

Seychelles

Control and Protection of Clients' Accounts Act Chapter 44

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Control and Protection of Clients' Accounts Act

Chapter 44

Commenced on 1 January 1982

[This is the version of this document at 1 June 2020.]

[Act 2 of 1979; Act [2 of 1990](#)]

1. Short title

This Act may be cited as the Control and Protection of Clients' Accounts Act.

2. Interpretation

In this Act unless the context otherwise requires—

"**bank**" means a bank licensed as a bank under the Financial Institutions Act and includes the Seychelles Saving Bank constituted under the Savings Bank Act;

"**client**" means any person on whose behalf moneys are received by a scheduled person;

"**Auditor General**" means the Auditor General appointed under the Audit Act;

"**prescribed investment**" means an investment prescribed by the Minister, for the purposes of [section 5\(2\)](#);

"**Registrar of Companies**" means the Registrar of Companies appointed under the Companies Act;

"**scheduled person**" means any person or class of persons set out in the Schedule.

3. Persons and classes of persons affected

- (1) This Act shall apply to the persons or classes of persons set out in the Schedule, notwithstanding that any particular person or class of persons is governed by any other law.
- (2) The Minister may, by order published in the Gazette, amend the Schedule by adding to or deleting therefrom any person or class of persons.

4. Scheduled persons' accounts

- (1) Every scheduled person shall keep such books and accounts as may be necessary to show and distinguish in connexion with his business or profession—
 - (a) the moneys received from or on account of and the moneys paid to or on account of each of his clients; and
 - (b) the moneys received and the moneys paid on his account.
- (2) All such books and accounts shall be audited once a year by the Auditor General or some public officer appointed by the Auditor General, who shall report the results of his audit to him.
- (3) The Auditor General shall issue a Certificate of Auditor in such form as may be prescribed.

5. Client's money to be paid into a bank

- (1) Subject to subsection (2), a scheduled person who holds or receives moneys on account of a client, (save moneys hereinafter expressly exempted from the application of this section), shall

immediately pay such moneys directly into a current or deposit account at a bank to be kept in the name of the scheduled person in the title of which the word "client" shall appear (hereinafter referred to as "a client account"); a scheduled person may keep one client account or as many such accounts as he thinks fit:

Provided that, when a scheduled person receives a cheque or draft representing in part moneys belonging to the client and in part moneys due to the scheduled person, he may, where practicable, divide the amount of the cheque or draft and pay to the client account that part only which represents moneys belonging to the client, and in any other case he shall pay the whole of such cheque or draft directly into the client account.

- (2) Where moneys are received by a scheduled person on behalf of a client and such moneys are likely to remain in the possession or under the control of the scheduled person for a period exceeding 90 days, the scheduled person shall invest the same in prescribed investments in the joint names of the scheduled person and the client.

6. What moneys to be paid into a client account

No moneys shall be paid into a client account or prescribed investment other than—

- (a) moneys held or received on account of a client;
- (b) such moneys belonging to the scheduled person as may be necessary for the purpose of opening or maintaining the account or investment;
- (c) for replacement of any sum which may by mistake or accident have been drawn from the account or investment in contravention of [section 7](#);
- (d) a cheque or draft received by the scheduled person representing in part moneys belonging to the client and in part moneys due to the scheduled person where such cheque or draft has not been divided as provided for in [section 5](#).

7. Withdrawing of moneys from a client account

No moneys shall be drawn from a client account or prescribed investment other than—

- (a) moneys properly required for payment to or on behalf of a client or for or towards payment of a debt due to the scheduled person from a client or moneys drawn on the client's authority, or moneys in respect of which there is a liability of the client to the scheduled person provided that the moneys so drawn shall not in any case exceed the total of the moneys so held for the time being for such client;
- (b) such moneys belonging to the scheduled person as may have been paid into the account or investment under paragraph (b) or (d) of [section 6](#);
- (c) moneys which may by mistake or accident have been paid into such account or investment in contravention of [section 6](#).

8. What moneys need not be paid into a client account

Sections [5](#), [6](#), and [7](#) shall not apply to moneys which—

- (a) the client, for his own convenience, requests, in writing, a scheduled person to withhold from a client account or prescribed investment;
- (b) in the ordinary course of business upon receipt are paid on behalf of the client to a third party;
- (c) are upon receipt paid to the client;
- (d) are paid to a scheduled person on account of costs, expenses or fees;

- (e) the Registrar of Companies upon application made to him in writing by a scheduled person specifically authorizes to be withheld or withdrawn from a client account or prescribed investment.

9. Complaint in respect of non compliance

If a scheduled person fails to comply with section 4, 5, 6, 7, or 8, any person aggrieved thereby may make a complaint in writing in respect of that failure to the Registrar of Companies.

10. Evidence and deposit of cost before instituting inspection of account

Before instituting an inspection on a complaint made by a person other than a client the Registrar of Companies shall require *prima facie* evidence that a ground of complaint exists and may require the payment by such person to him of a reasonable sum to be fixed by him to cover the costs of inspection and the costs of the scheduled person against whom the complaint is made.

11. Registrar of Companies may require production of scheduled person's books

The Registrar of Companies, acting either on his own motion or on a written complaint lodged with him in accordance with [section 9](#), may require any scheduled person to produce, at some convenient time and place, his books of account, bank pass books, statements of account, vouchers and any other necessary documents for his inspection or the inspection of the Auditor General, and General carries out such an inspection he shall prepare for the where the Auditor information of the Registrar of Companies a report on the result of such inspection.

12. Scheduled person to produce documents, etc.

Every scheduled person shall when required to do so for the purpose of sections 4 and 11 produce any books of account, bank passbooks, statements of account, vouchers and any other documents to the Registrar of Companies or the Auditor General.

13. Notice to scheduled person: how made

Every requirement, authorization and notification to be made or given by the Registrar of Companies to a scheduled person shall be made in writing by the Registrar of Companies or the Auditor General and left at or sent by registered post to the last address of the scheduled person supplied pursuant to [section 16](#), and, when so made and sent, shall be deemed to have been received by the scheduled person within 48 hours of the time of posting.

14. Registrar of Companies' steps on receipt of report

The Registrar of Companies, on receipt of a report made to him under [section 9](#) or after he shall have conducted his own inspection or after he has taken action under [section 11](#), may either take no further action thereon or may refer the matter to the Attorney-General.

15. Attorney General may prosecute

The Attorney-General may, if he sees fit, prosecute any scheduled person whether or not the matter has been referred to him by the Registrar of Companies, if such scheduled person has committed a breach of this Act.

16. Scheduled person to furnish particulars

- (1) Notwithstanding anything contained in any other law every person qualifying for inclusion in the Schedule hereto shall within 3 months of the commencement of this Act and by the 1st January in each year thereafter, furnish to the Registrar of Companies full particulars of his name, address and business and, where a person is trading or carrying on business under a business name, the names

of all the persons carrying on such business and, where the business is a corporate body, the names of all the directors of the business and the address of the registered office in Seychelles.

- (2) Any person who qualifies for inclusion in the Schedule at any time after the commencement of this Act shall furnish the particulars required under subsection (1) and in the same manner within 3 months of so qualifying and by 1st January in each year thereafter.

17. Preservation of books of account

Every scheduled person shall preserve for at least 6 years from the date of the last entry therein all books and accounts kept by him under [section 4](#).

18. Penalties

Any person who contravenes any of the provisions of this Act shall be guilty of an offence and be liable to a fine of R.10,000 and to imprisonment for 5 years.

19. Consent of Attorney General

No prosecution shall be commenced under this Act without the consent in writing of the Attorney-General.

20. Saving of scheduled person's rights

Nothing in this Act shall deprive a scheduled person of any resource or right, whether by way of lien, set-off, counterclaim, charge or otherwise, against moneys standing to the credit of a client account or prescribed investment.

21. Regulations

The Minister may make regulations for the carrying out of any of the purposes or provisions of this Act, may prescribe fees and charges, and may impose penalties for breach of such regulations not exceeding the penalties prescribed in [section 18](#).

22. Relief to banks

- (1) Subject to this section, no bank shall, in connexion with any transaction on any account of any scheduled person kept with it or with any other bank, incur any liability or be under any obligation to make an inquiry or be deemed to have any knowledge of any right of any person to any money paid or credited to any such account which it would not incur or be under or be deemed to have in the case of an account kept by a person entitled absolutely to all moneys paid or credited to it:

Provided that nothing in this subsection shall relieve any bank from any liability or obligation to which it would be subject apart from this Act.

- (2) Notwithstanding anything in subsection (1) a bank at which a scheduled person keeps an account for clients' moneys shall not, in respect of any liability of the scheduled person to the bank, not being a liability in connexion with the account, have or obtain any resource or right, whether by way of set-off, counter claim, charge or otherwise, against moneys standing to the credit of that account.

Scheduled persons (Section 3)

Accountants in professional practice in Seychelles

Attorneys in professional practice in Seychelles

Barristers in professional practice in Seychelles

Estate agents in professional practice in Seychelles.