that may be the nature of such suits, actions, causes or matters, and, in exercising such jurisdiction, the Supreme Court shall have, and is hereby invested with, all the powers, privileges, authority, and jurisdiction which is vested in, or capable of being exercised by the High Court of Justice in England.

6. Equitable powers

The Supreme Court shall continue to be a Court of Equity and is hereby invested with powers, authority, and jurisdiction to administer justice and to do all acts for the due execution of such equitable jurisdiction in all cases where no sufficient legal remedy is provided by the law of Seychelles.

7. Admiralty jurisdiction

- (1) The Supreme Court shall have the Admiralty jurisdiction of the High Court of Justice in England as stated in section 1 of the Administration of Justice Act, 1956 of the United Kingdom Parliament (hereinafter in this section called "the Act").
- (2) Subject to subsection (3), the Act shall have force and effect in Seychelles.
- (3) The Chief Justice may make rules modifying and adapting the Act to such an extent as may appear to him to be necessary to allow the Act to have effect in Seychelles.

8. Jurisdiction in disciplinary matters

The Supreme Court shall continue to have, and is hereby invested with full jurisdiction to hear and determine all cases of breach of duty or misconduct committed by any barrister or advocate, attorney, notary, land surveyor or other ministerial officer and in such cases to suspend any such person provisionally or permanently from practicing within Seychelles.

9. Jurisdiction in criminal matters

The Supreme Court shall continue to have, and is hereby invested with full original jurisdiction, to hear, try, determine, pass sentence and make orders in all prosecutions for offences of whatever nature and in exercising such criminal jurisdiction the Supreme Court shall have and exercise all the powers and shall enjoy all the privileges vested in the High Court of Justice in England.

10. Appellate jurisdiction

- (1) The Supreme Court shall have power to hear and decide appeals from all other courts and shall exercise general powers of supervision over such courts and may at any time call for and inspect their records.
- (2) The Supreme Court shall also have power to hear and decide appeals from any other bodies and persons as provided by any law now in force or to be enacted.

11. Extent of jurisdiction of the Supreme Court

The jurisdiction of the Supreme Court in all its functions shall extend throughout Seychelles:

Provided that this section shall not be construed as diminishing any jurisdiction of the Supreme Court relating to persons being, or to matters arising, outside Seychelles.

B. Appeals

12. Appeals in civil matters

- (1) Subject as otherwise provided in this Act or in any other law, the Court of Appeal shall, in civil matters, have jurisdiction to hear and determine appeals from any judgement or order of the Supreme Court given or made in its original or appellate jurisdiction.
- (2)
 - (a) In civil matters no appeal shall lie as of right—
 - (i) from any interlocutory judgment or order of the Supreme Court; or
 - (ii) from any final judgment or order of the Supreme Court where the only subject matter of the appeal has a monetary value and that value does not exceed ten thousand rupees.
 - (b) In any such cases as aforesaid the Supreme Court may, in its discretion, grant leave to appeal if, in its opinion, the question involved in the appeal is one which ought to be the subject matter of an appeal.
 - (c) Should the Supreme Court refuse to grant leave to appeal under the preceding paragraph, the Court of Appeal may grant special leave to appeal.
- (3) For all the purposes of and incidental to the hearing and determination of any appeal, and the amendment, execution and enforcement of any judgment or order made thereon, the Court of Appeal shall have all the powers, authority and jurisdiction of the Supreme Court of Seychelles and of the Court of Appeal in England.
- (4) In this section the expression "civil matters" includes all non-criminal matters.

13. Case stated in civil matters

- (1) A Judge may in his discretion, irrespectively of any appeal and whether a case be appealable or not reserve any question of law decided by him in the course of any civil cause or matter for the ruling of the Court of Appeal. The question so reserved shall be stated in the form of a case prepared and signed by the Judge himself, and, such shall be transmitted to the said court.
- (2) A case reserved and stated shall not operate as a stay of execution or of proceedings unless the Supreme Court or the Court of Appeal so orders and subject to such terms as it may impose. No intermediate act or proceeding shall be invalidated except so far as the Court of Appeal may direct.

14. Appeals in criminal matters

Appeals from decisions of the Supreme Court in criminal matters shall be governed by the Criminal Procedure Code and by any other law now in force or to be enacted.

C. Practice and procedure

15. Practice and procedure of the Supreme Court

The practice and procedure in all the jurisdictions of the Supreme Court shall be such as are now in force or as may thereafter be provided by law.

16. Rules of Court for civil or admiralty jurisdiction

- (1) Notwithstanding anything to the contrary in any law, the Chief Justice may make rules to regulate the practice and procedure of the Supreme Court in its civil or its admiralty jurisdiction.

- (2) Rules made under this section may amend the Seychelles Code of Civil Procedure, but nothing in this subsection shall authorise the making of any rule which affects any substantive right attaching or accruing to any person by reason of anything in the Seychelles Code of Civil Procedure.

17. Practice and procedure of the High Court of Justice of England when to apply

In civil matters whenever the laws and rules of procedure applicable to the Supreme Court are silent, the procedure, rules, and practice of the High Court of Justice in England shall be followed as far as practicable.

D. Officers of the Supreme Court

18. Registrar and other officers of the Supreme Court

- (1) The officers of the Supreme Court shall be the Registrar, the Deputy Registrar, the Assistant Registrar, the Process Servers, the Orderlies and such other officers as may be appointed.
- (2) The Registrar shall be appointed by the President after consultation with the Chief Justice.
- (3) Where the Registrar is a person who is qualified for admission as a barrister or attorney in Seychelles, the Chief Justice may, if he considers it appropriate to do so, appoint the Registrar as a Master of the Supreme Court.
- (4) The Chief Justice may, by rules of Court, prescribe that any thing which, by virtue of any written law, is required to be done by the Registrar, may lawfully be done by the Deputy Registrar or by an assistant Registrar.

19. Powers and functions of the Registrar

- (1) The powers and functions of the registrar shall be such as prescribed by any law now in force or to be enacted.
- (2) Where the Registrar is appointed as a Master of the Supreme Court he shall, subject to subsection (3), have power to do anything which, by virtue of the Seychelles Code of Civil Procedure or the Matrimonial Causes Act, may be done by a judge in chambers.
- (3) Nothing in this section shall empower the Registrar to do anything which he could not otherwise do in relation to—
 - (a) anything affecting the liberty of the citizen;
 - (b) proceedings for the appointment of a receiver or the granting of an injunction;
 - (c) applications for leave to institute legal proceedings;
 - (d) applications under section 207 of the Seychelles Code of Civil Procedure to sue as pauper;
 - (e) applications under the Status of Married Women Act or the Children Act; or
 - (f) any other matter or proceeding which, by virtue of any enactment or rule of law other than those specified in subsection (2), is required to be dealt with only by a judge.

20. Process Servers

- (1) One of the process servers appointed under [section 18](#) shall be appointed by the Chief Justice to be Chief Process Server.
- (2) The duties of the process servers shall be—
 - (a) to execute all orders, writs and warrants which may be issued to them by the Registrar or other competent officer of the Supreme Court;

- (b) to serve all processes and execute all orders of the Magistrate's Court;
- (c) to perform all duties required of them by any written law; and
- (d) to undertake such other duties as may be assigned to them by the Chief Justice or the Registrar.

21. Orderlies

- (1) One of the orderlies appointed under [section 18](#) shall be appointed by the Chief Justice to be Chief Orderly.
- (2) The duties of the orderlies shall be—
 - (a) to attend and keep order at all sittings of the Supreme Court and the Magistrate's Court; and
 - (b) to undertake such other duties as may be assigned to them by the Chief Justice or the Registrar.

22. Process Servers to take oath of office

A Process Server shall, upon his appointment, take the oath of office in the manner prescribed by the Official Oaths Act.

23. Offences

- (1) Any Process Server who fraudulently or negligently fails to duly draw up, serve or notify and return any notice, summons or other document whether judicial or extra judicial which is entrusted to him is guilty of an offence and is liable on conviction to a fine of R.2000 or to 5 years imprisonment or to both such fine and imprisonment.
- (2) Any Process Server who fails to deliver personally to any party or to serve at the place of abode of the party any document, summons, judgement or copy which he is required to deliver or serve is guilty of an offence and is liable on conviction to a fine of R.1000 or to 2 years imprisonment or to both such fine and imprisonment.
- (3) Any reference in any written law to an usher shall be construed and have effect—
 - (a) in respect of any matter concerning the keeping of order in any court, as if it were a reference to an orderly;
 - (b) in respect of any other matter, as if it were a reference to a process server.

Part III – Magistrates' Court

A. General

24. Interpretation applicable to Part III

In this Part, unless the context otherwise requires—

"**clerk**" means in respect of the court—

- (a) in Victoria, the Registrar or Assistant Registrar of the Supreme Court;
- (b) in Anse Royale and in Praslin and La Digue, the Sub-Accountant or such other officer or person as the Minister after consultation with the Chief Justice may by notice published in the *Gazette* appoint;

"**court**" means the Magistrates' Court;

"**limit of jurisdiction**" means—

- (a) in respect of the court held by the Senior Magistrate SR350,000; and
- (b) in respect of a court held by a Magistrate SR250,000;

"**magistrate**" includes a person appointed to hold an inquest or a preliminary inquiry and includes a Senior Magistrate;

"**Senior Magistrate**" means a person appointed by the Minister after consultation with the Chief Justice to be a Senior Magistrate.

25. Appointment of Senior Magistrates and magistrates

- (1) The Minister acting after Consultation with the Chief Justice may appoint as many fit and proper persons as may be necessary to be Senior Magistrates or magistrates.
- (2) A Senior Magistrate and a magistrate shall, as soon as may be after appointment take the judicial oath prescribed by the Official Oaths Act.

26. Extent of jurisdiction. Bench to consist of one magistrate

- (1) The court is one court having jurisdiction throughout Seychelles.
- (2) A bench of the court consists of a Senior Magistrate or a magistrate sitting alone.

B. Jurisdiction and powers

27. Jurisdiction in civil matters

- (1) The jurisdiction and powers of the court in civil matters shall be as laid down in [sections 38 to 44](#) of this Act and in any other law now in force or to be enacted.
- (2) The court has jurisdiction to hear and determine complaints and applications under Summary Jurisdiction (Wives and Children) Act, and the Children Act.

28. Jurisdiction in criminal matters

The jurisdiction and powers of the court in criminal matters shall be as laid down in the Criminal Procedure Code.

C. Sittings

29. Sittings

The Sittings of the court may be appointed for and held on any day and at any time at the discretion of the magistrate.

30. Court house

The court shall hold its sittings in the court houses specified in the schedule to this Act. The Chief Justice may by notice published in the *Gazette* amend, add to or alter the schedule.

31. Occasional courts

- (1) A magistrate may hold an occasional court for the hearing or part hearing of a particular case at any place.

- (2) Every such place, shall be deemed to be an open and public court and, as far as circumstances permit, any person desiring to hear the proceedings shall be admitted to such place, except in cases to which subsection (3) applies.
- (3) Where by reason of illness or infirmity attendance of a witness at the court house is not practicable the magistrate may hear and record the evidence of that witness in any place in the presence of the parties and their legal representative and of such other persons as the magistrate considers necessary or expedient.

D. Staff

32. Clerical work of court

The clerical work of the court shall be performed by the clerk of the court.

33. Issue of process; books

The clerk of the court shall issue all process of the court and register all orders, all judgements and keep records of all proceedings and shall keep account of all fees, fines and money paid into or out of court and keep such other books or accounts as the Chief Justice may direct.

34. Clerk to tax costs

Costs shall be taxed by the clerk of the court.

35. Process

All process of the court may be served by a process server or by a member of the police force.

36. Summons to witness

- (1) Any party to a cause, inquiry, inquest or other proceeding may obtain on application at the registry of the Supreme Court or at the office of the court a summons to a witness or witnesses, with or without a clause requiring the production of books, documents or any *corpus delicti*.
- (2) Any person on whom such a summons has been served who refuses or neglects without sufficient cause to appear or to produce any books or documents or any *corpus delicti* required by the summons to be produced, and any person present before the magistrate who on being required to give evidence refuses to be examined upon oath or affirmation concerning the matter at issue or refuses to take the oath or affirmation concerning the matter at issue or been affirmed refuses to answer questions concerning the matter or refuses or neglects to produce any such books, documents or *corpus delicti*, is liable to be summarily fined and committed to prison by the magistrate:

Provided that such fine and term of imprisonment shall not exceed two hundred and fifty rupees and fifteen days respectively.

- (3) A witness not appearing though served personally with a summons may be arrested by order of the magistrate and brought before him to give evidence.

37. Power to punish for misbehavior before the court

Any person who willfully insults a magistrate during his sitting or attendance in court or during any inquiry or who willfully interrupts the proceedings of the court or otherwise misbehaves in court or before the magistrate, is liable to be summarily fined and committed to prison by the magistrate:

Provided that such fine and term of imprisonment shall not exceed two hundred and fifty rupees and fifteen days respectively.

E. Civil matters

38. Jurisdiction

- (1) The court has and shall exercise jurisdiction to decide any civil suit, except as hereinafter provided, in which the amount claimed or the value of the subject matter does not exceed the court's limit of jurisdiction, exclusive of interest and costs.
- (2) The court has jurisdiction in any suit by a landlord to obtain cancellation of a lease, with or without damages, or to recover possession of immovable property from a tenant or occupier, including suits where the value of such property exceeds the court's limit of jurisdiction. Such cancellation of lease, damages and possession may be claimed in the same plaint in which rent is claimed:

Provided always that the yearly rent or the rental value of the property shall not exceed the court's limit of jurisdiction and the sum claimed for damages, if any, and for rent do not together exceed the court's limit of jurisdiction.

- (3) (i) The court has jurisdiction in possessory actions concerning any land, premises, runs of water or other immovable property or any other right arising out of immovable property including actions where such property or right exceeds the court's limit of jurisdiction in value, when the plaintiff claims to be maintained or restored to the quiet enjoyment and possession of such property or right:

Provided—

- (a) the possessory action has been entered within one year from the imputed trespass, and
- (b) the plaintiff has been in quiet possession for at least one full year.
- (ii) In such possessory action damages not exceeding the court's limit of jurisdiction may also be claimed.
- (iii) When the value of the property or right concerning which a possessory action is brought does not exceed the court's limit of jurisdiction, the court may inquire into and decide upon the question of ownership if the same be raised.
- (4) The court has jurisdiction in any suit for the payment of alimony in a case where the law gives a right to an alimony irrespective of the sum claimed.
- (5) The court has jurisdiction to entertain a claim made to goods seized in execution of a judgement of the court, or of the Supreme Court, provided that the value of such goods does not exceed SR100,000 and the claim is made within such period and in such form as may be prescribed by rules of court.
- (6) The court has no jurisdiction in any suit concerning divorce, guardianship, interdiction, appointment of a curator, adoption, civil status, successions, wills, bankruptcy or insolvency, or concerning rights or interests arising out of the ownership or usufruct of immovable property or servitude thereon except in a suit under subsection (2) or (3) of this section.

39. Provisions relating to or affecting jurisdiction

- (1) Claims may not be split nor more than one suit instituted in respect of the same cause of action against the same party.
- (2) A plaintiff may relinquish any portion of his claim in order to bring the suit within the jurisdiction of the court, but he shall not afterwards sue in respect of the portion so relinquished.
- (3) The court has jurisdiction to decide a suit where the original claim exceeds the limit of its jurisdiction if the claim is brought within the limit by a set-off admitted by both parties.

- (4) The jurisdiction shall not be ousted when in order to adjudicate upon a claim within the jurisdiction it is necessary for the court to decide upon a right to, or contract concerning, money or movable property exceeding twenty five thousand rupees in value.

40. Valuation of claims

- (1) Where the jurisdiction of the court depends upon the value of any property and such value cannot be precisely ascertained the plaintiff shall state in the plaint his estimate of the value and if the defendant does not deliver, in time for service on the plaintiff before the first hearing, either a written objection to the plaintiff's estimate or a written defence including a distinct plea alleging a greater value, he shall be deemed to have admitted the plaintiff's estimate and subject to this section, the court shall decide the suit.
- (2) Where the jurisdiction depends upon a value which is in dispute the court shall try the question of value as a preliminary issue and having heard the evidence adduced on the question of value only the court shall determine or estimate the value as at the date of filing of the plaint and, for the purpose of founding jurisdiction in that suit but for no other purpose, the opinion of the court as to that value shall be conclusive.
- (3) Where by reason of any *bona fide* mistake in stating an amount of money or making an estimate of value the court has assumed jurisdiction in a suit and it subsequently appears that the suit is beyond the jurisdiction of the court, then if the mistake is discovered before witnesses have been summoned for the first hearing the court shall call upon the plaintiff to elect whether he will amend and reserve the plaint, if necessary relinquishing the excess, or transfer the suit to the Supreme Court and in either event the plaintiff shall bear the costs occasioned by the mistake, but if the mistake is not discovered until after the witnesses have been summoned, the court shall have jurisdiction and the suit shall proceed, provided that no relief exceeding that which it is within the ordinary jurisdiction of the court to give shall be given.
- (4) If in any suit doubt arises before witnesses have been summoned for the first hearing as to whether the court has jurisdiction and the doubt cannot be resolved under the provisions of this part, the court may refer the question to the Supreme Court.
- (5) If at any stage of the hearing of a suit doubt arises as to whether the court has jurisdiction, the hearing shall proceed and if at the conclusion of the hearing the doubt has not been resolved, the court shall, after consideration, deliver a written judgment including findings on all the issues of fact in controversy, both as to matters affecting the jurisdiction and as to the merits of the claims pleaded, and if in the opinion of the court the suit was not within the jurisdiction, the suit shall be dismissed on that ground, with or without an order for costs.

41. Costs

- (1) The court may make such order as to the whole or any part of the costs in any proceedings before it as may be just and may assess the same or direct taxation thereof.
- (2) The Republic shall be entitled to have costs and costs may be given against the republic to the like extent and in the same way as costs may be had by and against any other party.

42. Execution of judgment or order of the court

A judgment or order of the court may, without prejudice to the provisions of any enactment prescribing other ways of execution or enforcement of a judgment or order of a court, be executed and enforced by the court and the provisions of the Seychelles Code of Civil Procedure relating to execution and enforcement of judgments and orders of the Supreme Court shall, *mutatis matandis*, apply to execution and enforcement of judgments of the court.

43. Appeals

- (1) Any person aggrieved by a final judgment of the court in any civil cause or matter to which he is a party may appeal to the Supreme Court.
- (2) There shall be no appeal from any interlocutory judgment of the court except where, in the circumstances of a particular case, the interlocutory judgment has the effect of disposing of the claim, or of one of the claims, in the suit, in which event the Supreme Court may give leave to appeal on such terms as to security, costs and otherwise as may be just.
- (3) No appeal under this section shall operate as a stay of execution, but the court, or after an appeal has been lodged, the Supreme Court, may stay execution on such terms as to security, costs and otherwise as may be just.

44. Rules of court

- (1) The Chief Justice may make rules to regulate the practice and procedure of the court in its civil jurisdiction, the giving of security and the practice and procedure in appeals from the court to the Supreme Court.
- (2) Without prejudice to the generality of the foregoing powers such rules may—
 - (a) prescribe the fees to be taken in proceedings in the court or on appeal;
 - (b) regulate and provide for any matters relating to costs of proceedings in the court or on appeal, including the allowances and expenses to be paid to witnesses;
 - (c) regulate and provide for any matters which are provided for in the Seychelles Code of Civil Procedure;
 - (d) regulate and provide for the transfer of civil cases from the Supreme Court to the court and vice versa;
 - (e) extend, curtail, amend, add to or alter the civil jurisdiction of the court;
 - (f) create and regulate summary procedure for the recovery of debts due to the Republic and for the enforcement of judgments obtained by such procedure.

Part IV – Justices of the Peace**45. Appointment of Justices of the Peace**

- (1) The Minister acting after consultation with the Chief Justice may, by instrument under the Public Seal, appoint as many fit and proper persons as may be necessary to be Justice of the Peace.
- (2) A Justice of the Peace shall have jurisdiction throughout Seychelles or in such part thereof as may be specified in the instrument of appointment.

46. Oaths to be taken by Justices of the Peace

A Justice of the Peace shall, as soon as may be after his appointment, take the oaths prescribed by the Official Oaths Act.

47. Powers and duties of Justices of the Peace

The powers and duties of Justices of the Peace shall be as set out in the Criminal Procedure Code, the Peace Officers (Inner Islands and Outlying Islands) Act, and in such other enactments as may best powers in or impose duties on Justices of the Peace.

Part V – Miscellaneous

48. Recording of evidence

- (1) Where by virtue any written law there is a requirement that evidence in any proceedings be taken down in writing or recorded, or that any other record of the proceedings be made at the time of the proceedings, that requirement shall be satisfied by the evidence being recorded or the record being made in shorthand by a duly appointed shorthand writer.
- (2) A transcription of the shorthand record of any proceedings, shall where so certified by a judge or magistrate be, for all purposes, a true record of those proceedings, and copies of the transcription shall be available to any party to the proceedings at such charge as the Registrar may determine.
- (3) This section shall have effect in relation to the record of any proceedings (including proceedings prior to the commencement of the Administration of Justice Act, 1983*) in respect of which a shorthand record has been made.

49. Attendances of persons at court

Any person who, having been lawfully summoned or otherwise required to attend any sitting of a court not being a court within the meaning of Part III, fails, without reasonable excuse, to attend that sittings shall be liable to be summarily punished by a fine of R.500 or by imprisonment for one month or by both such fine and imprisonment.

50. Jurisdiction and powers of courts unaffected by this Act

Nothing in this Act shall be held to deprive a court of any jurisdiction or power it had at the time this Act came into operation.

Schedule

Magistrates' Court houses (Section 30)

Victoria	The Law Courts Building, Victoria (formerly known as the Supreme Court Building, Victoria)
Anse Royale	The room known as the Court Room in the Administrative Block of buildings at Anse Royale.
Praslin	Pension Fund Complex, Grand Anse, Praslin
La Digue	The room known as the Court Room in the Administrative Block of buildings at La Digue.